

THE CCP TODAY DENOUNCED THE REAGAN  
ADMINISTRATOR POLICY OF "DEPUTIZING" LOCAL  
POLICE OFFICER AS BORDER <sup>PATROL</sup> ~~PATROLMAN~~ AGENTS  
TO ENFORCE FED. IMMIG. LAW. <sup>AS A MOVE TO CREATE A</sup> ATTORNEY G. W. F. SMITHS  
REVISION OF A 1978 JUSTICE DEPT POLICY WHICH  
PROHIBITED LOCAL LAW ENFORCEMENT OFFICER FROM  
ENFORCING FED. IMMIG LAW

H. B. C OF <sup>THE</sup> CCP ACCUSED THE <sup>R/N</sup>  
<sup>UNLEASHING THE POLICE</sup> POLICE STATE + <sup>THEY IT UNLEASHING OF LOCAL POLICE</sup> CREATING THE CONDITIONS FOR  
OF CREATING A ~~NEW~~ NEW ERA OF REPRESSION <sup>POLICE</sup>

AGAINST THE 15 MILLION PERSONS OF M/A IN THE U.S.

WITH 1 STROKE OF THE PEN THE REAGAN ADM. HAS  
STRIPPED CHICAN  
SINGLED OUT FOR SUSPICION ONE SEGMENT OF U.S.

SOCIETY - CHICANOS -

May 3, 1971  
read - very important

(13)

## THE IMMIGRATION SERVICE ASKS YOUR HELP

In the regular course of daily duties you, as a local law enforcement officer, often come in contact with aliens. All aliens (non-citizens) are subject to immigration laws which regulate their entry and set the conditions of their stay. Local law enforcement officers are in a good position to help in the enforcement of these laws.

The vast majority of the aliens in the United States are legally here. The information herein will help you to identify the various immigration documents that might be carried by an alien who is legally in the U.S. Most aliens lawfully in the United States should have some kind of immigration document. Exceptions: Canadians and certain other residents of Canada may be admitted to the U.S. for periods up to six months for pleasure or business without the issuance of immigration documents; however, they usually will have in their possession evidence of Canadian citizenship or residence. Other aliens, such as government officials from Mexico or Canada, and employees of treaty organizations such as NATO, are often admitted without documents. They will have some form of official identification, however.

Some aliens have entered this country illegally, and in addition, others who were given permission to enter temporarily have violated the conditions of their admission. These aliens are "wanted" by this Service. It is not the purpose of this pamphlet to authorize the arrest or detention of any person, but if an alien comes to your attention who appears to be in an illegal status, or you wish further information, you are requested to telephone or wire "collect" to the following office of the Immigration and Naturalization Service. Your call will be appreciated and will be given prompt attention.

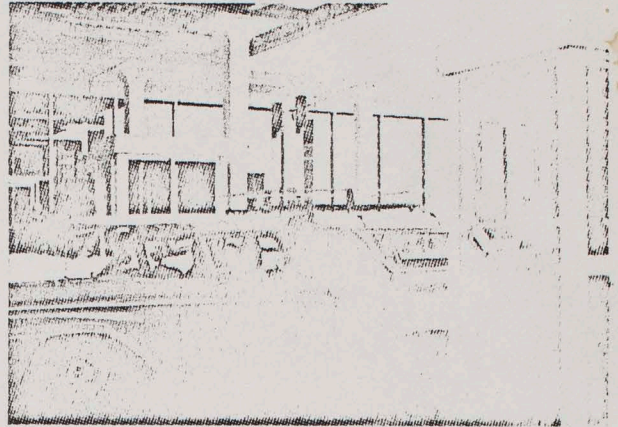
Office:

Address:

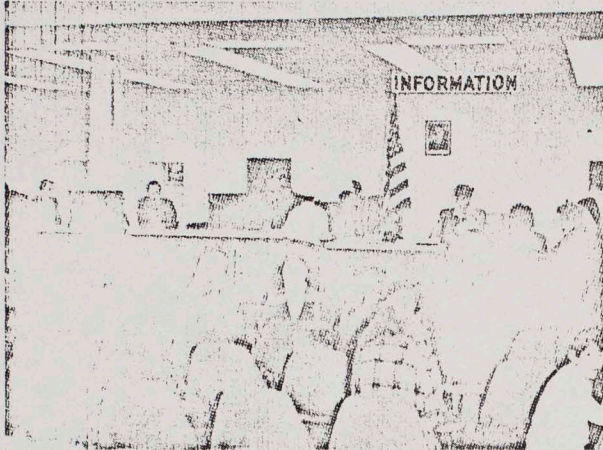
Telephone:



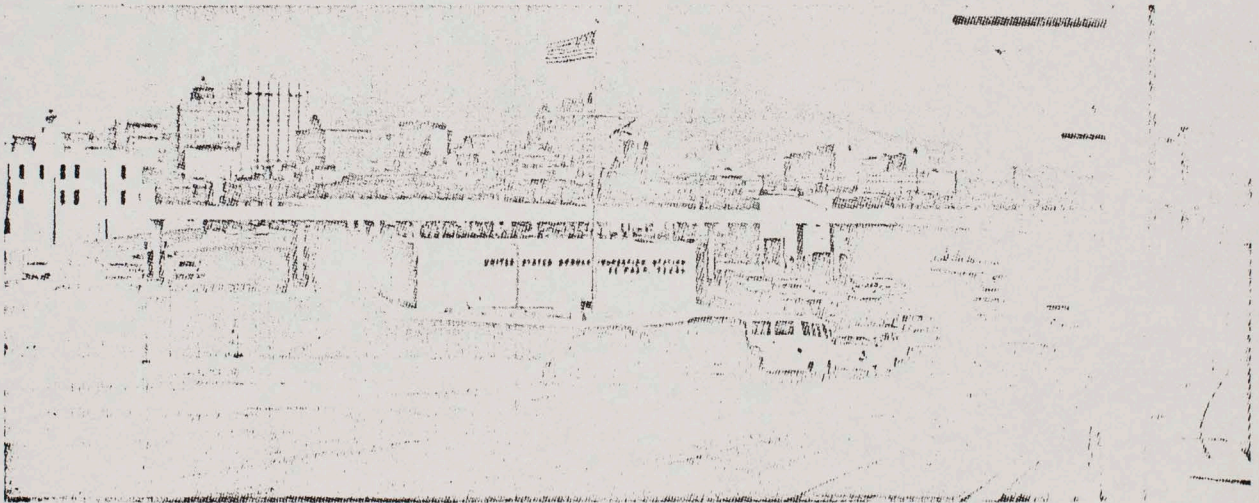
Pedestrians present their documents to Immigrant Inspectors in the new El Paso Del Norte gateway building. Multiple inspection lanes keep foot traffic moving at a steady pace. The doorway at left opens onto an El Paso street.



Vehicular Inspection is here conducted by an Immigrant Inspector at the Avenue of the Americas facility.



Contact Representatives of the Service help foreign visitors at El Paso Del Norte, as other persons await their turn in comfortable, attractive surroundings offered by the new facility. The secondary inspection waiting room provides seating for 500 people. Decorated in subdued colors with contrasting walnut paneling and modern furniture, the room provides a cool retreat for the efficient and quick handling of inquiries.



The Bridge Approach from Mexico to the new border inspection station at Paso del Norte, El Paso, affords a fine view of the city and imposing Mount Franklin in the background. The main portion of the new building extends to right, out of view. At center is an auxiliary inspection area with an entrance to an underground concourse leading to the main building for use by persons having business there.

FORM I-186 (NONRESIDENT ALIEN MEXICAN  
BORDER CROSSING CARD)

NAME SANCHEZ-RODRIGUEZ, JOSE MARIA		SAMPLE
DATE OF BIRTH	SEX	
May 19, 1938	M	
ADDRESS		
Monterrey, N.L. Mexico		
ISSUED AT	ON	BEARER MAY NOT BE EMPLOYED IN THE U.S.
Mexico	Apr. 3, 1966	
EXPIRES April 3, 1969		

Front - Actual Size

NONRESIDENT ALIEN MEXICAN BORDER CROSSING CARD

THIS CARD WHEN USED AS THE SOLE ENTRY DOCUMENT IS VALID ONLY FOR VISITS TO THE U.S. WITHIN 150 MILES OF THE MEXICAN BORDER FOR PERIODS OF 72 HOURS OR LESS IF THE BEARER IS FOUND OTHERWISE ADMISSIBLE BY A U.S. IMMIGRATION OFFICER TO REMAIN FOR A LONGER PERIOD OR PROCEED TO OTHER AREAS IN THE U.S. THE BEARER MUST BE IN POSSESSION OF A FORM I-94 ISSUED BY AN OFFICER OF THE U.S. IMMIGRATION SERVICE.

AVISO

PRESENTE ESTA TARJETA CADA VEZ QUE ENTRA A LOS ESTADOS UNIDOS. SI USTED DESEA PERMANECER EN LOS ESTADOS UNIDOS DURANTE UN PERIODO DE MAS DE 72 HORAS O TRASLADARSE A MAS DE 150 MILLAS DE LA FRONTERA MEXICANA USTED DEBE POSEER UNA FORMA I-94 EXPEDIDA POR UN OFICIAL DEL SERVICIO DE INMIGRACION DE LOS ESTADOS UNIDOS.

USTED NO PUEDE ACEPTAR EMPLEO EN LOS ESTADOS UNIDOS.

SAMPLE

No. 1908786

FORM I-186 (Rev. 5-1-65)      U.S. GOVERNMENT PRINTING OFFICE: 1965 O-348-000

Reverse

Issued to Mexican citizens for entry into the U.S. as nonimmigrants for visits not to exceed 72 hours or 150 miles from the Mexican border. For any admission in excess of the above the alien will also have a Form I-94 (page 11) showing the area and time limitation of his admission. The Form I-186 is laminated in plastic. Those issued prior to 9/15/65 were blue and those issued after that date are salmon-beige. Employment in the U.S. is not permitted.

FORM I-151 (ALIEN REGISTRATION RECEIPT CARD)

This is to certify that  
**PAPPAS, STEPHAN**  
 A11 836 475 **SAMPLE** REGISTRATION NUMBER  
 has been duly registered according to law and was admitted to the United States as an immigrant at

PORT	MO DAY YR OF ENTRY	CLASS	MO DAY YR OF BIRTH	SEX
NYC	01-01-66	0-1	07-09-39	M

83 Commissioner of Immigration and Naturalization  
 UNITED STATES DEPARTMENT OF JUSTICE  
 IF 16 YEARS OF AGE OR OLDER YOU ARE REQUIRED BY LAW TO HAVE THIS CARD WITH YOU AT ALL TIMES

Front - Actual Size

PHOTOGRAPH OF HOLDER

**SAMPLE**

ALIEN REGISTRATION RECEIPT CARD  
 1966 - 1 (21 x 31)

This card will be honored in lieu of a visa and passport on condition that the rightful holder is returning to the United States after a temporary absence of not more than one year and is not subject to exclusion under any provision of the immigration laws.

REPORTING REQUIREMENTS

You are required by law to notify the Attorney General of your current address during the month of January each year and to provide notification of new address within 10 days from the date of each change. A penalty is provided by law for failure to do so. Forms may be obtained from any post office. Reports applications or letters to the Immigration and Naturalization Service should include the 'A' number.

Reverse

This form is issued to any alien who in any manner becomes a lawful permanent resident of the United States. Present issue is blue printing on a background of small blue dots. Previous issues were either blue or black printing on a background of blue and yellow overlays, or black printing on a light green background. Some of the previous issues vary somewhat in format from the above. All have the form number and are laminated in plastic. Employment is permitted.

FORM AR-3a (ALIEN REGISTRATION RECEIPT CARD)

(Front-Actual Size)

Form AR-3a

Registration  
Number

6962241

W - 282265

ALIEN REGISTRATION RECEIPT CARD

John J. Doe  
1313 Main Ave.  
Atlanta, Ga.

SAMPLE

KEEP THIS CARD. Keep a record of the number.

UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
ALIEN REGISTRATION DIVISION  
WASHINGTON, D. C.



To the Registrant:

Your registration under the Alien Registration Act, 1940, has been received and given the number shown above your name. This card is your receipt, and is evidence only of such registration. In writing to the Department of Justice about yourself, always give the number on this card.

500 M-1061

*Walter B. ...*  
Director of Registration

Issued from 1941 to 1949. Not absolute evidence of legal permanent residence; however, holder probably not deportable. Employment in the U.S. permitted.

CHART I

ALIEN POPULATION BY STATES - 1940

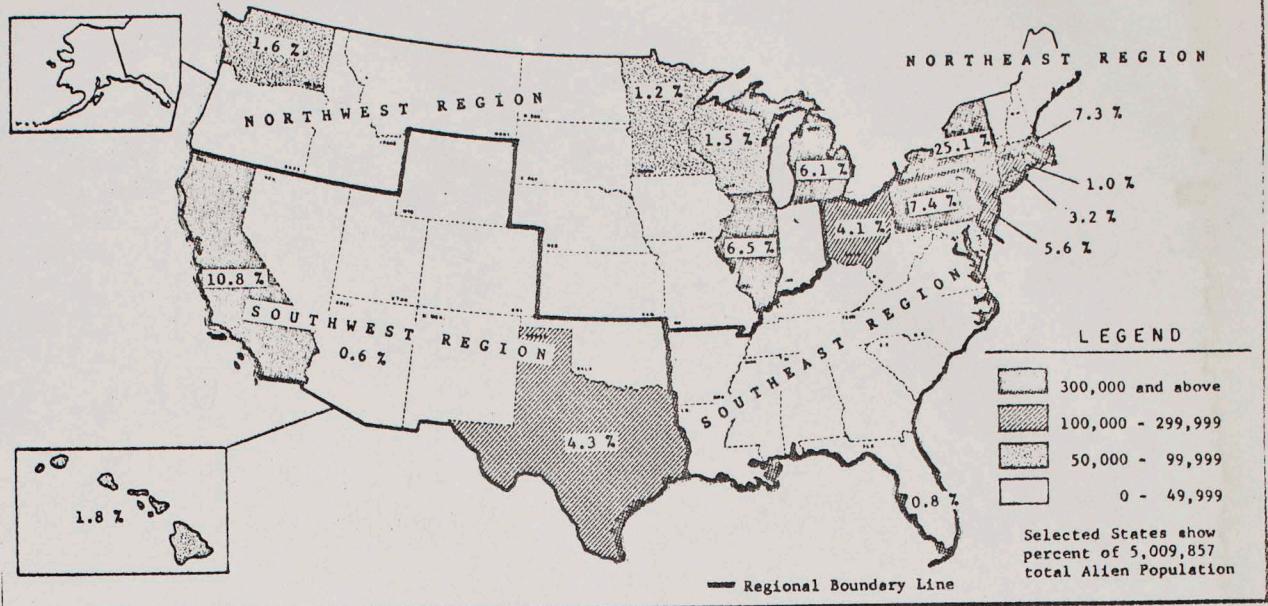


CHART III

ALIEN POPULATION BY STATES - 1969

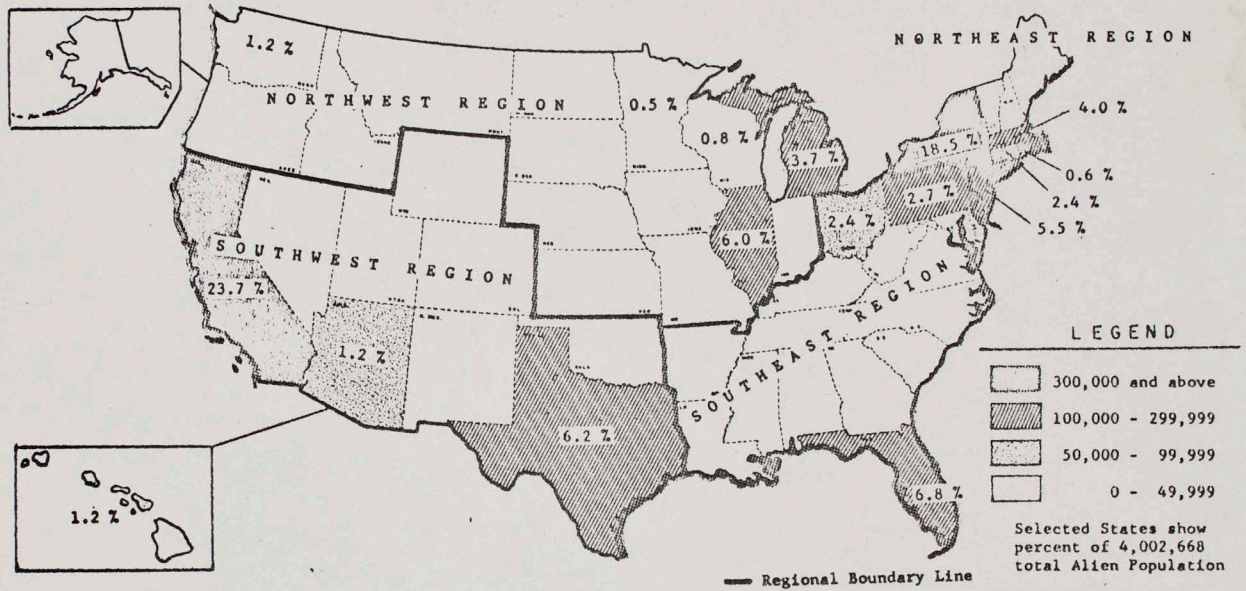
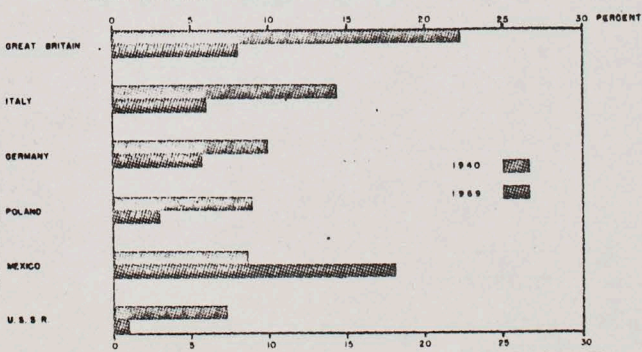


CHART II

MAJOR NATIONALITY GROUPS IN ALIEN REGISTRATION OF 1940 AND 1969



IMMIGRANTS ADMITTED TO THE UNITED STATES WHO WERE BORN IN INDEPENDENT COUNTRIES OF THE WESTERN HEMISPHERE

Country of Birth	1964		1965		1966		1967		1968	
	Jan-June	July-Dec	Jan-June	July-Dec	Jan-June	July-Dec	Jan-June	July-Dec	Jan-June	July-Dec
Argentina	3,481	3,031	3,093	3,079	1,335	1,035	1,442	1,330	2,096	2,000
Barbados	178	226	180	212	308	556	481	803	1,221	1,117
Bolivia	452	458	518	462	246	339	296	301	288	287
Brazil	1,245	1,436	1,433	1,684	713	821	855	1,335	1,100	1,177
Canada	16,514	21,659	16,668	21,335	7,023	13,217	10,225	15,404	12,258	11,147
Canal Zone	157	126	90	109	65	101	57	95	66	67
Chile	732	992	880	857	403	421	415	537	441	447
Colombia	5,397	5,565	5,320	7,126	2,378	2,468	2,088	3,001	3,991	3,977
Costa Rica	1,459	1,635	1,276	1,069	513	642	533	717	931	787
Cuba	8,353	9,441	10,319	12,083	5,272	5,635	27,686	33,651	65,991	71,294
Dominican Republic	3,496	3,718	5,786	10,332	6,171	5,612	5,902	4,755	4,495	6,540
Ecuador	1,878	2,416	1,976	2,773	1,338	1,444	1,275	1,487	2,176	2,131
El Salvador	813	816	952	898	517	534	511	571	1,054	793
Guatemala	694	704	909	1,087	497	685	784	925	1,223	1,204
Guyana	113	126	107	120	257	457	400	495	653	913
Haiti	990	1,516	2,093	2,475	1,326	1,370	2,197	3,588	3,218	3,388
Honduras	915	1,244	1,111	1,437	521	789	761	862	858	632
Jamaica	762	981	856	1,115	1,628	3,838	6,645	8,260	9,210	8,525
Mexico	15,455	16,465	19,761	22,582	22,381	19,801	22,770	19,712	23,851	26,474
Nicaragua	889	964	143	67	330	374	322	241	217	217
Panama	1,009	1,032	901	994	600	886	790	964	1,012	880
Paraguay	124	87	79	111	69	81	81	52	74	70
Peru	1,220	1,037	916	936	538	819	851	799	627	593
Trinidad & Tobago	194	279	206	305	451	809	1,351	2,160	3,106	3,533
Uruguay	208	177	243	318	163	144	153	172	274	206
Venezuela	521	528	441	621	203	271	268	421	277	329
Total	67,029	78,279	76,610	94,774	55,446	62,949	89,172	102,747	140,468	79,520

TABLE 1  
COMPARISONS OF ALIENS REGISTERED, BY SELECTED STATES  
1940 VS. 1969

States of residence	1940		1969		Increase or decrease in registrations 1940 vs. 1969	
	Number of aliens registered	Percent of U. S. total aliens registered	Number of aliens registered	Percent of U. S. total aliens registered	Actual	
					Actual	Percent
Arizona	11,851	0.6	60,151	1.2	+ 48,300	+ 56.9
California	524,464	10.8	944,149	23.7	+ 419,685	+ 80.0
Connecticut	138,128	3.2	130,274	2.7	- 7,854	- 5.7
Florida	41,327	0.8	267,360	6.8	+ 226,033	+ 546.9
Hawaii	91,447	1.8	49,642	1.2	- 41,805	- 45.7
Illinois	325,070	6.5	239,705	6.0	- 85,365	- 26.3
Massachusetts	364,421	7.3	160,048	4.0	- 204,373	- 56.1
Michigan	303,103	6.1	149,099	3.7	- 154,004	- 50.8
Minnesota	61,433	1.2	21,755	0.5	- 39,678	- 64.6
New Jersey	279,199	5.6	219,406	5.5	- 59,793	- 21.4
New York	1,257,501	25.1	740,369	18.5	- 517,132	- 41.1
Ohio	203,038	4.1	95,958	2.4	- 107,080	- 52.7
Pennsylvania	370,020	7.4	107,303	2.7	- 262,717	- 71.0
Rhode Island	52,570	1.0	23,301	0.6	- 29,269	- 55.7
Texas	213,898	4.3	249,735	6.2	+ 35,837	+ 16.8
Washington	81,636	1.6	49,150	1.2	- 32,486	- 39.8
Wisconsin	75,127	1.5	34,016	0.8	- 41,111	- 54.7

TABLE 3  
MEXICAN ALIEN POPULATION OF CALIFORNIA BASED ON  
JANUARY ADDRESS REPORTS, NEW IMMIGRANTS, AND NATURALIZATIONS  
CALENDAR YEARS 1962-1969

Year	Permanent Resident Aliens (January registrations)	New Immigrants	Subtotal	Minus Naturalizations	Potential Resident Alien Population	Potential Registrations vs. Actual of Succeeding Year
1962	242,419	35,107	277,526	1,721	275,805	+ 9,228
1963	266,577	24,469	291,046	1,553	289,493	- 1,099
1964	292,592	17,745	310,337	1,668	308,669	- 6,816
1965	315,505	22,977	338,482	1,550	336,932	+ 11,091
1966	325,931	24,252	350,183	1,771	348,412	+ 397
1967	348,015	23,733	371,748	2,171	369,577	+ 5,328
1968	364,249	22,750	386,999	2,211	384,788	+ 15,182
1969	369,606	-	-	-	-	-



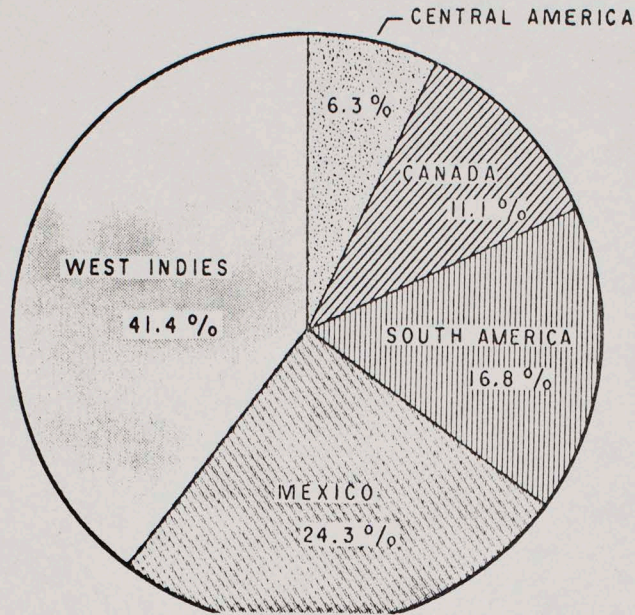
NONIMMIGRANT ALIENS ADMITTED, BY CLASSES UNDER THE IMMIGRATION LAWS AND COUNTRY OR REGION OF LAST PERMANENT RESIDENCE

Data exclude border crossers, crewmen, and insular travelers. Students, and others entering with multiple entry documents are only counted on the first admission.

FISCAL YEAR 1969

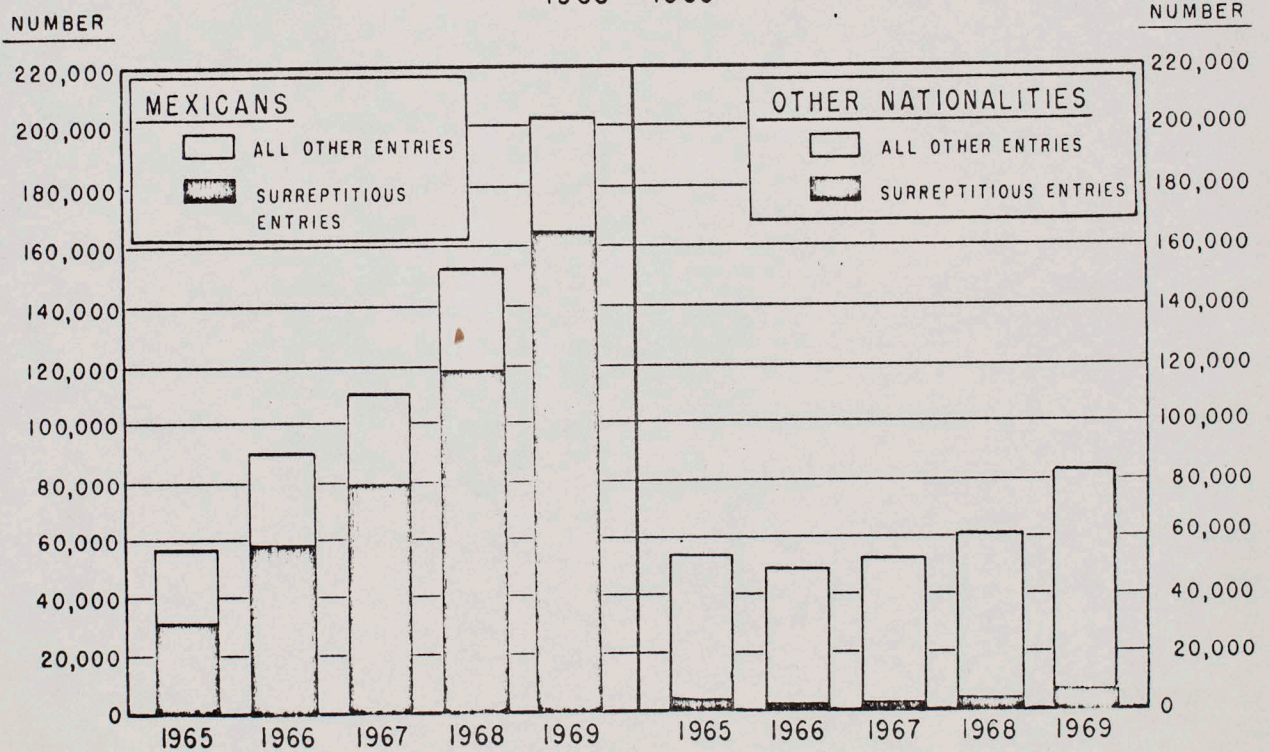
Country or region of last permanent residence	Number admitted	FISCAL YEAR 1969													
		Foreign government officials	Temporary visitors for business	Temporary visitors for pleasure	Transit	Treasury traders and investors	Students	Spouses and children of students	International representatives	Temporary workers and trainees	Representatives of foreign information media	Exchange aliens	Spouse and children of exchange aliens	Returning resident aliens	Other classes
All countries	3,645,328	44,540	299,810	2,302,192	10,543	15,264	90,406	8,302	19,956	62,952	4,164	47,175	15,301	441,082	3,155
Europe	925,310	13,265	161,715	506,221	81,428	7,218	9,407	923	8,130	9,074	2,892	21,052	6,107	5,076	1,927
Austria	12,884	166	1,927	8,639	612	35	120	14	188	420	45	256	10	10	2
Belgium	19,970	281	4,203	11,299	557	94	261	41	281	87	64	222	26	26	42
Czechoslovakia	7,052	82	833	4,866	312	4	86	4	136	111	12	273	256	7	1
Denmark	18,833	249	3,053	12,903	1,037	214	103	11	167	147	109	463	163	67	1
Finland	7,601	77	923	2,033	340	126	167	21	155	123	78	450	132	8	1
France	105,863	1,520	19,728	64,295	12,450	1,001	1,057	98	1,269	700	339	1,639	520	153	116
Germany	153,737	1,945	25,676	107,818	5,725	1,638	1,269	112	426	1,248	602	2,658	951	2,698	951
Greece	19,838	130	1,572	7,678	8,678	93	865	57	94	245	20	263	68	58	11
Hungary	3,904	94	189	3,414	73	1	52	7	54	15	2	107	36	28	7
Iceland	2,608	48	377	1,834	45	1	52	7	54	15	2	107	36	28	7
Ireland	18,706	94	2,455	12,531	775	154	184	23	78	260	32	1,957	105	55	1
Italy	72,477	737	12,632	47,150	8,172	648	514	26	494	445	247	791	328	236	50
Latvia	81	-	16	34	4	1	12	-	5	-	-	6	-	-	1
Lithuania	90	-	3	81	5	-	-	-	-	-	-	-	-	-	-
Luxembourg	897	22	168	604	25	-	39	-	11	2	-	20	3	-	1
Netherlands	45,323	352	10,243	28,481	3,294	239	467	39	412	301	129	845	259	194	66
Norway	18,499	390	2,533	8,838	4,941	201	448	70	175	63	70	407	177	96	90
Poland	6,133	338	265	4,803	358	1	20	2	103	64	6	127	23	23	-
Portugal	8,209	186	808	4,475	2,321	8	89	6	61	82	21	63	7	61	11
Romania	1,430	137	220	677	52	1	14	1	99	160	6	39	22	2	-
Spain	25,116	851	4,741	12,740	4,221	244	342	31	267	817	64	451	141	206	-
Sweden	34,597	433	7,794	22,714	1,360	21	368	31	244	319	134	852	285	82	7
Switzerland	32,852	345	7,244	21,284	1,052	632	421	73	366	338	74	658	297	64	2
Turkey (Europe and Asia)	4,264	143	619	2,027	141	30	397	44	130	23	10	512	135	10	34
United Kingdom	294,461	3,771	51,052	195,874	24,376	1,716	1,979	195	1,786	2,759	752	7,271	1,719	1,000	208
U.S.S.R. (Europe and Asia)	4,020	618	791	1,347	204	2	31	1	805	140	60	5	17	3	-
Yugoslavia	5,575	135	714	3,265	432	112	109	12	168	129	18	356	106	15	-
Other Europe	1,672	53	182	1,106	173	4	17	-	65	29	3	29	9	1	-
Asia	280,261	13,284	63,874	125,880	20,152	7,070	25,449	2,683	2,533	1,703	708	11,606	4,728	544	7
China 2/	11,242	386	1,095	3,091	2,122	44	3,047	366	257	30	23	317	186	37	-
Hong Kong	12,904	14	1,084	5,652	3,360	8	2,412	56	39	16	4	182	52	23	-
India	20,158	407	2,473	7,253	932	51	4,330	859	504	137	29	7,137	981	52	1
Indonesia	2,186	314	271	810	177	3	135	15	70	5	-	303	77	6	-
Iran	8,957	1,657	500	3,605	94	41	2,201	135	109	33	9	368	189	43	1
Israel	25,129	1,325	2,920	16,090	1,351	446	1,076	289	132	293	39	287	568	13	-
Japan	129,480	1,702	47,776	60,137	6,202	6,026	2,498	275	285	561	507	1,058	1,395	157	1
Jordan 3/	1,476	186	77	617	82	9	299	18	35	1	-	102	34	10	3
Korea	9,618	1,308	1,563	2,155	1,306	224	1,314	256	65	207	71	621	280	62	-
Lebanon	4,518	117	850	2,294	485	3	471	19	85	13	6	125	31	29	-
Pakistan	3,413	162	410	1,023	103	90	735	55	180	9	4	209	146	7	-
Philippines	27,572	1,373	3,275	15,797	2,510	77	1,091	117	276	354	4	2,246	406	65	-
Vietnam	3,066	1,524	97	749	81	1	361	3	12	16	7	195	32	3	-
Other Asia	20,644	3,009	1,476	6,219	1,347	47	5,524	220	48	30	5	1,859	346	62	1
North America	2,013,685	7,469	41,253	1,368,804	59,300	446	38,042	2,995	2,810	50,854	275	3,722	1,497	436,545	1,201
Canada	20,596	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Mexico	77,894	2,931	13,812	630,857	7,906	19	8,076	283	403	3,621	10	676	311	206	1,020
West Indies	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000
Cuba	982	70	52	582	23	5	23	1	164	3	-	200	34	101	6
Dominican Republic	63,614	645	1,803	56,275	1,526	14	2,023	30	261	222	24	200	34	101	5
Haiti	11,122	374	526	7,271	2,079	6	581	6	164	6	-	75	2	101	1
Jamaica	47,825	204	2,675	28,780	4,682	17	1,398	38	310	9,743	2	142	31	29	-
Other West Indies	230,220	331	8,242	181,329	14,603	159	5,112	81	247	18,473	15	619	37	1,552	118
Central America	102,821	1,563	3,403	85,262	4,020	43	5,618	153	867	254	7	1,091	297	247	2
Costa Rica	12,348	93	426	10,343	461	3	559	20	176	9	-	193	23	24	4
El Salvador	18,058	373	607	15,775	292	5	769	35	165	26	-	193	41	29	1
Guatemala	28,104	372	515	25,592	607	2	719	15	217	14	-	213	23	28	1
Honduras	13,236	212	325	10,510	1,009	2	1,194	14	52	160	1	213	23	28	1
Nicaragua	10,333	760	590	7,991	623	26	892	24	75	13	3	149	15	25	1
Panama	16,623	246	226	12,613	971	0	1,470	36	173	32	3	145	94	66	1
Other Central America	1,009	23	204	2,780	600	-	226	5	9	-	-	10	2	2	-
Other North America	411,709	-	10	262	13	90	-	-	-	-	-	-	-	611,379	-
South America	298,517	9,718	16,815	220,961	22,253	288	17,615	1,095	4,262	736	178	3,392	1,252	456	14
Argentina	41,488	69	2,956	32,251	1,751	94	1,021	85	701	141	67	1,024	95	23	-
Bolivia	5,217	264	600	1,990	404	11	267	10	174	1	-	200	64	16	-
Brazil	41,076	2,292	4,529	27,917	4,360	12	666	130	435	141	6	1,099	633	16	-
Chile	6,411	510	1,661	16,917	1,911	7	304	85	700	41	6	929	230	25	-
Colombia	50,288	813	2,082	42,166	1,917	70	2,114	125	458	61	10	1,464	234	114	4
Ecuador	23,863	421	539	20,614	905	1	298	24	292	34	1	306	32	61	-
Paraguay	3,666	119	120	858	242	1	71	1	110	9	-	200	14	4	-
Peru	25,907	310	691	21,552	1,381	11	877	50	315	59	5	590	155	74	-
Uruguay	6,950	197	493	4,632	1,088	4	166	1	292	24	6	195	65	91	-
Venezuela	67,233	987	3,275	65,016	11,357	25	3,165	355	188	19	1	1,365	202	61	-
Other South America	10,018	86	362	5,266	803	29	2,977	191	76	8	-	112	49	22	-
Africa	27,929	2,145	4,420	12,481	1,419	36	2,521	373	1,556	199	38	2,222	457	61	1
Algeria	505	13	139	250	30	-	14	2	46	1	-	11	2	-	-
Morocco	1,359	231	120	762	47	1	50	2	57	3	1	81	1	3	-
South Africa	9,177	330	2,163	5,514	234	7	264	61	55	60	19	298	152	10	

IMMIGRANTS BORN IN NORTH AND SOUTH AMERICA  
 ADMITTED UNDER THE NUMERICAL LIMITATION OF THE WESTERN HEMISPHERE  
 YEAR ENDING JUNE 30, 1969

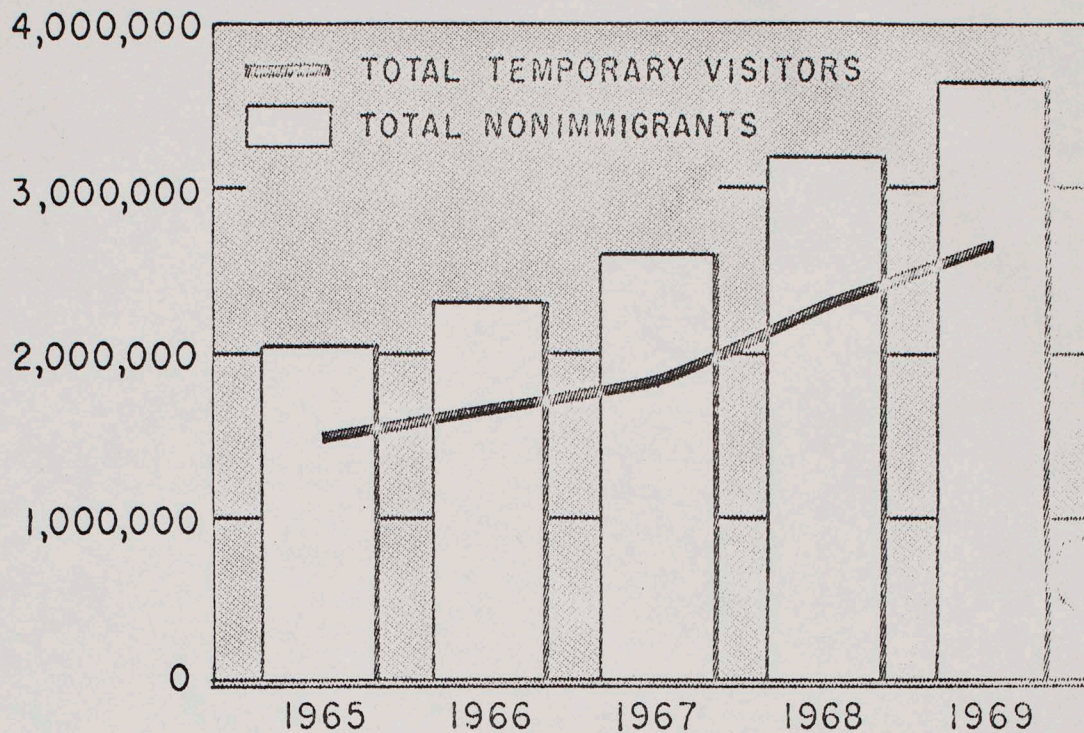


TOTAL ADMITTED		133,689
WEST INDIES	54,386	
MEXICO	31,933	
SOUTH AMERICA	22,085	
CANADA	14,617	
CENTRAL AMERICA	8,322	
OTHER	2,346	

DEPORTABLE ALIENS FOUND IN THE UNITED STATES  
 1965 - 1969



# NONIMMIGRANTS ADMITTED 1965 - 1969



Nonimmigrants Admitted: Years Ended June 30, 1968 and 1969

Class of admission	Number		Percent change
	1969	1968	
Total.....	3,645,328	3,200,336	+13.9
Foreign government officials.....	44,940	45,320	-0.8
Temporary visitors for business.....	299,810	257,800	+16.3
Temporary visitors for pleasure.....	2,382,198	2,042,666	+16.6
Transit aliens.....	210,543	232,731	-9.5
Treaty traders and investors.....	15,264	13,091	+16.6
Students.....	90,486	73,303	+23.4
Spouses and children of students.....	8,302	7,009	+18.4
International representatives.....	19,956	19,826	+0.7
Temporary workers and industrial trainees.....	62,952	68,969	-8.7
Workers of distinguished merit and ability.....	8,941	11,578	-22.8
Other temporary workers.....	49,913	52,798	-5.5
Industrial trainees.....	4,098	4,593	-10.8
Representatives of foreign information media.....	4,164	3,672	+15.0
Exchange visitors.....	47,175	45,320	+4.1
Spouses and children of exchange visitors.....	15,301	15,163	+0.9
Returning residents.....	441,082	373,252	+18.2
NATO officials.....	3,155	2,264	+39.4



TABLE 53. PROSECUTIONS FOR IMMIGRATION AND NATIONALITY VIOLATIONS:  
YEARS ENDED JUNE 30, 1960-1969

Action taken	1960-1969	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969
<b>Prosecutions:</b>											
Total disposed of .....	33,145	2,773	2,781	2,828	2,903	3,076	3,714	3,496	3,610	2,885	5,079
Convictions .....	30,460	2,557	2,540	2,530	2,668	2,882	3,442	3,195	3,362	2,661	4,623
Acquittals .....	224	9	11	19	23	31	19	30	13	17	52
Dismissals <sup>1/</sup> .....	2,461	207	230	279	212	163	253	271	235	207	404
Total pending end of year .....	938	321	373	336	487	719	643	777	692	947	938
<b>Prosecutions for immigration violations:</b>											
Disposed of .....	30,200	2,589	2,597	2,634	2,678	2,772	3,288	3,169	3,279	2,629	4,565
Convictions .....	27,707	2,400	2,371	2,357	2,472	2,592	3,037	2,887	3,046	2,420	4,125
Acquittals .....	211	8	10	17	20	30	16	30	13	17	50
Dismissals <sup>1/</sup> .....	2,282	181	216	260	186	150	235	252	220	192	390
Pending end of year .....	894	300	348	293	472	683	613	730	659	875	894
<b>Prosecutions for nationality violations:</b>											
Disposed of .....	2,945	184	184	194	225	304	426	327	331	256	514
Convictions .....	2,753	157	169	173	196	290	405	308	316	241	498
Acquittals .....	13	1	1	2	3	1	3	-	-	-	2
Dismissals <sup>1/</sup> .....	179	26	14	19	26	13	18	19	15	15	14
Pending end of year .....	44	21	25	43	15	36	30	47	33	72	44
<b>Aggregate Fines and Imprisonment:</b>											
Fines .....	\$1,238,174	\$39,185	\$95,575	\$273,160	\$133,125	\$98,096	\$126,150	\$103,168	\$87,625	\$109,985	\$172,105
Immigration violations .....	1,091,814	39,185	77,525	246,950	125,575	87,346	100,950	93,168	67,875	102,635	150,605
Nationality violations .....	146,360	-	18,050	26,210	7,550	10,750	25,200	10,000	19,750	7,350	21,500
Imprisonment .....	27,802	1,994	2,378	2,672	2,735	2,638	3,422	2,736	3,047	2,210	3,970
Immigration violations .....	25,075	1,821	2,195	2,472	2,559	2,353	2,998	2,454	2,755	2,006	3,462
Nationality violations .....	2,727	173	183	200	176	285	424	282	292	204	508

<sup>1/</sup> Dismissed or otherwise closed.

TABLE 56. PRIVATE IMMIGRATION AND NATIONALITY BILLS INTRODUCED AND LAWS ENACTED  
75TH CONGRESS THROUGH 91ST CONGRESS, FIRST SESSION

Congress	Bills introduced	Laws enacted
91st (First Session) .....	5,620	49
90th .....	7,293	218
89th .....	5,285	279
88th .....	3,647	196
87th .....	3,592	544
86th .....	3,069	488
85th .....	4,364	927
84th .....	4,474	1,227
83rd .....	4,797	755
82nd .....	3,669	729
81st .....	2,811	505
80th .....	1,141	121
79th .....	429	14
78th .....	163	12
77th .....	430	22
76th .....	601	65
75th .....	293	30

TABLE 27A. ALIENS DEPORTED AND REQUIRED TO DEPART, BY STATUS AT ENTRY:  
YEARS ENDED JUNE 30, 1965-1969

Aliens required to depart totaled 95,263 in 1965, 123,683 in 1966, 142,343 in 1967, 179,952 in 1968, and 240,958 in 1969, (see Table 23). This table does not include required departures of crewmen who were technical violators and direct required departures under safeguards--chiefly Mexicans who entered without inspection.

Status at entry	D e p o r t a t i o n					R e q u i r e d d e p a r t u r e				
	1965	1966	1967	1968	1969	1965	1966	1967	1968	1969
Total .....	10,143	9,168	9,260	9,130	10,505	46,963	39,510	39,486	47,666	52,603
Immigrant (except displaced person) ..	847	877	1,107	880	1,208	916	845	887	577	710
Displaced person or refugee .....	2	1	-	-	2	11	81	16	3	5
Foreign government official .....	3	1	6	2	2	117	79	144	133	179
Representative of foreign information media .....	3	3	2	1	1	10	3	3	6	5
Representative to international organization .....	-	-	-	-	1	16	6	14	4	12
Exchange visitor .....	16	16	14	15	27	1,264	1,210	1,129	1,254	1,360
Temporary visitor .....	2,233	2,105	2,026	2,376	2,346	24,279	23,684	24,013	29,995	32,787
Agricultural laborer .....	214	234	99	139	208	1,744	354	203	223	281
Other temporary worker or industrial trainee .....	20	27	23	20	36	283	322	274	340	334
Transit alien .....	35	28	43	47	42	241	259	197	326	364
Returning resident alien .....	98	82	45	39	30	34	23	22	18	46
Student .....	83	81	94	89	84	1,944	2,109	1,880	1,940	1,803
U.S. citizenship claimed .....	178	194	171	213	298	295	284	223	329	284
Crewman .....	1,369	1,898	1,587	1,294	1,138	2,498	2,829	2,670	2,634	2,685
Treaty trader or investor .....	6	4	1	1	1	17	33	18	16	17
Entered without inspection .....	4,986	3,570	3,975	3,952	5,003	13,239	7,356	7,756	9,761	11,658
Stowaway .....	45	44	65	53	67	40	32	34	45	30
Other .....	5	3	2	9	11	15	1	3	12	43

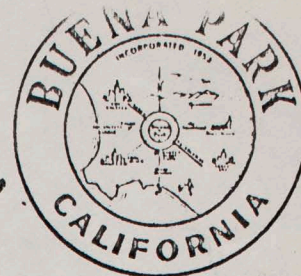
TABLE 27B. DEPORTABLE ALIENS LOCATED, BY STATUS AT ENTRY AND NATIONALITY:  
YEAR ENDED JUNE 30, 1969

Nationality	Number located	Status at entry										
		Agricultural worker	Visitor	Student	D-1 crewman		D-2 crewman		Immigrant	Stowaway	Entry without inspection	Other
					Non-willful violator	Willful violator	Non-willful violator	Willful violator				
All countries .....	283,557	738	63,152	5,712	26,153	2,691	929	64	2,420	152	167,174	14,372
Europe .....	25,484	118	7,868	578	13,302	1,600	673	45	160	25	310	805
Greece .....	6,043	1	652	113	3,679	1,141	194	28	12	-	65	158
Italy .....	2,733	-	2,077	63	346	58	15	1	29	3	27	109
Scandinavia 1/ .....	4,837	-	151	29	4,221	58	312	8	4	-	5	49
Spain .....	1,258	111	260	21	567	124	29	7	-	3	16	120
United Kingdom .....	3,281	5	1,117	128	1,720	52	26	-	38	1	76	118
Yugoslavia .....	519	-	316	15	132	28	-	-	4	-	11	13
Other Europe .....	6,813	1	3,295	209	2,637	139	97	1	73	13	110	238
Asia .....	21,119	3	4,250	3,123	10,345	936	99	4	204	6	59	2,090
China .....	7,678	1	554	953	4,384	851	25	3	170	5	35	697
Philippines .....	4,502	1	1,923	279	1,283	41	51	1	16	-	7	900
Other Asia .....	8,939	1	1,773	1,891	4,678	44	23	-	18	1	17	493
North America .....	221,233	177	40,679	674	454	48	38	3	1,886	40	166,604	10,630
Canada .....	12,753	38	8,328	164	17	2	3	-	141	-	3,597	463
Mexico .....	201,636	29	28,430	286	125	4	5	-	1,662	2	161,673	9,420
Cuba .....	1,657	-	193	19	2	2	-	-	40	3	1,266	127
Dominican Republic .....	2,134	-	1,888	29	41	15	4	-	19	22	10	106
British West Indies and British Honduras .....	3,053	110	1,840	176	269	25	26	3	24	8	58	514
Other Western Hemisphere .....	13,035	433	9,217	871	1,272	74	100	12	153	71	177	655
Other nationalities .....	2,686	7	1,138	466	780	33	19	-	17	10	24	192

1/ Denmark, Norway, Sweden, and Iceland.



# CITY OF BUENA PARK



C A L I F O R N I A

6650 BEACH BOULEVARD., TEL: 521-1121

POLICE DEPARTMENT  
DUDLEY D. GOURLEY, Chief  
July 31, 1973

Immigration and Naturalization Services  
U. S. Department of Justice  
Commissioner Raymond Farrell  
119 D Street N. E.  
Washington, D. C. 20536

*Jch*  
*8/7*

Dear Commissioner Farrell:

As you are well aware, many areas of this country have been inundated by illegal aliens who are causing many problems, not the least of which is taking jobs away from American citizens and transporting U. S. currency out of our country, drastically affecting our balance of payments. In attempting to cope with this problem, we have contacted the local immigration border patrol to assist us in making sweeps of those businesses and areas in our community that employ and house illegal aliens commonly known as wetbacks.

On July 6, 1973 we contacted Mr. Mulley who said he would arrange the detail and give us a call back. We recontacted him on July 16, 1973 and he stated supervisors are not ready for this activity at this time.

Commissioner, I am well aware that you have severe limitations upon your manpower and upon your budget, as I have closely followed the difficulties of the immigration/naturalization service and the border patrol in attempting to perform their functions under severe limitations because of budget cutbacks and very limited manpower. So, I am not being critical of your agency because I think you face almost insurmountable tasks that possibly will change for the better in the future. So, please don't misinterpret my letter as one of criticism. I do ask your help in supplying at least one man from the border patrol to act as an advisor and we will supply the manpower to make the sweeps, at your earliest convenience, as I feel if we overlook these illegal intrusions into our country, which cause many and varied problems to our nation and economy, I am sure that they will become a permanent fixture and will get definitely out-of-hand in the future. I do not feel, as a law enforcement officer and a citizen of this country, any of us can afford to overlook this problem and I do not intend to do so. I solicit your help in arresting these people so that they can be transported back to their point of origin.

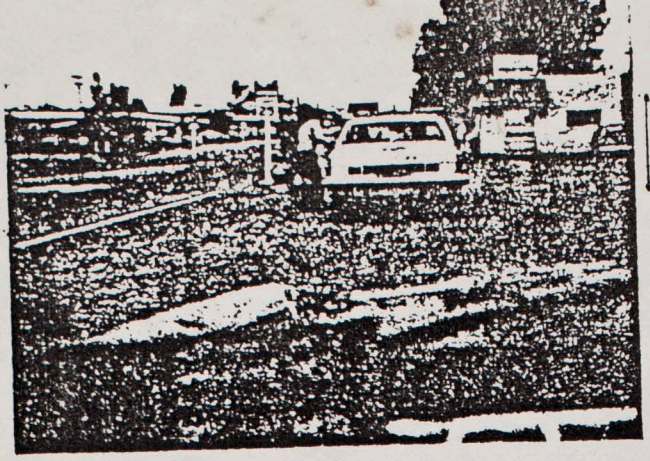
Commissioner, I also speak as a former border patrolman and I have, perhaps, a better understanding than most law enforcement officers of the problems you face. I would appreciate hearing from you in the near future.

Sincerely yours,

*Dudley D. Gourley*  
DUDLEY D. GOURLEY  
Chief of Police

DDG/dr  
cc: City Mgr.

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This photograph shows the suspected illegal aliens being questioned by local sheriffs after Klan base station alert was communicated to the local Sheriffs Department.

"EXHIBIT E "

# SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

Post Office Box 2931  
San Diego, California 92112  
(714) 232-3811



September 15, 1972

JOHN F. DUFFY, Sheriff

TO ALL TAXI CAB DRIVERS

SUBJECT: TRANSPORTING ILLEGAL ALIENS

Due to the increasing number of aliens entering the county and their utilization of taxi cabs for transportation into the State of California a meeting was held with the owners of taxi cab companies licensed by the Sheriff and the following policy was adopted in an attempt to assist the Border Patrol in alleviating this problem.

When a taxicab driver picks up a person or group of persons whom he feels may be in this country illegally he should notify his dispatcher via the radio of the situation by use of a code number or otherwise, and advise of his destination. The dispatcher will then notify this department who will contact a police agency to stop the taxicab and determine the status of the passengers.

If the driver follows the above procedure every effort will be made by the law enforcement agency making the stop to keep his actions confidential and get him back in service as soon as possible. HOWEVER, if the driver of a taxicab is stopped by a law enforcement officer and found to have illegal aliens in his vehicle and the circumstances indicate he was aware they were in this county illegally and he has not notified his dispatcher of the situation then his permit to operate a taxicab in the county area will be SUSPENDED.

Further, it should be noted that according to Section 1324 of the United States Code it is a felony to transport or move persons who are in this county illegally if the person knows or has reasonable grounds to believe that they have entered this county illegally. This is punishable by a \$2,000 fine or imprisonment in prison for FIVE years for each alien transported.

As you can see this is a serious matter and while we do not expect the drivers to act as police officer, we are requesting your cooperation. Moreover, we do not expect you to call on each individual you transport, but are primarily interested in the large groups of 5 or 6 persons who are obviously, by their mannerisms and dress, illegal entrants into this county.

If you desire any further information on this matter contact your dispatcher or Deputy M. Stayrook of this department, 236-2961.

JOHN F. DUFFY, Sheriff

*M. C. Rath*  
M. C. Rath, Sergeant  
Investigative Support Unit

17-57  
City Station  
San Diego  
CA 92021

North County Station  
525 G. McKee  
Vista, CA 92083

Lemon Grove Station  
7850 Broadway  
Lemon Grove, CA 94045

Encinitas Station  
143 E. Street  
Encinitas, CA 92024

INTERVIEW LOG

1. Person interviewed \_\_\_\_\_

2. Officer(s) \_\_\_\_\_

3. Place (exact address and identity of room) \_\_\_\_\_

4. Date \_\_\_\_\_ 5. Exact Time/place of encounter or arrest \_\_\_\_\_

6. If transported from place of encounter to interrogation point, show exact time involved.  
Note whether interrogation continued during transporting \_\_\_\_\_

7. Officers making arrest and/or transporting subject \_\_\_\_\_

8. Time interview began \_\_\_\_\_ 9. Time subject or suspect advised of right to remain  
silent and fact any statement could be used against him in court and name of officer furnishing  
advice \_\_\_\_\_

10. Time subject advised of right to presence of counsel, retained or appointed and name of officer  
furnishing advice \_\_\_\_\_

11. Time questioning concluded \_\_\_\_\_ 12. Time written statement commenced \_\_\_\_\_

13. Person preparing statement \_\_\_\_\_

14. Time statement completed \_\_\_\_\_ 15. Time statement reviewed by person interviewed  
\_\_\_\_\_ 16. Time statement signed \_\_\_\_\_ 17. Record of requests and  
complaints of subject and actions taken thereon \_\_\_\_\_

(If additional space required, continue on an attachment.)

UNITED STATES DEPARTMENT OF JUSTICE  
Immigration and Naturalization Service

AVISO DE DERECHOS

Antes de que le hagamos cualquier pregunta, usted debe de comprender sus derechos:

Usted tiene el derecho de guardar silencio.

Cualquier cosa que usted diga puede ser usada en su contra en un juzgado de leyes, o en cualquier procedimiento administrativo o de inmigración.

Usted tiene el derecho de hablar con un abogado para que el lo aconseje antes de que le hagamos alguna pregunta, y de tenerlo presente con usted durante las preguntas.

Si usted no tiene el dinero para emplear a un abogado, se le puede proporcionar uno antes de que le hagamos alguna pregunta, si usted lo desea.

Si usted decide contestar nuestras preguntas ahora, sin tener a un abogado presente, siempre tendrá usted el derecho de dejar de contestar cuando guste. Usted también tiene el derecho de dejar de contestar cuando guste, hasta que pueda hablar con un abogado.

RENUNCIA

He leído esta declaración de mis derechos y comprendo lo que son mis derechos. Estoy dispuesto a dar una declaración y a contestar preguntas. Por ahora no deseo un abogado. Comprendo y sé lo que estoy haciendo. No me han hecho promesas ni me han amenazado, ni han usado presión o fuerza en mi contra.

\_\_\_\_\_  
Firma

Fecha y hora: \_\_\_\_\_ Lugar: \_\_\_\_\_

CERTIFICATION

I HEREBY CERTIFY that the foregoing Warning and Waiver were read by me to the above signatory, that he also read it and has affixed his signature hereto in my presence.

\_\_\_\_\_  
Immigration Officer      Signature

\_\_\_\_\_  
Witness' Signature

\_\_\_\_\_  
Interpreter's Signature

\_\_\_\_\_  
Language

\_\_\_\_\_  
Interpreter's Address

DISTRICT OFFICE  
5106 FEDERAL BLVD., SUITE 107  
SAN DIEGO, CALIFORNIA 92105  
(714) 263-2148

SACRAMENTO  
STATE CAPITOL 95814  
445-7610

JOSÉ DÍAZ  
ADMINISTRATIVE ASSISTANT  
(DISTRICT OFFICE)

# Assembly California Legislature

PETER R. CHACON  
ASSEMBLYMAN, SEVENTY-NINTH DISTRICT  
CHAIRMAN  
URBAN DEVELOPMENT AND HOUSING COMMITTEE

COMMITTEES  
URBAN DEVELOPMENT AND  
HOUSING, CHAIRMAN  
FINANCE AND INSURANCE  
GOVERNMENT ADMINISTRATION  
SELECT COMMITTEE ON  
MAN-POWER DEVELOPMENT  
JOINT COMMITTEE ON  
EDUCATIONAL GOALS  
AND EVALUATION  
JOINT COMMITTEE ON  
THE STATE'S ECONOMY  
JOINT SUBCOMMITTEE ON  
ECONOMIC CONVERSION  
CALIFORNIA COMMISSION  
ON AGING  
COMMISSION OF THE CALIFORNIAS  
EQUAL EDUCATIONAL  
OPPORTUNITIES COMMISSION

August 23, 1973

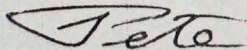
Mr. Herman Baca  
105 Harbison  
National City, California 92114

Dear Herman:

Attached is a copy of a letter I sent to Attorney General Evelle Younger asking his office's opinion on various questions relating to police practices and the illegal alien issue.

Today I received a response from his office (copy attached), and I thought you might be interested in having a copy of it.

Sincerely,



PETER R. CHACON

PRC:lr

Attachments

This letter sent to all those listed below:

Honorable Richard Alatorre  
Member of the Assembly

Mr. Joe Alcozer  
Labors International Union of  
North America, Local 89

Mr. and Mrs. Armando Arias

Mr. Herman Baca

Dr. Mario Barrera  
UCSD, Political Science Department

Mr. Ramon Castro  
Attorney at Law

Mr. Earl Davis, Jr.  
VOICE VIEWPOINT

Mr. Jose Diaz, Administrative Assistant  
Honorable Peter R. Chacon, 79th A.D.

Mr. George W. Dissinger  
Assistant City Editor  
San Diego Evening Tribune

Sheriff John F. Duffy  
County of San Diego

Mr. Jim Estrada  
KFMB - Channel 8 (CBS)

Mr. Juancho Fanes, Chairman  
Chicano Federation of San Diego  
County, Inc.

Honorable Alex P. Garcia  
Member of the Assembly

Honorable Raymond Gonzales  
Member of the Assembly

Mr. Roberto Gutierrez  
North County Chicano Federation

Mr. Donald H. Harrison  
San Diego Union

Mr. R. L. Hoobler  
Chief of Police

The Reverend John Hurtado  
Office of Ethnic Affairs  
Catholic Community Services

Mr. Robert R. Lopez  
Community Affairs Director

Mr. Joe McCarthy  
KGTV

Mr. Jess R. Macias, President  
Chicano Democratic Association

Mr. Art Madrid, Assistant to the  
Mayor for Community Relations

Mr. Dave Martinez

Mr. Fred Martinez  
Area Manpower Representative  
Human Resources Development, Inc.

Ms. Andrea Medina  
New Careers

Mr. Edwin L. Miller, Jr.  
District Attorney

Honorable Joseph B. Montoya  
Member of the Assembly

Mr. Dan Munoz

Mr. Luis Natividad  
Chicano Federation of San Diego  
County, Inc.

Mr. Albert Puente

Mr. Richard Resendez, President  
San Diego G.I. Forum

Mr. Pete Rios, President  
Spanish Speaking Political  
Association

Mr. Charles Samarron

Dr. Mike Tirado  
University of California,  
San Diego

Mr. Phil Usquiano, Business  
Manager, Labors International  
Union of North America  
Local 89

Mr. Vic Villalpando  
Department of Public Welfare

Mayor Pete Wilson

✓

May 29, 1973

Honorable Evelle J. Younger  
Attorney General  
Department of Justice  
Fifth and Capitol Mall  
Wells Fargo Bank Building  
Sacramento, California 95814

Dear Mr. Younger:

In San Diego City and County, local law enforcement personnel have adopted policies with respect to the apprehension of illegal aliens. I would like to describe the situation as I understand it, and request your legal opinion on several matters.

Some time ago, San Diego County Sheriff, John Duffy, issued a memorandum to the drivers of yellow cabs instructing them to report persons whom the cab drivers suspect of being illegal aliens.

Later, San Diego City Police Chief, Ray Hoobler, asked members of the police force to apprehend persons suspected of being illegal aliens.

The matters on which I request your opinion are:

- 1) Is the enforcement of immigration policies solely within the jurisdiction of federal authorities, or may local law enforcement personnel enforce or assist in enforcement of those laws?
- 2) If local law enforcement officials are prohibited from enforcing immigration policies, are there other state laws pursuant to which actions as described above may be taken?
- 3) If there are such state laws, would a practice like that of involving yellow cab company or other private enterprises be legal? If so, under what circumstances?

*Attorney General  
Evelle J. Younger*



Honorable Evelle J. Younger

-2-

May 29, 1973

- 4) If state law does not prohibit policemen and sheriffs from apprehending suspected illegal aliens, what are the "probable cause" or "reasonable suspicion" standards which must be satisfied before an officer may apprehend an individual?
- 5) If a person suspected of being an illegal alien is apprehended by police, detained by police -- and possibly deported -- and is later determined not to be an illegal alien, what remedies, under the law, are available to him?

Sincerely,

PETER R. CHACON

PRC:lj

UNGER  
GENERAL

STATE OF CALIFORNIA



OFFICE OF THE ATTORNEY GENERAL

**Department of Justice**

STATE BUILDING, SAN DIEGO 92101

August 8, 1973

Re: I/L CR 73/24

Honorable Peter R. Chacon  
Assemblyman, Seventy-ninth District  
State Capitol  
Sacramento, California 95814

Dear Assemblyman Chacon:

You have asked this office the following questions:

- "1) Is the enforcement of immigration policies solely within the jurisdiction of federal authorities, or may local law enforcement personnel enforce or assist in enforcement of those laws?
- "2) If local law enforcement officials are prohibited from enforcing immigration policies, are there other state laws pursuant to which actions as described above may be taken?
- "3) If there are such state laws, would a practice like that involving yellow cab company or other private enterprises be legal? If so, under what circumstances?
- "4) If state law does not prohibit policemen and sheriffs from apprehending suspected illegal aliens, what are the 'probable cause' or 'reasonable suspicion' standards which must be satisfied before an officer may apprehend an individual?
- "5) If a person suspected of being an illegal alien is apprehended by police, detained by the police -- and possibly deported -- and is later determined not to be an illegal alien, what remedies, under the law, are available to him?"

As our analysis below will illustrate, we have reached the following conclusions:

Honorable Peter R. Chacon  
August 8, 1973

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1. Under both state and federal law, local law enforcement officers may assist in the enforcement of immigration laws.1/
2. In enforcing these or any other laws, local law enforcement personnel may request the assistance of any private enterprises or citizens.
3. The "probable cause" or "reasonable suspicion" standard which must be satisfied before an officer may apprehend an individual suspected of being an illegal alien would be the same as that required for his apprehension of any other suspected criminal.
4. If an officer acted unreasonably in his detention and apprehension of a suspected illegal alien, the officer would be liable to a civil suit for false arrest by the individual. An individual wrongfully deported could seek judicial review of his deportation in the federal courts.

In our analysis, we have chosen to treat your questions (1) and (2) together, since the authority of local law enforcement officers to apprehend illegal aliens depends on both federal and state law.

1470  
The particular federal statutes which are involved in this problem are contained in Title 8, United States Code, sections 1324 through 1326. Subsection (a) of 8 U.S.C. § 1324 provides that any person who brings an alien into the United States, or transports an illegal alien, or harbors an illegal alien, or encourages or attempts to encourage the entry of an illegal alien into the United States is guilty of a felony. Subsection (b) of that section states:

"No officer or person shall have authority to make any arrest for a violation of any provision of this section except officers and employees of the Service designated by the Attorney General, either individually or as a member of a class, and all other officers whose duty it is to enforce criminal laws."

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1. Since your questions refer to immigration "policies" and "laws" interchangeably, we consider them as directed toward federal statutes.

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Honorable Peter R. Chacon  
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8 U.S.C. § 1325, indicates it is a misdemeanor for an alien to enter the United States illegally or to elude examination or inspection by immigration officers on one occasion and a felony on subsequent occasions. 8 U.S.C. § 1326, states it is a felony for an alien who has been arrested and deported, or excluded and deported, to enter, attempt to enter, or be found in the United States.

There are several reasons for our conclusion that California law enforcement officers are not prohibited from enforcing these laws. The first is the language and interpretation of Article 6, Clause 2, of the United States Constitution. This provides:

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

In interpreting this clause, the United States Supreme Court has said:

"It must always be borne in mind that the Constitution, laws and treaties of the United States are as much a part of the law of every State as its own local laws and Constitution." Hauenstein v. Lynham, 100 U.S. 483, 490 (1880).

In discussing this holding, the California Supreme Court has said:

"The Constitution of the United States and all laws enacted pursuant to the powers conferred by it on the Congress are the supreme law of the land (U. S. Const., art. VI, sec. 2) to the same extent as though expressly written into every state law. [Citations omitted.]" People ex. rel. Happell v. Sischo, 23 Cal. 2d 478, 491.

Because of this, the provisions of Title 8, United States Code, are as much a part of California law as

are the provisions of any California statute.

While we have concluded that local law enforcement officers may enforce these provisions of the Immigration and Naturalization Act, we still have not reached the question under what authority the officer can arrest or detain an individual suspected of violating those provisions. Absent any specific federal direction regarding the power to arrest individuals, the arrest of any individual for a federal offense is dependent on the law of the state in which the arrest takes place. Ker v. California, 374 U.S. 23, 37 (1963).

If subsection (b) of 8 U.S.C. § 1324 applies to sections 1325 and 1326, then it provides specific statutory authority for ". . . all other officers whose duty it is to enforce criminal laws" to arrest illegal aliens. This would, of course, include California peace officers. On the other hand, if it is read as a limitation on the authority of persons to arrest for violations of that specific section, which seems the more logical point of view, then the power to arrest persons for violation of other sections would depend on the law of the state under Ker v. California, supra.

California Penal Code section 836 provides the statutory authority for a California peace officer to arrest (a) any person whom he has reasonable cause to believe has committed a public offense in his presence, (b) any person who has committed a felony, although not in his presence, and (c) any person he has reasonable cause to believe has committed a felony whether or not a felony has in fact been committed. With this statutory authority, it is quite obvious that any law enforcement officer, unless specifically forbidden by federal law, may arrest anyone who commits any federal offense, either a felony or a misdemeanor, in his presence. See, e.g., United States v. Di Re, 332 U.S. 581, 589 (1948); U.S. v. Burgos, 269 F. 2d 763, 766 (2nd Cir. 1959); Marsh v. United States, 29 F. 2d 172, 173-74 (2nd Cir. 1928); United States v. Bumbola, 23 F. 2d 696, 698 (N.D. N.Y. 1928); Harris v. Superior Court, 51 Cal. App. 15.

Even though a California peace officer is authorized to arrest a person who has violated the immigration laws in his presence, the question remains whether an alien who has entered the United States illegally and violated 8 U.S.C. § 1325, may be arrested

some time after his entry. Essentially, this comes down to the question of whether an illegal alien is committing a crime "in the presence" of the officer. Since 8 U.S.C. § 1325, includes the crime of eluding immigration inspectors, the United States Attorney General has interpreted illegal entry as a continuing crime and has successfully urged this interpretation in several courts for statute of limitations purposes. See 2 C. Gordon and H. Rosenfield, Immigration Law and Procedure, section 9.42 at 9-90 (1973). Other courts have reasoned that "entry" while a continuing crime to a certain extent is not one of infinite duration. See United States v. Mallides, 339 F. Supp. 1, 4 (S.D. Cal. 1972); rev'd. on other grounds, 473 F. 2d 859 (9th Cir. 1973).

It would therefore seem reasonable to construe the crime of entry as continuing at least until the alien has reached a "place of temporary safety," a term used by the California Supreme Court in defining the limits of particular criminal activity. See e.g., People v. Salas, 7 Cal. 3d 812, 820-24. We must therefore conclude that unless a police officer knew a particular individual had entered the United States illegally on a prior occasion and was therefore guilty of a felony, or had reason to believe the entry was not complete so that a misdemeanor was being committed in his presence, he would not, under California statutory authority, be able to arrest a suspected illegal alien.

On the other hand, from the memos issued both by the San Diego Sheriff's Office and the San Diego Police Department, it appears that local law enforcement officers are not arresting illegal aliens but merely detaining them for immigration officials. A temporary detention, of course, is not an arrest, People v. Anthony, 7 Cal. App. 3d 751, 760, and requires less than probable cause, as will be discussed infra. It is only reasonable to believe that local law enforcement officers can detain illegal aliens for the purpose of further investigation much in the same way they would detain any suspected misdemeanant who had not committed a crime in their presence. In the normal misdemeanor violation the detention might consist of returning the suspect to the scene of the crime or to the police station for further investigation. When a person is suspected of illegal entry, the detention should be limited to the short amount of time necessary to call agents of the Immigration and Naturalization Service to take custody of the suspect and complete the investigation.

Honorable Peter R. Chacon  
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This is the present practice and seems reasonable.

We must therefore conclude that while local law enforcement officers do not have the broad authority of agents of the Immigration and Naturalization Service under 8 U.S.C. § 1357 to interrogate and detain suspected illegal aliens, they are authorized under both state and federal law to aid in the enforcement of immigration laws.

In response to your third question, we have concluded that any law enforcement officer may call upon any citizen or private company to aid in the detection and prevention of crime in the apprehension of criminals. See, e.g., Government Code sections 26600 et seq. California courts have specifically approved of this procedure. In People v. Ford, 234 Cal. App. 2d 480, 487-88, the court indicated that all citizens have a duty to assist public authorities in maintaining the peace and in suppressing crime. The United States Supreme Court has also stated:

"It is an act of responsible citizenship for individuals to give whatever information that they may have to aid law enforcement." Miranda v. Arizona, 384 U.S. 436, 477-78 (1966).

Our conclusion therefore must be that law enforcement personnel may ask taxi cab drivers or any citizens to report persons they believe might be illegal aliens or engaged in any other criminal activity. This is illustrated by television and other advertisements related to a "Drug Hot Line." This conclusion is particularly valid when placed in the context that a failure to report persons whom a driver might believe are illegal aliens could make the driver liable to arrest and prosecution for the transportation of illegal aliens under 8 U.S.C. § 1324.

In response to your fourth question, we have concluded that the "reasonable suspicion" or "probable cause" standards required for the apprehension of an illegal alien by local law enforcement officers would depend on whether the alien was arrested or detained. If a suspected illegal alien is arrested by a local law enforcement officer, the arresting officer must have facts in his possession which would "warrant a man of reasonable caution in the belief" that the suspect has committed a crime, Wong Sun v. United States, 371 U.S. 471, 479 (1963), or must know of a state

Honorable Peter R. Chacon  
August 8, 1973

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of facts which would lead a man of ordinary care and prudence to believe or to entertain a strong suspicion that the person arrested is guilty of a crime. Cunha v. Superior Court, 2 Cal. 3d 352, 356.

On the other hand, if the officer merely detains a suspect, the detention will be considered reasonable where the officer can point to "specific and articulable facts" which reasonably warrant the intrusion on the detainee's liberty. People v. Siegenthaler, 7 Cal. 3d 465, 469. A temporary detention does not require probable cause. People v. Anthony, supra, 7 Cal. App. 3d at 760.

In Irwin v. Superior Court, 1 Cal. 3d 423, 427, the Supreme Court indicated a detention based on a mere hunch is unlawful. The Court went on to state that before a police officer can detain a person, the peace officer must have a rational suspicion that some activity out of the ordinary had taken place, some indication to connect the person detained with that activity, and some suggestion that the activity was related to crime. Applying this test to the detention of a suspected illegal alien, it seems before a peace officer may detain a person suspected of entering the United States illegally, he would have to have a rational suspicion that an entry was made into the United States, that the person he wished detained had made that entry, and that the entry was made illegally and was therefore criminal.

Our conclusion to your fourth question is that the standards required for the arrest or detention of a person suspected of entering the United States illegally are the same as those required for the arrest or detention of any person suspected of crime.

It is highly unlikely any person who was not an alien would be illegally deported as hypothesized by your final question because of the procedures required by section 1252 of Title 8, U.S.C. These require a hearing which includes the right to counsel. If an individual were somehow illegally deported, he would be able to have the deportation order judicially reviewed under 8 U.S.C. § 1105a. If the individual had been excluded, this would provide him with the opportunity to challenge the deportation order in a United States court.

Since the State of California has no authority to deport an individual, People v. Lopez, 81 Cal. App. 199, 203, an individual who was illegally deported would



Honorable Peter R. Chacon  
August 8, 1973

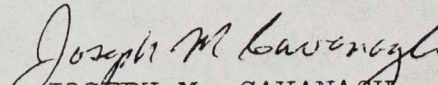
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have no cause of action against the State of California for his deportation. On the other hand, if a local law enforcement agency or officer acted without justification in either arresting or detaining the individual, he would have a civil suit for damages for false arrest. A peace officer is liable for false arrest if he acts without justification in arresting or detaining a person. Miller v. Glass, 44 Cal. 2d 359, 361-62; cf. Coverstone v. Davies, 38 Cal. 2d 315, 320-21. See 22 Cal. Jur. 2d, False Imprisonment, § 12 at 46-47 and § 16 at 50-51.

We therefore conclude that local law enforcement officers have not only the right but the duty to enforce all laws both state and federal, including those concerning the apprehension and detention of illegal aliens. Local law enforcement officers may call upon citizens to aid them in enforcing these laws. Thirdly, the "probable cause" or "reasonable suspicion" standards required for the apprehension of a person suspected of violating immigration laws are the same as those required for the detention and arrest of persons suspected of violating any criminal laws. Finally, if an individual were deported illegally, he could have this deportation reviewed in the federal courts; if he were detained or arrested illegally, he would have a cause of action for false arrest.

Very truly yours,

EVELLE J. YOUNGER  
Attorney General

  
BY JOSEPH M. CAVANAGH  
Deputy Attorney General

JMC:rve

# Illegal Alien View Given By Younger

## Attorney General's Opinion Backs Law Enforcement Officials

By DONALD H. HARRISON

Local law enforcement officials have only a limited right to arrest persons suspected of being illegal aliens, but their authority to detain such persons is broader, Atty. Gen. Evelle J. Younger has said in an opinion.

Younger, the state's chief prosecutor, also law enforcement officials may properly ask private individuals such as taxicab drivers to assist in the detection of illegal aliens.

Assemblyman Peter R. Chacon, D-San Diego, released copies of the opinion yesterday. Chacon had asked Younger to prepare it.

The opinion gave Younger's stamp of approval to a policy of San Diego Police Chief Ray Hoobler deeming it proper to detain suspected illegal aliens "when the circumstances arouse a reasonable suspicion that the individuals may be involved in criminal activity."

### SHERIFF DISPUTED

In so doing, the opinion disputed a statement by San Diego County Sheriff John Duffy that has been cited frequently by Mexican-American activists opposed to Hoobler's policy.

Duffy's statement was that "no one but immigration authorities, not even the Federal Bureau of Investigation, has the right to detain, interrogate or arrest illegal aliens."

The opinion, written for Younger by Deputy Atty. Gen. Joseph M. Cavanagh, said various court cases have held that "any law enforcement officer, unless specifically forbidden by federal law, may arrest anyone who commits any federal offense, either a felony or a misdemeanor, in his presence."

Illegal entry is a misdemeanor on the first offense and a felony thereafter.

### ENABLING LAW

The opinion said if an officer "knew a particular individual had entered the United States illegally on a prior occasion and was therefore guilty of a felony" the officer would be able to make an arrest.

Similarly, an officer observing an alien in the process of making an illegal entry, could make an arrest for a misde-

meanor, the officer "must have facts in his possession which would warrant a man of reasonable caution in the belief that the suspect has committed a crime."

In the case of detention, said the opinion, it "will be considered reasonable where the officer can point to 'specific and articulable facts' which reasonably warrant the intrusion on the detainee's liberty."

As for Duffy's request to cab drivers that they assist in identifying illegal aliens, Younger's opinion said: "Any law enforcement officer may call upon any citizen or private company to

meanor.

However, if the officer did not witness the alien in the act of entering the country illegally, the opinion said, then the crime could not be said to be one committed "in his presence," and the officer would not have the authority to make an arrest.

He would, however, have the authority to detain the individual for further investigation by agents of the U.S. Immigration and Naturalization Service, said the opinion. Such detention, the opinion added, "should be limited to the short amount of time necessary to call agents" of the immigration service.

### STANDARDS DIFFER

Younger's opinion said standards differ as to when a law enforcement officer may apprehend an illegal alien, depending on whether the apprehension is for the purpose of arrest or detention.

In the case of an arrest, said

aid in the detection and prevention of crime... All citizens have a duty to assist public authorities in maintaining the peace and in suppressing crime."

Duffy and Hoobler both were out of town yesterday, and aides declined to comment on Younger's opinion Herman Baca, president of the Mexican-American Political Association and a critic of Hoobler's policies, said he would comment after receiving a copy of the opinion.

Chacon said the attorney general's report appeared "conclusive that local law enforcement officials are in fact within statutory authority to stop and to apprehend people that they think are illegal aliens."

He said that if police and sheriff's deputies "plan to make a concerted effort to apprehend illegal aliens, they ought to employ Americans of Mexican descent to assist them, perhaps as special aides."

S.D. Union

Aug. 28, 1973

Los Angeles Times

**POLICE RIGHT TO HOLD SUSPECTED ALIENS AFFIRMED**

In a legal opinion made public Tuesday, state Atty. Gen. Evelle Younger said any law enforcement officer may detain for questioning a person he suspects of being an illegal alien.

An officer may make an arrest only if he actually sees an alien enter the country illegally, but any officer can detain a suspected alien for questioning by the U.S. Immigration and Naturalization Service, Younger said.

Younger's opinion was made public Tuesday in San Diego by state Assemblyman Peter Chacon (D-San Diego), who had requested it.

Chicano activists in the San Diego area have mounted a vocal campaign against a San Diego police department policy of detaining and questioning suspected illegal aliens.

The Chicanos have charged that the practice is discriminatory and results in undue harassment of Latins in the San Diego area, whether they are illegal aliens or Mexican-American citizens.

A coalition of Chicano groups has demanded the resignation of San

Please Turn to Page 4, Col. 4

**ALIENS**

Continued from First Page

Diego Police Chief Ray L. Hoobler, who has defended his department's detainment policy.

The attorney general also supported an equally controversial policy of the San Diego County sheriff's department which requires taxicab drivers to report suspected illegal aliens to deputies.

San Diego Sheriff John F. Duffy issued a memorandum outlining that policy to San Diego area taxi companies last October. The memo asked drivers to use a code to notify their dispatcher when they picked up fares they suspected of being illegal aliens.

**Criticism by Drivers**

It had been criticized by Mexican American activists as well as by some cab drivers' groups.

An official of the Transportation and Allied Workers Union of California said the policy imposed an "undue and un-

just burden" upon cab drivers by requiring them to act as informers.

Younger's opinion stated in part, "any law enforcement officer may call upon any citizen or private company to aid in the detection and prevention of crime."

Duffy had defended his policy, saying it helped drivers avoid being caught breaking the law while transporting illegal aliens. He said it also protected aliens from unscrupulous drivers who might charge them excessive fares.

**Discrimination Charge**

A spokesman for the Ad Hoc Committee for Chicano Rights, a coalition of 14 Chicano groups which have spearheaded the attack on the controversial policies, harshly criticized Younger's opinion Tuesday.

Herman Baca charged Younger "has declared a legal police state against all persons of Mexican ancestry."

He said the detainment policies "singles out for suspicion one segment of

the community—Chicanos—merely because of the skin color and culture."

Baca argued that the policy violates 4th Amendment guarantees against illegal search and seizure and the 14th Amendment's guarantee of due process.

He said the Chicano groups would likely file suit in the matter and were considering a civil disobedience campaign through which Latins in the San Diego area would be urged not to cooperate with local lawmen who seek to question them.



# AD HOC COMMITTEE

ON



# CHICANO RIGHTS

1837 Highland Ave.

Nat'l City, Cal. 92050

(714) 477-3620

## EXECUTIVE BOARD

Chairman  
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Vice Chairman  
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## IMMEDIATE PRESS RELEASE

THE POSITION OF THE AD HOC COMMITTEE ON CHICANO RIGHTS IS THAT WE DISAGREE AND DO NOT ACCEPT THE AMBIGUOUS OPINION ISSUED BY ATTORNEY GENERAL EVELLE YOUNGER. THE ATTORNEY GENERAL HAS FAILED TO CLARIFY THE ISSUE OF STATE AND LOCAL GOVERNMENT TO INVOLVE THEMSELVES IN THE AREA OF IMMIGRATION WHICH HAS BEEN PREEMPTED BY THE FEDERAL GOVERNMENT.

IT IS STILL OUR POSITION THAT THIS ISSUE HAS TO BE RESOLVED AT THE FEDERAL LEVEL.

THE ATTORNEY GENERAL HAS ALSO FAILED TO ADDRESS HIMSELF TO OUR GREATEST CONCERN, THE SAFEGARD OF THE CIVIL AND CONSTITUTIONAL RIGHTS OF THE THREE MILLION PERSONS OF MEXICAN ANSESTRY IN THE STATE OF CALIFORNIA.

WE SIGHT THE FOLLOWING POINTS OF CONTENTION IN CLARIFYING OUR POSITION.

- 1) THE ATTORNEY GENERAL HAS ADDRESSED HIMSELF TO ONLY THREE STATUTES ( 1324-1325-1326) OUT OF APPROXIMATELY FOURTEEN-HUNDRED STATUES THAT THAT NOW EXISTS. DOES THIS NOW MEAN THAT THE STATE OF CALIFORNIA IS NOW GOING TO ENFORCE ALL IMMEGRATION LAWS?
- 2) WE FEEL THAT ON PAGE33 PARAGRAPH 3 THE ATTORNEY GENERAL HAS TWISTED THAT INTERPRETATION TO FIT HIS OWN ENDS. IT IS OUR OPINION THAT THE CONSTITUTION IS THE SUPREME LAW OF THE LAND AND THE COURTS HAVE RULED THAT THE AREA OF IMMIGRATION HAS BEEN PREEMPTED BY THE FEDERAL GOVERNMENT AND THAT THE STATES MUST RECOGNIZE THAT. OUR POSITION HAS BEEN THAT THE STATE AND LOCAL GOVERNMENTS OBSERVE THE CONSTITUTIONAL AMMENDMENTS

## MEMBER ORGANIZATIONS

C.A.S.A. Justicia-Chicano Federation-G.I. Forum-Hermandad Igualdad de Derechos-M.A.A.C.-M.A.P.A.

Mecha-Padre Hidalgo Center-Servicios de Inmigracion-S.S.P.A.-Trabajadores de La Raza-U.C.M.A.A.

PROHIBITING ILLEGAL SEARCH AND SEIZURE ( 4TH AMMENDMENT) AND TO PROVIDE DUE PROCESS AND EQUAL PROTECTION UNDER THE LAW (14TH AMMENDMENT)

- 3) PAGE 4 PARAGRAPH 1 SUMMERIZES THE INVALIDITY OF HIS OPINION "WE STILL HAVE NOT REACHED THE QUESTION UNDER WHAT AUTHORITY THE OFFICER CAN ARREST OR DETAIN AN INDIVIDUAL SUSPECTED OF VIOLATING THOSE PROVISIONS."
- 4) PAGE 7, PARAGRAPH 1 THE ATTORNEY GENERAL HAS STATED THAT POLICE OFFICERS MUST HAVE SPECIFIC AND ARTICULABLE FACTS TO DETAIN.WHAT SPECIFIC CRITERIA AR LOCAL LAW OFFICERS GOING TO USE WITHOUT HAVING ANY OF THE NECESSARY TRAINING?

IN CONCLUSION THE CHICANO COMMUNITY TODAY IN 1973 FACES THE GRAVEST CRISIS SINCE THE DEPORTATIONS OF 1950-54 WHEN OVER 4 1/2 MILLION PERSONS OF MEXICAN ANCESTRY WERE DEPORTED. THE ISSUE TO US IS NOT ONE OF ENFORCING LAWS, BUT OF THE APPLICATION OF THE LAW TO ONE SEGMENT OF THE COMMUNITY (CHICANO).

IT IS OUR FEELING THAT THE STATE OF CALIFORNIA BY GIVING THIS GREEN LIGHT OPINION TO LOCAL LAW ENFORCEMENT OFFICERS IS PROVOKING A CONFRONTATION BETWEEN ITSELF AND THE THREE MILLION PERSONS OF MEXICAN ANCESTRY.

IF THE STATE IS GOING TO INSTITUTIONALIZE THE VICTIMIZATION OUR COMMUNITY BY APPLYING LAWS THAT ARE ILLEGAL UNCONSTITUTIONAL , IMMORAL, & RACIST WE THEN FEEL THAT THE ONLY SOLUTION LEFT TO US IN PROTECTING OUR CIVIL AND CONSTITUTIONAL RIGHTS IS FOR US OF THE CHICANO COMMUNITY TO APPEAL TO A HIGHER LAW (MORAL LAW) AND BEGIN TO PRACTICE CIVIL DISOBEDIENCE BY REFUSING TO SUBMIT TO TREATMENT THAT OTHER MEMBERS OF THE COMMUNITY ARE NOT SUBJECT TO.

SOLUTIONS ARE COMPLEXED BUT THE ANSWER IS NOT IN THE VICTIMIZATION OF ONE SEGMENT OF THE COMMUNITY OR THE VIOLATION OF THE RIGHTS THAT ARE GUARANTEED TO US ALL BY THE UNITED STATES CONSTITUTION.

## Civil disobedience threatened by Baca

A program of civil disobedience to illustrate problems faced by those of Mexican ancestry because of immigration laws has been pledged by Herman Baca, chairman of the Ad Hoc Committee on Chicano Rights.

Baca said Chicanos will go to jail rather than vdrify their immigration status to local law enforcement agencies.

**THE SAN DIEGO** police department continues to harass Chicanos despite orders to halt from Chief Ray Hoobler, he said, and he also attacked an opinion by California Attorney General Evelle J. Younger affirming the right of local law enforcement officers to pick up suspected aliens.

"If the state is going to institutionalize the victimization of our community by applying laws that are illegal, unconstitutional, immoral, and racist, then we feel that the only solution left to use in protecting our civil and constitutional rights is for us to appeal to a higher law, moral law," Baca said.

The civil disobedience Baca said, would take the form of Chicanos going to jail instead of identifying themselves to local police officers.

**BACA REITERATED** his position that immigration is a federal matter, which courts have ruled is exempt from state enforcement and asked for the specific criteria to be used by local officers to comply with Younger's opinion that they need "specific and articulable facts" to detain a suspected illegal aliens.

Baca also released a list of possible solutions to the immigration problem.

Younger, in an opinion made public this week, said local law enforcement officials have the right to detain for immigration authorities anyone they suspect of being an illegal alien.

Local officers also have a limited rght to arrest suspected aliens, and they can insist that private citizens, including taxicab drivers, assist them in finding the aliens, under Younger's opinion.

N.C. STAR New ↑  
8-30-73 ↓

## Younger reports police may stop illegal aliens

State Attorney General Evelle Younger this week reported that local police may detain persons they suspect of being illegal aliens if their suspicions are based on "specific facts."

However, local law enforcement officials may not make an arrest unless the act of crossing the border illegally is done in their presence or if the suspect has committed another crime.

Persons should be only detained for a short period, Younger stated, until agents from the U.S. Immigration and

Naturalization Service can investigate the situation.

The opinion released early this week endorses a policy of San Diego Police Chief Ray Hoobler, who has detained suspected illegal aliens. Hoobler and San Diego Mayor Pete Wilson have been loudly criticized by some Chicano organizations.

The Chula Vista Chamber of Commerce Mexico committee met before Younger's statement was made public this week and declined to endorse Hoobler and Wilson's stand on the issue. (see related story.)

## Chicano Rights Leader Urges Protest Action

Members of the Mexican-American community were urged yesterday to begin practicing civil disobedience by subjecting themselves to arrest when local law enforcement officials request immigration documents not requested of other minority community members.

Herman Baca, chairman of the Ad Hoc Committee on Chicano Rights, said he was urging the action to express dissatisfaction and disagreement with state Atty. Gen. Evelle J. Younger's opinion backing local law officers' authority to arrest or detain suspected illegal aliens.

"The attorney general has failed to clarify the issue of state and local government to involve themselves in the area of immigration, which we feel has been preempted by the federal government," Baca said at a news conference.

"It is still our position that this issue has to be resolved at the federal level."

Baca said he would seek congressional hearings on the problem.

Baca said Younger has failed to address himself to the Mexican-American community's greatest concern, "the safeguard of the civil and constitutional rights of 3 million persons of Mexican ancestry in the state of California.

"If the state," Baca continued, "is going to institutionalize the victimization of our community by applying laws that are illegal, unconstitutional, immoral and racist, we then feel that the only solution left to us in protecting our civil and constitutional rights is for us of the Chicano community to appeal to a higher law . . . moral law . . . and begin to practice civil disobedience by refusing to submit to treatment that other members of the community are not subject to."

S.D. Union  
8-30-73

DATE \_\_\_\_\_

LENGTH \_\_\_\_\_

SHOWTIME \_\_\_\_\_

LENGTH \_\_\_\_\_

WRITER \_\_\_\_\_

AM LENGTH (SOF) \_\_\_\_\_ SILENT \_\_\_\_\_

# KGTVNEWS

LAPE LENGTH (SOT) \_\_\_\_\_ SILENT \_\_\_\_\_

EVERYONE ~~XXX~~ INVOLVED WAS FROM THE LOS ANGELES AREA.

~~XXXXXXXXXXXXXXXXXXXXXXXXXX~~

~~XXXXXXXXXXXXXXXXXX THE AGENT IN CHARGE SAYS HE'S~~

~~NEVER SEEN A CASE LIKE THIS AND HE SAYS HE'S JUST~~

~~GLAD THE IMMIGRATION PAPERS WERE FOUND:~~

SOF

MEANWHILE, THE CASE HAS BEEN TURNED OVER TO THE FBI...AT THIS POINT, THEY PLAN ONLY A PRELIMINARY INVESTIGATION.

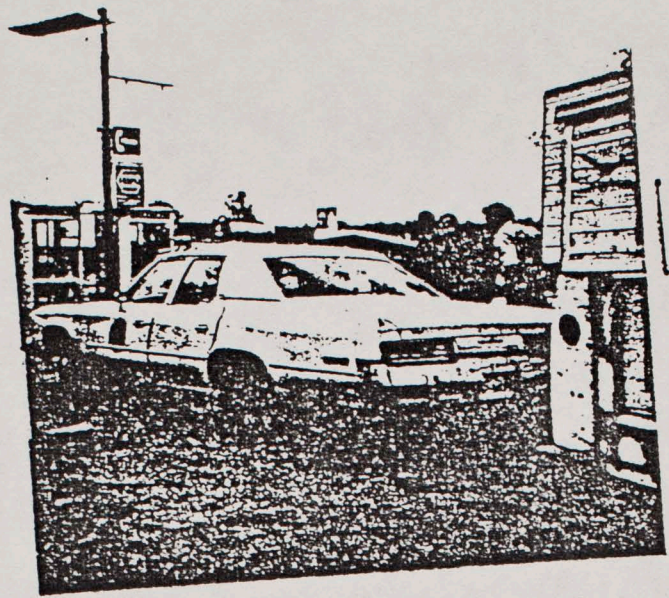
AS FOR THE KU KLUX KLAN...GRAND DRAGON TOM METZGER SAYS HE ~~X~~ KNOWS NOTHING OF LAST NIGHT'S INCIDENT...BUT ~~XXXXXXXXXXXX~~ PLANS TO ~~X~~ CONTINUE ~~HELPING~~ THE BORDER PATROL...

SOT

METZGER SAYS THE BORDER PATROL CAN'T SAY IT PUBLICLY, BUT ~~X~~ THE AGENT ON THE BEAT, HE SAYS, IS GLAD TO HAVE THE KLAN HELPING. BESIDES, HE SAYS, THERE ARE ~~SM~~ MANY ALIENS COMING ACROSS. THEY ~~XXXXXXXXXX~~ DON'T NEED PASSPORTS. ~~BY~~

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This photograph shows the arrival of the United States Border  
Patrol.

"EXHIBIT H "



MEMBERS  
ANTHONY C. BEILENSON  
NATE HOLDEN  
MILTON MARKS  
JACK SCHRADER

ROBERT G. RYAN  
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# California Legislature

SENATE COMMITTEE ON  
HEALTH AND WELFARE

SUBCOMMITTEE ON PROBLEMS  
OF THE FOREIGN BORN

ALEX P. GARCIA  
CHAIRMAN

January 18, 1977

Herman Baca  
Chairman, Ad Hoc Committee  
on Chicano Rights  
1837 Highland Ave.  
National City, CA 92050

Dear Mr. Baca:

I am enclosing a draft copy each of two very important bills relating to immigration matters for your comments and suggestions.

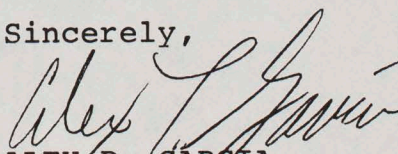
The first draft bill which you will find enclosed would make it a misdemeanor for a state or local law enforcement officer to arrest a person suspected of being in the United States unlawfully, or to detain or interrogate a person to ascertain whether such person is in the United States unlawfully.

The second draft bill would require that lawful residents charged with simple possession of marijuana must be advised, before entering a plea in court, that conviction could lead to deportation under subsection (a), Section 1251 of Title 8 of the United States Code.

I would appreciate receiving your comments by February 7 in order that I may introduce these bills as soon as possible. If you have any questions regarding the enclosed drafts, please contact my Administrative Assistant, Bob Ryan, in my Capitol office.

Thank you for your cooperation.

Sincerely,

  
ALEX P. GARCIA  
State Senator

APG: cf  
Enclosures

An act to add Section 851.9 to the Penal Code,  
relating to peace officers.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This chapter shall be known, and may  
be cited as, the Legal Residency Rights Act of 1977.

SEC. 2. The Legislature finds and declares that  
United States citizens and lawful residents of African,  
Asian, Latin American, Mexican, and Pacific Island  
heritage have been interrogated or detained by state and  
local law enforcement officials for the purpose of  
determining whether or not such persons are within the  
United States lawfully.

SEC. 3. The Legislature also finds and declares  
that Section 1357 of Title 8 of the United States Code  
expressly authorizes officers or employees of the  
Immigration and Naturalization Service to interrogate or  
arrest any person who is believed to be within the United  
States unlawfully, and that the Congress of the United  
States appropriates monies to that agency for such purposes.

SEC. 4. Section 851.9 is added to the Penal  
Code, to read:

851.9. (a) Any peace officer who arrests a person suspected of being in the United States unlawfully or who detains or interrogates a person solely to ascertain whether the person is within the United States unlawfully is guilty of a misdemeanor.

(b) Nothing in Subdivision (a) shall be construed to prohibit or hinder any investigation of a suspected violation of Section 2805 of the Labor Code.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities which, in the aggregate, do not result in significant identifiable cost changes.

# INS's Senko reportedly will lose job

By David Kutzmann and Lorenzo P. Romero  
Staff Writers

John Senko has been told by his superiors that he will be removed from his job as agent in charge of the San Jose office of the Immigration and Naturalization Service, Reps. Don Edwards and Norm Mineta said Tuesday.

INS officials have scheduled a news conference in San Jose today to announce changes in the operations of the office, which in only three months of operation has come under sharp criticism for its tactics in searching out undocumented workers.

"We're going to talk about Mr. Senko's future with the San Jose office, as well as what we'll do to improve the operations of that office," INS spokesman John Belluardo said.

Belluardo and other immigration officials declined Tuesday to reveal what changes would be announced at the 2 p.m. news conference in the new federal building in downtown San Jose.

INS regional commissioner Harold Ezell, whose office is in Los Angeles, will be present.

Senko could not be reached for comment Tuesday.

Edwards, D-San Jose, said Tuesday that Senko indicated to him in a recent meeting in San Jose that his tenure as officer in charge of the office was drawing to an end.

"The last time we talked, he (Senko) said he was being moved out by the INS," Edwards said in a telephone interview from his Washington, D.C., office. "That was about two weeks ago."

Mineta, D-San Jose, said Tuesday, "He (Senko) told us that he had just gotten a call that morning from Harold Ezell, the commissioner. He was really in the dumps."

As Mineta remembers the July 11 meeting, Senko told Edwards, Mineta and Jim McEntee, director of the Santa Clara County Human Relations Commission, that Ezell "was going to have him (Senko) removed, I believe that was the phrase."

The meeting had been conducted to discuss problems that had arisen in the short time the office had been open.

The San Jose City Council demanded in June that Senko be removed from his job for being abrasive and insensitive to the needs of the community.

Police Chief Joseph McNamara, who was instructed by the council

# INS chief reportedly to be ousted

in April to continue a policy of not aiding the INS in raids, said Senko's removal would be a "gesture of good will that would help."

"I think it might improve things (if he was removed). It might be something he'd appreciate, too. He stepped into a hornet's nest," McNamara said.

Mineta, however, said he doubts that removing Senko will alleviate the problems plaguing the San Jose INS office.

"Given the problems we've had there in the San Jose office, the release or transfer of one individual is not going to resolve the basic problem facing the INS," Mineta said in a telephone interview from his Washington office.

He said the main problem appears to be the "failure of the INS to allocate proper resources and personnel" to the San Jose office.

"The shortages of these

resources has just led to shortcuts in performance, and the result, frankly, has been a failure of service to the community."

San Jose Councilwoman Blanca Alvarado, Senko's most severe critic on the council, has claimed that INS agents under his control abused the civil and constitutional rights of Hispanic citizens.

Alvarado also said frequent raids on Silicon Valley employers, which began when the local office opened, had spread fear through the area's sizable Hispanic community.

Belluardo said any changes made in the San Jose INS office will be based on how well the public is being served.

"If we were to make a change, it would not be based on the actions of any outspoken individuals," he said, "but only in terms of the management of the office."

"We feel very definitely that some changes need to be made to provide for more efficient service to the public."

Edwards said he didn't believe Senko would be fired.

"He'll still be in the service. He's not being fired or anything like that. He's just being transferred," he said.

In San Francisco, INS district director David Ilchert, who oversees the San Jose office, said he would be in San Jose today to join in the news conference. However, Ilchert said he did not know what Ezell will announce.

"I know it will be to discuss our operation and office down there," Ilchert said. "But I wouldn't jump to any conclusions (about Senko's future.)"

The INS district in San Jose serves Santa Clara, Santa Cruz, San Benito and Monterey counties.



John Senko  
... Accused of insensitivity

# INS official has 90 days to shape up his office in San Jose

## INS official gets to keep job for now

By Lorenzo P. Romero  
Staff Writer

The beleaguered chief of the Immigration and Naturalization Service's San Jose office kept his job Wednesday, but only after top

INS officials in effect gave him 90 days to improve the performance of the office.

John Senko, who has been under attack by local officials over the way his office has conducted raids on illegal aliens, admitted at a news conference that his removal from the top INS post in San Jose "had been considered." He also said he had been less than effective in working with the public.

"When I took this job, one of the things I was not aware of was the need to work with those outside," Senko said. "They were correct that it is part of my job. I must deal with these people and be more sensitive to their needs."

Since the San Jose office opened in April, Senko has been criticized by San Jose Mayor Tom McEnery, the city council and the city's Hispanic community. Senko has been attacked for the way the raids on local firms were conducted, for his attitude toward Hispanics and for failing to provide adequate service to the public.

Within recent weeks, Senko told two congressmen he thought he was going to be removed from his job.

Wednesday's news conference was called by Western Regional Commissioner Harold Ezell to announce what he called a "major" reorganization of the San Jose office to provide better service.

He said the office would be closely watched in the next 90 days. Ezell said Senko would be given more resources and "an opportunity to manage the tremendous workload placed on this office."

But Ezell, district director David Ilchert and Senko all said the offices has had problems and pledged to make the INS in San Jose "professional and responsive in a sensitive way." The three men wore new INS buttons reading, "We serve with courtesy and pride."

Ezell, the top INS official in California, said that while Senko's "transfer" to another area had been discussed in recent days, the main reason for the San Jose problems was not Senko's administration but the office workload.

### Understaffing is common

"While understaffing due to budget limitations is a common problem for INS nationwide; it is particularly crippling in San Jose due to the overwhelming public response from the very beginning," Ezell said.

Since the office opened April 9, it has had to handle 3,500 visitors, 2,000 naturalization applications and 1,200 telephone calls each month. Plans had called for 45 employees to staff the office, which serves four counties, but only 31 were assigned to it, Ezell added.

While promising to be "more aggressive in community relations," Ezell vowed that the local INS office would continue to conduct raids and would seek help from companies that suspect some of their employees are illegal aliens.

### 'A job to do'

And Ezell defended the office from what he called "unwarranted criticism."

"It came from activist leaders in the area that don't agree with us," Ezell said. "That's the nice thing about America. You can disagree and you can say it publicly, but it doesn't change the fact that we have a job to do and we will do it as professional and as sensitive as we can."

Among the changes will be the addition of four clerical workers and an INS agent as well as a concerted effort to have all telephone calls answered — something that the understaffed office has not done since it opened, frequently allowing phones to ring for hours unanswered.

### 'We are professional'

"I'm just asking for a little time to show the people of this community that we are professional, hard-working, dedicated servants of the public. And that's what we'll have in the next 90 days," Ezell said.

He also said the office staff — including Senko — was relatively inexperienced.

"You're thrust in a position where you have to learn on the job," Ezell said of Senko. "And that's what he's been through."

Senko said his own statements at

the news conference were "not an apology. I think what we're telling you is that we have made an adjustment."

"When a man is fishing and not catching any fish, he changes his bait. That's what we're doing."

The INS announcements drew cautious reactions from those who have been critical of the San Jose office and Senko.

### 'Very clear message'

"I feel he has gotten a very clear message," said Jim McEntee, director of the county's Human

Relations Commission and a critic of the INS raids.

McEntee, who will meet Monday with Senko, said he didn't consider it a victory because the changes have yet to take place. "but, I think what they're saying is that the office will be turned around in 90 days or there will be other major changes."

Congressman Norm Mineta, D-San Jose, said he was dismayed at the lack of commitment to change the emphasis of the San Jose office from enforcement to service.

"Their problems in San Jose underscore the failure of the INS to provide the needed resources and personnel to serve the public," he said. "I wonder how they can promise to show more sensitivity to the community while they still promise to continue those raids."

McEnery, who wrote a letter to INS Commissioner Alan Nelson asking for Senko's removal, said he hopes the INS policy will change to something akin to the San Jose Police Department's policy. "We don't have to have law enforcement officials acting like an occupying force," he said, adding that he will probably meet with Senko

"If Senko is going to remain, I think it is really important that he change his attitude towards the community," said Blanca Alvarado, the only Hispanic on the city council and Senko's harshest critic

Alvarado said the fact that Ezell and Ilchert came to San Jose and saw the need for change is a sign that the many complaints from the public and local officials have had an effect.

"I think the public's expression of discontentment with the handling of the INS office caused the people in the higher echelons of the INS to come forward to take a look at what's happening," she said.

However, Alvarado said she plans to keep a close watch on the "new" INS. "I'm going to ask for an appointment with Mr. Senko," she said. "I don't want this local office to believe that a reorganization is all that is necessary to improve community relations."



INDEXED LETTER

OFFICE OF THE ATTORNEY GENERAL

Department of Justice

110 WEST A STREET, SUITE 600  
SAN DIEGO, CALIFORNIA 92101  
(714) 236-7351

August 2, 1977

IL 77-116

Formerly Op. <sup>CR</sup> 77/45 IL

CR 77/45 I.L.

Michael J. O'Day  
Chief of Police  
City of Covina  
444 North Citrus Avenue  
Covina, California 91723

Dear Chief O'Day:

In your letter dated May 4, 1977, you asked:

Is it legal for Covina police officers to arrest individuals illegally in the United States in violation of Title 8 of the United States Code in situations where no apparent violation of a state or local code exists?

This question was the subject of an opinion letter issued by this office in 1973 in response to an inquiry of similar import from Assemblyman Peter R. Chacon. (I/L CR 73/24, attached hereto.) We take this opportunity to reaffirm the validity of the legal principles and analysis set forth in that letter. However, the particular factual setting contemplated in that inquiry letter and our response thereto involved the assistance of local law enforcement officers in enforcing the federal immigration laws at the immediate border area. On the other hand, your inquiry necessarily involves a factual setting removed from the immediate border area. As our analysis will demonstrate, this factual distinction does have an effect upon the authority of state and local peace officers in assisting in the enforcement of the federal immigration laws.

As our analysis below will illustrate, we have reached the following conclusion:

Under both state and federal law, state and local peace officers may assist in the enforcement of federal immigration laws (Title 8, United States Code). For the most part, the relevant federal laws define misdemeanor violations which must be committed in the officer's presence if a lawful arrest is to be made. The same standard of "probable cause" which must be satisfied before an officer may arrest an individual for a misdemeanor violation of state law is applicable to an arrest for a violation of the applicable immigration laws. In the typical situation removed from the immediate border area or its functional equivalent the applicable federal immigration violations will have been completed and therefore an arrest without a warrant is not authorized. However, individuals suspected of having violated the federal immigration laws may be temporarily detained for further investigation. The same standard of "rational suspicion" which must be satisfied before an officer may temporarily detain an individual suspected of violating a state law or local ordinance is applicable to a temporary detention for a suspected violation of the immigration laws. Likewise, the same legal constraints on the length and scope of a temporary detention for a suspected violation of a state law or local ordinance is applicable to a temporary detention for a suspected violation of the immigration laws.

The particular federal statute which defines the offense of illegal entry is 8 U.S.C. section 1325,<sup>1</sup> which provides:

"An alien who (1) enters the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offenses, be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment for not more than 6 months or by a fine of not more than \$500 or by both, and for a subsequent commission of any such offenses shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than 2 years, or by a fine of not more than \$1,000, or both."

Officers of the Immigration and Naturalization Service (including Border Patrol officers) are specifically authorized to enforce section 1325 by 8 U.S.C. section 1357 which provides:

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1. 8 U.S.C. section 1324(a) provides that any person, who brings an alien into the United States, or transports an alien, or harbors an alien, or encourages or attempts to encourage the entry of an alien, who is not entitled to enter or reside in the United States, is guilty of a felony.

8 U.S.C. section 1326 provides that any alien, who has been previously arrested and deported and thereafter enters or attempts to enter the United States in violation of the law, is guilty of a felony.

Since state and local peace officers will seldom, if ever, be confronted with a situation in which they know an individual has made a subsequent illegal entry (a felony), or an illegal entry following deportation (a felony), the discussion will be in the context of a misdemeanor violation of the immigration law.



"(a) Any officer or employee of the Service authorized under regulations and prescribed by the Attorney General shall have power without a warrant

(1) to interrogate any alien or person believed to be an alien as to his right to be or remain in the United States,

(2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, or expulsion of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States; . . . ."

While state and local peace officers do not have the investigative and arrest authority given immigration officers by section 1357, that section does not preempt state enforcement of immigration laws. The preemption doctrine pertains to legislation, not enforcement. Furthermore, section 1357(a), which describes the powers of immigration officers, does not in any way indicate that other law enforcement officers cannot arrest for immigration offenses.

While there is no express authority directing state and local peace officers to assist in enforcing the immigration laws, and specifically section 1325, we have concluded that they are empowered to do so. Our conclusion is primarily based upon the Supremacy Clause of the United

States Constitution. That clause, Article 6, section 2 of the United States Constitution, provides:

"This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

In interpreting this clause, the United States Supreme Court has said:

"It must always be borne in mind that the Constitution, laws and treaties of the United States are as much a part of the law of every state as its own local laws and constitution." Hauenstein v. Lynham, 100 U.S. 483, 490 (1880).

In discussing this holding, the California Supreme Court has said:

"The Constitution of the United States and all laws enacted pursuant to the powers conferred by it on the Congress are the supreme law of the land (U.S. Const., Art. VI, sec. 2) to the same extent as though expressly written into every state law. [Citations.]" People ex rel. Happell v. Sischo, 23 Cal.2d 478, 491.

While the United State Supreme Court has not explicitly ruled that state officers have the authority to make arrests for federal offenses, it has frequently assumed the existence of this authority in stating the rule that state law governs the lawfulness of warrantless arrests by state police officers for federal offenses. Miller v. United States, 375 U.S. 301, 305 (1957); Johnson v. United States, 333 U.S. 10, 15 (1947); United States v. Di Re, 332 U.S. 581, 589 (1947).

The lower federal courts have consistently held that a state officer may arrest for a federal offense under

the same circumstances as a federal officer. 1 L. Orfield, Criminal Procedure under the Federal Rules, § 4.24, at p. 162 (1966). This position is clearly stated in Marsh v. United States, 29 F.2d 172, 174 (2nd Cir. 1928), cert. denied, 279 U.S. 849, which held that state officers could make arrests to enforce the National Prohibition Laws:

"Section 2 of Article 6 of the Constitution makes all laws of the United States the supreme law of the land, and the National Prohibition Law is as valid a command within the borders of New York as one of its own statutes. True, the state may not have, and has not, passed any legislation in aid of the Eighteenth Amendment, but from that we do not infer that general words used in her statute must be interpreted as excepting crimes which are equally crimes, though not forbidden by her express will. We are to assume that she is concerned with the apprehension of offenders against laws of the United States, valid within her borders, though they cannot be prosecuted in her own courts."

It is clear, therefore, that 8 U.S.C. section 1325, as part of the supreme law of the land, defines a public offense in California which may be enforced by any state or local peace officer. See United States v. Seay, 432 F.2d 395, 401, n. 6 (5th Cir. 1970); Davida v. United States, 422 F.2d 528, 530 (10th Cir. 1970); United States v. Burgos, 269 F.2d 763, 766 (2nd Cir. 1959); United States v. Jones, 317 F.Supp. 856 (D.C. Tenn. 1970); United States v. One Packard Truck, 55 F.2d 882, 884 (2nd Cir. 1932); United States v. Bumboa, 23 F.2d 696 (N.D.N.Y. 1928); In re Schuetz, 299 F.2d 827 (W.D.N.Y. 1924); Harris v. Superior Court, 51 Cal.App. 15. Since no federal law provides otherwise, the authority and procedure to arrest an individual for a violation of section 1325 is governed by the law of the state in which the arrest takes place. Ker v. California, 374 U.S. 23, 27 (1963). California Penal Code section 836 provides:

"A peace officer may make an arrest in obedience to a warrant, or may, pursuant to the authority granted him by the provisions of Chapter 4.5 (commencing with Section 830)

of Title 3 of Part 2, without a warrant, arrest a person:

"1. Whenever he has reasonable cause to believe that the person to be arrested has committed a public offense in his presence.

"2. When a person arrested has committed a felony, although not in his presence.

"3. Whenever he has reasonable cause to believe that the person to be arrested has committed a felony, whether or not a felony has in fact been committed."

A violation of 8 U.S.C. section 1325 is a misdemeanor and, as such, the offense must be committed in the officer's presence to authorize a state or local peace officer to make an arrest pursuant to Penal Code section 836. Whether a violation of 8 U.S.C. section 1325(1) is committed in an officer's "presence" hinges upon the meaning of the word "enters" in the clause "enters the United States at anytime or place other than as designated by immigration officers." The word "enters" in this context imports an act of limited duration in contrast to penal offenses of a continuing nature such as possession of contraband. Its limited duration in time necessarily limits its location in space. Indeed these limitations are expressed by the use of the words "at any time or place" in the statute.

The term "entry" as it is used in section 1325, and throughout Title 8 of the United States Code, is a word of art. United States ex rel. Brancato v. Lehmann, 239 F.2d 663, 665 (6th Cir. 1956). Section 1101(a)(13) of Title 8 defines "entry" as "any coming of an alien into the United States." The federal courts have construed this as requiring more than mere physical presence on United States soil. See United States v. Vasilatos, 209 F.2d 195 (3rd Cir. 1954); In re Dubbioso, 191 F.Supp. 65 (E.D. Va. 1961).

In United States v. Oscar, 496 F.2d 492 (9th Cir. 1974), the court held that an "entry" does not occur "until physical presence is accompanied by freedom from official restraint." 496 F.2d at 493; see also United States v. Martin-Plascencia, 532 F.2d 1316 (9th Cir. 1976). The

court in Oscar held the two aliens involved in that case, who had been driven up to the San Ysidro Port of Entry, stopped at the initial inspection booth, and then directed to the secondary inspection area, did not "enter" the United States for the purposes of Title 8, U.S.C. section 1325 because they were never free from official restraint.

Thus, commission of the public offense of illegal entry begins with physical presence in the country free from official restraint. The next question is at what point does the "entry" terminate and thus complete the commission of the public offense.

In United States v. Mallides, 339 F.Supp. 1 (S.D. Ca. 1972), reversed on other grounds, 473 F.2d 859 (9th Cir. 1973), the defendant was arrested by officers of the Oceanside Police Department while parked in a remote area of the city in a vehicle containing five aliens. The defendant was charged with aiding and abetting the "entry" of the five aliens. The court held the defendant could not be convicted of aiding and abetting the "entry" because that offense had already been completed. In the words of the court,

"The issue presented here is how or when the entry had been completed.

" . . . .

"Bearing in mind the rule that penal statutes are to strictly construed [citation], by applying the definition of 'entry' set forth above, it is this court's conclusion that the entry had been accomplished prior to the time that the appellant met the aliens. Consequently, the conviction cannot be sustained . . . ."

While the court in Mallides concluded that the offense of illegal entry had been completed before the defendant aided the aliens in that case, the court's opinion does not set forth any criteria to guide in the determination at what place or point in time the offense of illegal entry is completed. We have found no other case which discusses the completion of the offense of illegal entry. Accordingly, we have searched for cases involving other offenses of limited duration which deal with the question of when the commission of such offenses terminate.

People v. Salas, 7 Cal.3d 812, was a case of murder committed while the defendant was fleeing from the scene of a robbery. The trial court gave instructions under Penal Code section 189 that all murder committed in the perpetration of robbery was first-degree murder. The issue on appeal was whether the killing of an officer after the defendant had been stopped while fleeing from the scene of the robbery, was a killing in the perpetration of the robbery. The court held that for the purposes of applying the felony-murder rule the perpetration of the robbery continued until the robbers reached "a place of temporary safety," citing People v. Kendrick, 56 Cal.2d 71; and People v. Ketchel, 59 Cal.2d 503.

We think these cases provide support by way of analogy for the proposition that the commission of the offense of illegal entry under 8 U.S.C. section 1325 terminates when the person reaches a place of temporary safety in the United States. Thus we conclude that an illegal entry under 8 U.S.C. section 1325 begins with the person's physical presence in the United States free from official restraint, and ends when the person reaches a place of temporary safety. The person's conduct must be perceived by the officer at some time between these two points in time and place for the public offense of illegal entry to be committed in the officer's presence thus authorizing the officer to make an arrest for the unlawful entry without a warrant under Penal Code section 836. As a practical matter the limited duration of the public offense of illegal entry means that state and local peace officers are authorized to make arrests for this offense without a warrant only near the immediate area of the border or its functional equivalent.<sup>2/</sup>

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2. The "functional equivalent" of the border is a place of first practical "entry" into the United States. "For example, . . . an established station near the border, at a point marking the confluence of two or more roads that extend from the border. For another example, . . . an airplane arriving at a St. Louis airport after a non-stop flight from Mexico City," would clearly make the airport a functional equivalent of the border. Almeida-Sanchez v. United States, 413 U.S. 266, 272-273 (1973).

Section 1325(2) prohibits eluding examination or inspection by immigration officers. The argument has been made that eluding examination is capable of being continuously committed by an alien physically past the point of entry into the United States. In fact, the United States Attorney General has successfully argued in a number of unreported cases that eluding examination is a continuing offense for purposes of the statute of limitations, jurisdiction, and venue. See 2 C. Gordon and H. Rosenfield, Immigration Law and Procedure, § 942 at 9-90 (1973); United States Attorney Manual, 9-73.110.

Construing eluding examination or inspection by immigration officers as a continuing offense of unlimited duration is questionable. Such a construction of this offense assumes that inspection or examination by immigration officers is itself a function without reference to time or place. This is simply not the case. While the enforcement officers of the Immigration and Naturalization Service conduct a vigorous effort (essentially a criminal "investigation," see 8 CFR 287) to locate aliens in the interior who have successfully, but illegally, entered the country, a reasonable and supportable construction of the phrase "examination or inspection by immigration officers" is that function performed by immigration officers in inspecting aliens seeking admission to the United States at designated Ports of Entry or immigration inspection stations. See 8 U.S.C. §§ 1201(f), 1225; 8 CFR 235; see also McFarland v. United States, 19 F.2d 805, 806 (6th Cir. 1927); Hermina Sague v. United States, 416 F.Supp. 217 (D.P.R. 1976).

Indeed, the only case arguably on point, United States v. Oscar, 496 F.2d 492 (9th Cir. 1974), speaks of eluding examination or inspection by immigration officers in the spatial context of a normal Port of Entry. 496 F.2d at 494.

Thus, section 1325(2) defines as a crime conduct which amounts to an alien entering the country at a designated Port of Entry or its functional equivalent (e.g., an international airport), and there eluding the normal inspection and examination processes conducted by immigration officers.

Given this interpretation of section 1325(2), it is clear that the offense of eluding inspection or examination by immigration officers is not a continuing

offense of unlimited duration. Much like the offense of illegal "entry," the offense of eluding examination or inspection by immigration officers is completed once an alien has successfully eluded inspection and reached a place of temporary safety.<sup>3/</sup>

Despite the lack of authority for state and local law enforcement officers to make an arrest for misdemeanor violation of section 1325 in the normal situation removed from the border or its functional equivalent, i.e., once the offense has been completed, it has been suggested that state and local peace officers may temporarily detain a person suspected of being illegally in the United States for further investigation. Normally, the further investigation would involve contacting agents of the Immigration and Naturalization Service to take custody of the suspect and complete the investigation -- determine the individual's right to be in the United States (see 8 U.S.C. § 1357).

In order to justify stopping and detaining an individual a California peace officer must have a "rational suspicion of some unusual activity connected with the person detained and some suggestion that the activity is related to crime." Irwin v. Superior Court, 1 Cal.3d 423, 427; People v. Mickelson, 59 Cal.2d 448, 450. Likewise, the United States Supreme Court has held that federal officers, including immigration officers, must be aware of specific articulable facts giving rise to a "reasonable suspicion" before they may stop and detain a suspected illegal entrant. United States v. Brignoni-Ponce, 422 U.S. 873, 884; see also United States v. Mallides, 473 F.2d 859, 861 (9th Cir. 1973). It has been held that the California "rational suspicion" standard is largely

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3. The further effect of the regularly maintained, fixed Border Patrol checkpoints, such as the one located south of San Clemente, California (see United States v. Ortiz, 422 U.S. 891 (1975)), on this specific issue is not entirely clear. It is arguable that the offense of eluding examination or inspection would be in commission until an alien has successfully passed through this interior inspection point. Of course, this assumes an intent in each case to elude inspection at the interior inspection points.



indistinguishable from the United States Supreme Court's "reasonable suspicion" standard. United States v. Solomon, 528 F.2d 88, 90-91 (9th Cir. 1975); United States v. Rocha-Lopez, 527 F.2d 476, 477 (9th Cir. 1975).

Significant problems exist in developing a "rational suspicion" of illegal entry in the typical situation removed from the border area or its functional equivalent. As with any crime relating to status, discerning an articulable basis for investigation may be extremely difficult. In United States v. Brignoni-Ponce, 422 U.S. 873 (1975), the United States Supreme Court suggested a number of factors which may be taken into account in deciding whether there is a "reasonable suspicion" to justify the detention of an individual suspected of being illegally in the country. These factors are the characteristics of the area in which the encounter occurred, including the proximity to the border, the usual patterns of traffic on a particular road, and previous experience with alien traffic, recent information about illegal border crossings in the area, evasive conduct by the suspect, and the type, condition of, and number of individuals in a suspect vehicle. In addition, factors which indicate recent residence in a foreign country, such as mode of dress and haircut, may also be considered. United States v. Brignoni-Ponce, *supra* at 884-885. As the Supreme Court held, and we emphasize, apparent Mexican or foreign ancestry is, by itself, insufficient. United States v. Brignoni-Ponce, *supra* at 885-887.

It is critical to note that these factors, which would justify a temporary detention, must be known to the officer before he initiates the detention. Therefore, as a practical matter, in the typical situation removed from the border area or its functional equivalent, it may be a rare case in which a California peace officer, largely unfamiliar with immigration law enforcement, would be aware of specific articulable facts which would lead him to a "reasonable suspicion" that a person is illegally in the country.

Even should the hurdle of justifying the initial temporary detention be met, a difficult problem arises in regard to the length and scope of the detention. In United States v. Brignoni-Ponce, *supra* at 881-882, the Supreme Court held:

"[W]hen an officer's observations lead him reasonably to suspect that a particular vehicle may contain aliens who are illegally in the country, he may stop the car briefly and investigate the circumstances that provoke suspicion. The officer may question the driver and passengers about their citizenship and immigration status, and he may ask them to explain suspicious circumstances, but any further detention or search must be based on consent or probable cause." (Emphasis added.)

Fed

Therefore, to justify a "further detention" in order to contact and secure the presence of Immigration and Naturalization Service officers, state and local peace officers may not rely solely on the factors which justified the initial detention. Additionally, decisions by the courts of this state make it clear that a prolonged "temporary detention" may very well be viewed as an illegal arrest. See People v. Bello, 45 Cal.App.3d 970, 973; Willett v. Superior Court, 2 Cal.App.3d 555, 559. Furthermore, the California Supreme Court has held that the justification for a temporary detention does not justify transporting the detainee away from the scene of the detention. People v. Harris, 15 Cal.3d 384, 390-391.

Of course, in the normal pursuit of his duties, an officer may make contact with an individual who admits or otherwise evidences his violation of the immigration laws. This would supply the necessary justification for a detention. In such a case, the officer may obtain the individual's consent to continue the detention or transport the individual with the ultimate objective of introducing immigration officers into the case.

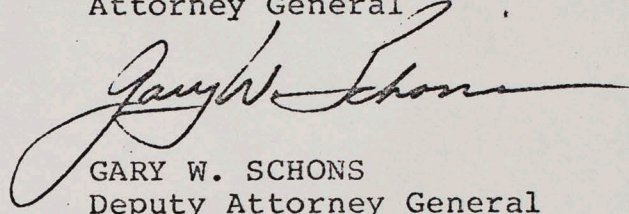
In summary, only in rare circumstances would a California peace officer in the typical situation removed from the immediate border area or its functional equivalent be justified in making an arrest for a violation of 8 U.S.C. section 1325. Further, it may be difficult to justify initiating a detention and prolonging it for a sufficient amount of time to introduce immigration officers into the case.

We therefore conclude that state and local peace officers have the authority to enforce all laws, both state and federal, including those concerning immigration (Title 8, United States Code), notwithstanding the absence of an

apparent violation of a state law or local ordinance. In order to arrest an individual for a misdemeanor violation of the immigration laws the offense must be committed in the officer's presence and he must have probable cause to justify the arrest. However, in the typical situation removed from the border or its functional equivalent the applicable immigration violations likely will have been completed and, because the offense will not be committed in the officer's presence, an arrest is not authorized. Upon a "rational suspicion" to believe a person has violated the immigration laws, an officer may temporarily detain an individual for further investigation. However, the length and scope of such a detention is substantially restricted by federal and state law.

Very truly yours,

EVELLE J. YOUNGER  
Attorney General



GARY W. SCHONS  
Deputy Attorney General

GWS:kl

*Kolender*

CITY of SAN DIEGO  
MEMORANDUM

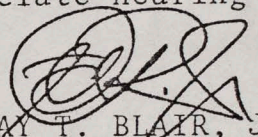
FILE NO.:  
DATE : September 2, 1977  
TO : Honorable Mayor and City Council  
FROM : Assistant City Manager  
SUBJECT: Police Department Police re: Illegal Aliens

Attached, for your information, are copies of a newly issued Police Department Order concerning illegal aliens, and a memorandum from the Chief of Police about that Order. The Order was written to clarify responsibilities of San Diego Police Officers as related to a recent ruling by the State Attorney General's Office.

? In the third paragraph of the Police Department Order, reference is made to "temporary detention." In that case, "temporary detention" means a period of time not to exceed 30 minutes. If the Border Patrol does not arrive on the scene within that period of time, the individual is to be released.

The above information, and all other aspects of this Order, will be explained to all San Diego Police Officers via video tape recording very shortly.

Should violations of this Order come to your attention, both Chief Kolender and I would greatly appreciate hearing of them.

  
RAY T. BLAIR, JR.  
Assistant City Manager

RB:ps

CITY of SAN DIEGO  
MEMORANDUM

FILE NO.: 15.02  
DATE : September 2, 1977  
TO : Ray T. Blair, Jr., Assistant City Manager  
FROM : W. B. Kolender, Chief of Police  
SUBJECT: Police Department Policy regarding Undocumented Aliens

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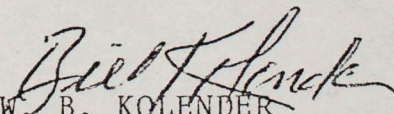
As a result of a recent ruling by the California Attorney General's Office, relating to the authority of state and local peace officers to apprehend undocumented aliens, I have found it necessary to restate the policy of the San Diego Police Department on this matter. A copy of the Department's policy is attached.

The ruling of the Attorney General's Office makes it clear that local police officers have the legal authority to stop and temporarily detain undocumented aliens, provided a reasonable factual basis exists to believe the person had entered the United States illegally. Notwithstanding the legal authority to stop suspected undocumented aliens, the policy of the Police Department is to refrain from exercising that authority. We believe that the officers should be concerned with investigating criminal activity other than possible illegal entry into the United States.

On the other hand, the officers have been instructed to stop any person who is reasonably suspected of being involved in criminal activity. If the investigation discloses that, among other things, the individual is an undocumented alien, he may eventually be turned over to Border Patrol officers.

After reviewing the attached policy, the California Attorney General's Office has asked that it be made available to other California police agencies as a model for local jurisdictions.

On Tuesday, September 6, 1977, this policy will become effective, and I will make a video tape to explain the Department's undocumented alien policy to insure that all officers have a clear understanding so that there will be no harassment of Mexican people, whether they be citizens of the United States or undocumented.

  
W. B. KOLENDER  
Chief of Police

Attachment

## SAN DIEGO POLICE DEPARTMENT

## DEPARTMENT ORDER

September 2, 1977

TO: ALL PERSONNEL  
FROM: W. B. KOLENDER, CHIEF OF POLICE  
SUBJECT: UNDOCUMENTED ALIENS

This order is intended to clarify the Police Department's policy with respect to the handling of undocumented aliens who come to the attention of San Diego police officers.

*Opinion*  
The primary responsibility for the enforcement of the federal immigration laws rests with the Immigration and Naturalization Service and the U.S. Border Patrol. Although state and local peace officers have the authority to assist in enforcing the immigration laws, it is the policy of the Department that officers shall not make an effort to look for violations of the immigration laws.

Officers may not therefore stop and detain individuals solely because of a suspicion the individual may be an undocumented alien. If, however, in the normal pursuit of an officer's investigation of criminal activity, the officer makes contact with an individual who admits or otherwise evidences his violation of 8 U.S. Code, Section 1325 (unlawful entry into United States-misdemeanor), a temporary detention would be justified. If probable cause exists to believe the individual has committed a criminal offense unrelated to unlawful entry into the United States, the individual may be taken into custody and either booked into County Jail or turned over to Border Patrol officers, depending upon the nature of the offense and other circumstances.

If probable cause to arrest for a criminal offense does not exist, the individual may nevertheless be turned over to Border Patrol officers at the location where the detention takes place. Except in situations where the detention occurs near the immediate area of the border, such as San Ysidro, the individual should not be transported by police officers to a federal booking facility.

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Please read at squad conferences and post



MEMORANDUM

TO: Honorable Griffin Bell, Attorney General of the United States  
FROM: Mexican American Legal Defense and Educational Fund  
SUBJECT: State and Local Police Officer Enforcement of Federal  
Immigration Laws  
DATE: January 11, 1978

I

In our meeting with you on October 27, 1977, we mentioned as a problem that in many places state and local police officers were actively engaged in enforcement of federal immigration laws. We again mentioned this problem in the follow-up letter from Vilma Martínez to you, dated December 1, 1977 (p. 3). We have now gathered substantial evidence of unauthorized local law enforcement activity of this nature in California.<sup>1</sup> The purpose of this Memorandum is to share our information with you and request that you take appropriate steps to eliminate unauthorized local enforcement activity.

II

A. Practical Reasons for Limiting non-Federal Enforcement of Immigration Laws

We find that wherever and whenever local enforcement officers attempt to enforce federal immigration laws, constitutional violations abound. In California, Mexican American citizens and aliens are the principal victims of such violations. The incidents discussed infra (pp. 6-11) are illustrative of the violations and

<sup>1</sup>While our inquiries indicate that similar practices are widespread in other states, we have been best able to document it here and therefore restrict our discussion to this state.

National Office

28 Geary Street  
San Francisco, CA 94108  
(415) 981-5800

Regional Offices

250 W. Foothill Avenue  
Denver, CO 80204  
(303) 833-1893

5455 Wilshire Blvd  
Los Angeles, CA 90036  
(213) 936-5145

Patrol Unit, Immigration Dept.  
2011 North St. Mary's Street  
San Antonio, TX 78207  
(512) 204-5476

1120 Broadway  
New York, NY 10018  
(212) 693-1111

the victims. The prevalence of constitutional rights violations doubtless reflects the fact that many local law enforcement officials are insensitive to or unaware of constitutional limitations on police powers. In particular, most local law enforcement officials are Anglos and lack sympathy or understanding for the constitutional rights of Mexican Americans and other racial minorities.

Local law enforcement officials are largely untrained in the subtleties of immigration law and related subjects.<sup>2</sup> Their lack of training poses an especially great threat to members of racial minorities--like Mexican Americans--who resemble in appearance or might be thought to resemble undocumented aliens. Untrained officers are unable to comprehend and recognize the rights of aliens who fall into the categories of non-deportable but not fully registered aliens (Silva v. Levi class members, for example).<sup>3</sup> More important, untrained officers lack the expertise to distinguish undocumented aliens from lawful residents by constitutionally permissible means. We may with confidence assume that even well-intentioned local officers will engage in legally suspect methods of seeking out and indentifying aliens.

There is no effective means for holding local law enforcement officers accountable under consistent, constitutionally sound standards. Initially, there are no uniform standards governing state and local officers; indeed, in most cases even strictly local rules or guidelines governing searches for undocumented aliens are lacking. Local police officials are not subject to control by the Attorney

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<sup>2</sup>Border patrol officers of the INS, by contrast, receive intensive instruction in immigration and nationality laws and regulations, legal standards governing their actions, and Spanish language.

<sup>3</sup>The potentially large class of persons who could become "temporary resident aliens" under the proposed Administration legislation further complicates this area and further removes it from the ken of local officials.



General or INS. Even where adequate standards exist or could be implied, administrative complaint or review procedures are non-existent or woefully inadequate. The only federal recourse for persons whose constitutional rights have been infringed in a § 1983 damages suit--an extremely difficult and usually unsuccessful cause of action.

B. Legal Authority for Limiting Local Involvement in Immigration Law Enforcement.

Control over the entry and stay of aliens in the United States is an exclusively federal function. In the realm of foreign affairs, the Constitution delegates preemptive authority to Congress, Art. I, § 8, Clause 3. The Constitutional division of authority gives the federal government plenary power over immigration. Hines v. Davidowitz, 312 U.S. 52 (1941). The Supreme Court has recently reaffirmed that, although the states may regulate traditional health and welfare or economic areas even where aliens are affected, the federal government retains exclusive control over the "determination of who should or should not be admitted into the country and the conditions under which a legal entrant may remain." DeCanas v. Bica, 424 U.S. 351, 355 (1976).

The INS has adopted and purports to enforce these principles. A January 10, 1977 memorandum from Deputy Commissioner Green to the Regional Commissioners states:

There are no provisions of the [Immigration and Nationality] Act... which authorizes [sic] the arrest and/or detention of aliens for violations of the Immigration and Nationality Act by anyone other than an immigration officer.<sup>4</sup>

Accordingly, each office shall take whatever steps are necessary to insure local city, county, and state authorities do not detain or place "holds" on aliens for or in behalf of this Service unless an immigration officer has first made a determination that the alien is prima facie deportable from the United States and has specifically authorized the detention of the alien.

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<sup>4</sup>The deleted words are "other than Section 274." That section authorizes persons other than immigration officers to make arrests of persons suspected of smuggling or harboring undocumented aliens. It does not apply outside that narrow context.

State or local official activity uncontrolled by federal officers and standards would "stand[s] as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress" as expressed in the INA, Hines v. Davidowitz, *supra*, 312 U.S. at 67, and DeCanas v. Bica, *supra*, 424 U.S. at 363. This "interference" effect is clearly preserved by DeCanas as grounds for proscribing unauthorized non-federal activity. The INS Memorandum of Deputy Commissioner Green implies and assumes that INS offices are cooperating with local officers who assist in enforcement of immigration laws under the direction of or in liaison with federal immigration officers. But independent state or local enforcement activities, outside the control of INS, would seriously undermine this comprehensive federal enforcement scheme.<sup>5</sup>

The State of California has taken a position defining when state and local enforcement officers may detain or arrest persons suspected of immigration law violations.<sup>6</sup> California has concluded that, in the typical situation away from the border or its functional equivalent, activity by state and local officers is limited as follows: (1) They may not ordinarily arrest persons for immigration law violations without a warrant; (2) They may temporarily detain suspects for further investigation, provided a "rational suspicion" test is met<sup>7</sup>; (3) temporary detention is subject to the legal constraints of reasonableness as to both length and scope.<sup>8</sup> Because a California police officer must have a "rational suspicion"

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<sup>5</sup>We have no doubts about the legality of INS using local police as *de facto* deputies. However, we need not debate that issue here. Since the Service apparently does assert the right to work through non-federal officers, the Department must recognize that totally unauthorized local enforcement will interfere with the INS cooperative efforts.

<sup>6</sup>The State's position has never been codified. It appears in Attorney General opinion letters. The most recent one is dated August 2, 1977 and directed to the Police Chief of Covina, California. Our comments are based on that letter.

<sup>7</sup>Cf. the "largely indistinguishable" federal "reasonable suspicion" standard of United States v. Brignoni-Ponce, 422 U.S. 873, 884 (1976).

<sup>8</sup>Letter of August 2, 1977, p. 2.

that immigration laws are being violated to justify any detention,<sup>9</sup> and because "[s]ignificant problems exist in developing a 'rational suspicion' of illegal entry in the typical situation removed from the border area or its functional equivalent,"<sup>10</sup> the Attorney General concludes that:

as a practical matter, in the typical situation removed from the border area or its functional equivalent, it may be a rare case in which a California peace officer, largely unfamiliar with immigration law enforcement, would be aware of specific articulable facts which would lead him to a "reasonable suspicion" that a person is illegally in the country.<sup>11</sup>

Therefore, "only in rare circumstances" should arrests for violation of federal immigration laws be valid under California law.<sup>12</sup>

We have serious doubts about the propriety and legality of the State's interpretation of the laws. But even under that interpretation, most state and local police enforcement actions in typical situations are ultra vires. The actual practices of state and local law officers in California are incompatible with these purported standards. See part III, infra. This is a matter for federal concern because enforcement activities by local police will regularly violate constitutional guarantees. Given the complexity of immigration laws and regulations, the subtlety of the necessary factual determinations, and the regrettable but widespread prejudice against non-white "foreigners"--particularly persons of Mexican heritage--deviations from nuanced interpretations of state legal authority are inevitable. That is why state and local officers should be

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<sup>9</sup>Id., p. 11.

<sup>10</sup>Id., p. 12. The letter summarizes the factors listed in United States v. Brignoni-Ponce, supra, and emphasizes that "apparent Mexican or foreign ancestry is, by itself, insufficient."

<sup>11</sup>Letter, p. 12.

<sup>12</sup>Id., p. 13. We differ from California's conclusion that, under the supreme federal law, state and local police officers ever have authority to enforce immigration laws, id. We believe them pre-empted.

barred from these activities--at least in the absence of specific determinations by or guidance from qualified federal officials.

### III

#### The Incidents

We summarize in this section a number of incidents in which California police officers are alleged to have blatantly violated the rights of Mexican American citizens and aliens while engaged in unauthorized enforcement activities. We believe these allegations to be reliable. They are based on data carefully collected and evaluated by the staff of Sen. Alex García of California. The supporting information is contained in a file, a copy of which we are forwarding with this memorandum so that you may examine our documentation if you wish. The incidents involve a variety of police practices and span practically the entire length of California. The few instances documented here are representative of a recurring problem of epidemic proportions. They have one unifying theme: the blatant, and often brutal, violation of constitutional rights.

#### 1. Hanford, Kings County

Nicholas Hernández Torres, who died in local police custody on July 29, 1977, had resided in the United States for over 29 years. He was not, however, documented. Torres was being taken by a friend to a hospital to treat severe abdominal pain when they were stopped by Hanford police. The driver was arrested for drunk driving and taken to the station and put in the "drunk tank". Mr. Torres was taken to the station and also placed in the drunk tank, for no apparent reason. Mr. Torres complained to the jailers of his pain, but his complaints were ignored. Mr. Torres was supposedly being held pending information from the Border Patrol regarding his legal status. The Border Patrol alleges never having been contacted by the Hanford police regarding Mr. Torres.

Mr Torres was not transferred to the hospital until eight hours after his arrest. According to the coroner's report, Mr. Torres lay in the hospital approximately 15 hours in severe pain before "his illness could be diagnosed". Mr. Torres literally died in the hospital without receiving medical aid, while all the time complaining of excruciating pains.

## 2. San José, Santa Clara County

In the summer of 1977, Mrs. Q. (who fears to disclose her identity) was arrested on suspicion of petty theft. She was referred to Project Intercept, a diversion program. She was then detained by the sheriff, who refused to release her until an officer of the INS arrived to determine her legal status. The sheriff's department failed to notify the INS and consequently Mrs. Q. was held for four days. At this time, Mrs. Q. was breast feeding her small baby. The problem was explained to the sheriff who failed to release her until the INS was eventually contacted and her legal status determined.

## 3. Madera, Madera County

José Serapio Salazar, a U.S. citizen, spent three days unlawfully detained in jail. Salazar was originally arrested on November 24, 1976 on a misdemeanor charge by a California Highway Patrolman. After arraignment, the court ordered him released on his own recognizance. Upon returning to county jail to pick up personal belongings, the jail refused to release him, informing the court clerk that he was being held for immigration authorities. At this time the court clerk allegedly crossed out the release order. Mr. Salazar's wife came to jail and produced his naturalization papers but release was still refused. He was not released until three days later, when a community worker contacted the judge who had originally ordered the release.

Mr. Salazar has filed suit in federal court for damages.

## 4. East Palo Alto, San Mateo County

On April 27, 1975, sheriff's deputies invaded two private homes.

(a) In the early morning hours, the home of Luis Avelar was searched by sheriff's deputies who suspected that the family was in the country illegally. The sheriff's officers knocked loudly on the door, demanded entry, and once inside ordered that the family produce their "green cards".

Mr. and Mrs. Luis Avelar and their infant child are lawful residents of the United States. They have filed a state court action for damages and declaratory and injunctive relief.

(b) Sheriff's deputies conducted an "immigration raid" on the home of four legal resident aliens: Vicente Guzmán, Rubén Guzmán, Manuel Del Real, and Alberto Pérez. Several deputies gained access to the rear balcony of the second story apartment by means of a ladder. At the same time, one of the deputies knocked forcefully on the front door and demanded entry. As soon as the front door was partially opened, the deputies forced their way through the door without receiving permission to enter. Once inside, the deputies ordered that each occupant produce his "green card". These victims are parties to the Avelar suit.

#### 5. Salinas, Monterey County

On May 4, 1977, the Salinas police turned their investigation of a hit-and-run accident into an immigration raid on the victim's residence. The police arrested seven individuals as illegal aliens and forcefully encouraged two lawful residents to go to the police station to appear in a police line-up. The state action took place after the hit-and-run driver had been taken into custody.

The arresting officer's police report identified the two victims who were "encouraged" to participate in the police line-up as being lawful resident aliens. The seven arrested illegal aliens were put on an immigration hold for the INS.

#### 6. Wasco, Kern County

(a) In the summer of 1976, local police entered a bar frequented by persons of Mexican heritage and asked customers for their immigration papers. Undercover

agents had been placed in the bar for the purpose of identifying illegal aliens. Inasmuch as no one was taken into custody, it appears that all the customers queried were lawful U.S. residents.

(b) In September 1976 a local police officer stopped a car carrying six passengers of Mexican-American racial characteristics for the sole purpose of determining their legal status in the U.S. The passengers were Refugio Rodríguez, a natural-born citizen, and five men (Silvestre Galván, Santos Galván, Rafael Gutierrez, José Gutierrez, and Refugio Rodríguez) who are long-time permanent resident aliens. The police officer ordered all passengers to produce their immigration papers and they all complied. Only after the police officer verified the passengers' legal status in the U.S. were they allowed to proceed.

These six Mexican Americans (and two others) filed suit in state court seeking declaratory and injunctive relief.

(c) In May 1976, Rafael Gutierrez, a permanent resident alien, was stopped while walking down a street by a local police officer who requested to see his driver's license. Mr. Gutierrez was then requested to produce immigration papers. Only after Mr. Gutierrez produced his immigration papers was he allowed to proceed.

#### 7. Modesto, Stanislaus County

(a) On July 26, 1976, a local sheriff's officer stopped Félix Toro Mejía, a permanent resident alien, while the latter walked from his house to visit relatives. The officer asked to see his "green card". Mr. Mejía produced his green card; nevertheless he was arrested on the officer's belief that the card was counterfeit. After being detained at the police station, it was determined that the card was in fact valid, at which time Mr. Mejía was released.

(b) Luis Ochoa Reyes, a permanent resident alien, has been under continuous harassment by the local sheriff's department. Mr. Reyes has been required to produce his "green card" whenever he encounters local sheriff's officers on the

street. The incidents have become an almost everyday occurrence. The residents of Mr. Reyes' neighborhood contend that they are under constant surveillance by the sheriff's department for the purpose of apprehending illegal aliens.

#### 8. San Francisco, San Francisco County

Manuel Olivarez, a permanent resident alien, was stopped on the street by a local police officer who requested to see identification and the individual's "green card". Mr. Olivarez produced his green card, which the police officer judged to be altered. Mr. Olivarez was placed under arrest on an "immigration hold", and a scuffle resulted in the attempt to handcuff him. Mr. Olivarez was subdued and held for immigration authorities. While in custody, it was determined that the card was valid, and only then was Mr. Olivarez released.

#### 9. Fullerton, Orange County

Sometime early in 1977, Antonio Martínez, a permanent resident alien, and two other persons, were passengers in an automobile stopped by a local police officer who asked them for identification. The officer then made a search of the car, looking for drugs, and none were found. The officer then called headquarters to see if there were warrants for any of the individuals. Based on a warrant for an individual with name similar to that of one of the passengers, the peace officer, without listening to further explanations, proceeded to arrest Martínez. The latter spent a total of six days in the county jail until his true identity was determined. The driver and the other passenger were not further detained, and no traffic citation was given.

#### 10. Los Angeles area, Los Angeles County

It is apparent to us that similar abuses have occurred widely in Los Angeles County. We have received a large number of credible complaints of local police enforcement of immigration laws. Most of these complaints come to our attention via attorneys. We are aware of incidents in Los Angeles, Long Beach, San Pedro,



and Santa Ana (neighboring Orange County). While we have not documented these incidents as fully as those described in parts 1-9 above, we know that in the Los Angeles area there are problems similar to those elsewhere in the state.

#### IV

##### Corrective Measures

In order to eliminate or minimize the kind of abuses detailed above, we urge the Attorney General to take the following steps:

(1) Re-issue and promulgate the policy statement contained in the January 10, 1977 memorandum by Deputy Commissioner Green. To be noticed and effective, this statement should come from a higher level--from the Attorney General or the Commissioner of INS.

(2) Convey the policy statement to state and local law enforcement officials and request that they advise law enforcement agencies to observe it.

(3) Promulgate the policy throughout INS field offices and require adherence to it. In particular, INS District Directors should be instructed to advise local law enforcement agencies that their efforts are neither encouraged nor authorized, except insofar as they identify deportable aliens in the course of enforcing other, non-federal laws in a constitutionally acceptable manner.

(4) Establish an internal review and sanction procedure within INS to control deviations from INS policy, including "cooperative" INS-local efforts in which INS does not exercise the legally requisite degree of control in determining alien status as a prerequisite to detention or arrest.

(5) Include policy statements and explanatory materials in all INS training materials and courses, to assure that every INS officer and Border Patrol officer knows and respects the limitations on state and local enforcement activity.

# BORDER PATROL DENIES CHICANO ABUSE CLAIM

Continued from First Page

angrily, "is a law unto itself. It operates very much like a modern-day Gestapo against persons of Mexican ancestry."

He complained, too, that local police officers take it upon themselves to enforce federal immigration laws by apprehending undocumented aliens for the Border Patrol.

But Bob Burgeen, assistant San Diego chief of police, maintained that police have responded to court rulings by following a recent policy against such arrests.

"Officers," Burgeen said, "are instructed not to question people only to determine if they are undocumented aliens."

But he said a suspect initially stopped for other reasons will be detained for the Border Patrol "if the Border Patrol can come promptly. Otherwise,

we release him."

That did not jibe with Baca's view. He complained that "overzealous" police officers "feel anyone of Mexican-American ancestry is an illegal alien."

By the time Border Patrol Chief Agent Cameron, his assistant, Franco, and INS Dep. Dist. Director Mitton appeared, most of the accusations had been made.

Cameron, only recently installed in the post here, said there were only 32 complaints officially lodged during 1977 against Border Patrol officers in this region. Franco said two of those were sustained through investigation and 10 are still pending.

(Baca and others said they have long since quit bothering to complain to local officials.)

Mitton told the committee members that persons detained as suspected illegal aliens "are given every opportunity (to prove citizenship) . . . or their right to be here."

Asked about the so-called mass hearings on deportation proceedings, Mitton said, "No alien is ever required to enter a mass hearing if he does not want to." Such hearings, he said, are really for groups of six to 10 persons with identical situations and enable the aliens to get through the procedure quickly.

Mitton said that of perhaps 1,700 illegal aliens apprehended by his office last year, an estimated 97% accepted "voluntary departure" back to Mexico or other countries of origin rather than go through deportation.

As for the accusations of abuse at the hands of Border Patrol officers, Cameron said:

"We ask that our officers maintain themselves as officers at all times. We don't expect them to use violence, abuse or anything like that."

He said his door "is always open" to groups wanting to discuss complaints about the patrol and, like Mitton, insisted that family problems and other personal matters are taken into consideration in the deporting of persons here illegally.

Mitton said that in his long career at 17 duty stations, he has yet to see a violation of that policy.

Informed by committee member Michael Stern that testimony here and in Los Angeles has indicated a failure to advise suspected illegal aliens of their rights, Mitton said aliens agreeing to voluntary departure sign a form that "pretty well lays out his rights."

What would happen to the INS officer who took it upon his own to rush a person back to Mexico without going through the proper procedure? Mitton was asked.

"We would fire him for that, sir," he responded. "No question."

OST 27 ISM 2200 SL100} DF2 DBF AHC

CITY OF SAN DIEGO  
MEMORANDUM

Police

+SL 28 ESC 050) AHL

MEMO NO.: 15.05  
DATE: August 1, 1978

TO: All Personnel

FROM: W. B. Kolender, Chief of Police

SUBJECT: Additional Data Necessary For Completion Of Crime/Incident Report And Arrest/Juvenile Contact Report

\*SL OIX

With the implementation of the District Attorney's Justice Records Information System (JURIS), additional information is required on our Crime/Incident Report and the Arrest/Juvenile Contact Report. These report forms are currently being revised. Effective immediately, the following information shall be included in the narrative portion of the report: I-3

County S/S/SL  
San Diego

Crime/Incident Report

All of the below information is necessary for the victim and the witness.

- 1. Social Security number of victim and witness.
- 2. Length of residence in San Diego County.
- 3. Illegal alien.
- 4. Interpreter required.
- 5. Days off.
- 6. If witness, relation to victim; relative, acquaintance, stranger.
- 7. With the list of tools, weapons, or force used, indicate how they were used.

Arrest/Juvenile Contact Report

Indicate the following:

- 1. Suspect's length of time in San Diego County.
- 2. Whether or not suspect is a suspected user of narcotics/drugs.
- 3. Interpreter required.
- 4. Illegal alien.
- 5. Suspect's relation to victim(s); relative, acquaintance, stranger.

Investigator's Follow-up, Witness List

Indicate police witnesses in the following manner:

Name, ID number, rank, phone number, shift working, and days off.

All Other Victims/Witnesses

Indicate the following information:

All Personnel  
August 1, 1978  
Page Two of Two

+56

All Other Victims/Witnesses (continued)

+56

Name, Social Security number, residence/business addresses, resident of San Diego County and for how long, employment status, relationship to defendant and victim, interpreter necessary, illegal alien, and if they have received victim/witness assistance.

+56, ΔIX

Departmental Instructions and a video tape concerning this matter will be forthcoming.



W. B. Kolender  
Chief of Police

DET

This is Memo Chief - denied on TV-39  
as existing until I confidential Hiss

PERSONAL HISTORY REPORT

USED AS (Check applicable boxes) <input type="checkbox"/> PERSONAL HISTORY <input type="checkbox"/> G-DEP SUPPLEMENTAL <input type="checkbox"/> G-DEP SUBMISSION <input type="checkbox"/> FUGITIVE DECLARATION <input type="checkbox"/> INFORMANT SUBMISSION <input type="checkbox"/> Federal Class: <input type="checkbox"/> State				1. FILE NO.	2. G-DEP IDENTIFIER
				4. FILE TITLE	
NAME (Last, First, Middle; Title, Jr., Capt., Dr., etc.)				5. DATE PREPARED	
ADDRESS (No., Street, City, State, ZIP Code)				7. NADDIS NUMBER	
10. PHONE NO. (Include Area Code)		11. CHINESE TELEGRAPHIC NAME CODE		9. ALIAS OR OTHER NAMES	
12. DATE OF BIRTH (Mo., Day, Year)		13. PLACE OF BIRTH (City and State)		14. CITIZENSHIP	
16. NATIONAL ORIGIN		17. RACE		15. ILLEGAL ALIEN <input type="checkbox"/> Yes <input type="checkbox"/> No	
18. SEX <input type="checkbox"/> M <input type="checkbox"/> F		19. HEIGHT		20. WEIGHT	
21. EYES		22. HAIR		24. OCCUPATION	
23. IDENTIFYING CHARACTERISTICS (Scars, Marks, Physical Defects, etc.)				25. DRUG USER <input type="checkbox"/> No <input type="checkbox"/> Yes (If YES, what Drug)	
26. SOCIAL SECURITY NO.		27. FBI NO.		28. DEA REGISTRATION NO.	
29. OTHER NOS. (Federal, State, Local)		30. PASSPORT NO.		31. VISA APL. NO.	
32. ISSUING COUNTRY		33. NAME ON PASSPORT		34. DRIVER'S LICENSE	
a. State or Country		b. Number		c. Expiration Date	
35. VEHICLE REGISTRATION		36. EDUCATION (Level and Name of School)		37. CLASS OF VIOLATOR (Check one)	
a. Make		b. Year of Car		<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input checked="" type="checkbox"/> 4   DRUG CODE:	
c. License No.		d. Year		e. State	
39. CRITERIA				38. FILE REFERENCES (G-DEP ONLY)	
a. Check One <input type="checkbox"/> DOMESTIC <input type="checkbox"/> FOREIGN		b. Check One <input type="checkbox"/> INTELLIGENCE <input checked="" type="checkbox"/> DIRECT EVIDENCE		40. CRITERIA IDENTIFICATION	
Quantitative (Enter Numeral)		Qualitative (Enter Letter)		41. LOCATIONS OF CRIMINAL ACTIVITY (City, State, Country)	
a <input type="checkbox"/> f <input type="checkbox"/> g <input type="checkbox"/> h <input type="checkbox"/> i <input type="checkbox"/>				42a. CRIMINAL ASSOCIATES (Last, First, Name)	
43. PRIOR CRIMINAL RECORD				42b. NADDIS NO.	
44a. FAMILY (Last, First, Middle Name)				42c. SOURCE OF SUPPLY (Name)	
SPOUSE:				42d. NADDIS NO.	
FATHER:					
MOTHER:					
BROTHERS/SISTERS/CHILDREN (Name and Relationship)					

SAN DIEGO POLICE DEPARTMENT

ANNOUNCEMENT

November 9, 1978

TO: ALL PERSONNEL  
 FROM: W. B. KOLENDER  
 SUBJECT: NEW ARREST REPORTS

Effective November 20, 1978, obtain your supply of new Arrest Reports (PD-100 Rev. 9-78) in the Report Room or the Supply Room.

The new reports are blue. All white Arrest/Juvenile Contact Reports (PD-100) should be discarded.

These forms contain a new line under the Suspect-Crime section with check off boxes for the information previously added in the body of the report.

THIS IS THE ONLY CHANGE.

CHARGE (S)																			
PERSON ARRESTED (LAST, FIRST, MIDDLE)				NICKNAME/AAA				RACE	SEX	AGE	HT.	WT.	BUILD	HAIR	EYES	DATE OF BIRTH			
ADDRESS			CITY	STATE	RESIDENT <input type="checkbox"/> YES <input type="checkbox"/> NO	TIME IN YRS	CLOTHING DESCRIPTION												
OCCUPATION				EMPLOYER/DATE				MILITARY SERVICE NO./SSN			DRIVERS LIC. NUMBER		TELEPHONE NUMBER						
IS SUBJECT A SUSPECTED USER OF NARCOTICS/DRUGS				YES <input type="checkbox"/> NO <input type="checkbox"/>		INTERPRETER REQUIRED		YES <input type="checkbox"/> NO <input type="checkbox"/>		ILLEGAL ALIEN		YES <input type="checkbox"/> NO <input type="checkbox"/>		SUSPECT'S RELATION TO VICTIM(S)		RELATIVE ACQUAINTANCE STRANGER		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
LOCATION OF ARREST				DATE	TIME	LOCATION OF OCCURENCE				DATE	TIME								
CITIZEN ARREST		ARRESTED BY:		ADMINISTERED BY:		WAIVER		STATEMENT		DIVISION		ON BEHALF NO.		DISTRICT		<input type="checkbox"/> <input type="checkbox"/>			
YES <input type="checkbox"/>				YES <input type="checkbox"/> NO <input type="checkbox"/>		YES <input type="checkbox"/> NO <input type="checkbox"/>		YES <input type="checkbox"/> NO <input type="checkbox"/>											

-----  
 Please read at line up and post.

TO Mayor Pete Wilson | AT San Diego City Administration  
SUBJECT follow up to personal visit Friday Feb. 23, 1979 | DATE 2/26/79

Police chief Kollenders memo on introduction of JURIS system.

Memo dtd Aug 1, 1979 is first MEMO that alerted La Prensa that the SDPD was once again involving itself in INS business by having to determine the Nationality/citizenship of individuals. SDPD places itself with JURIS program.

JURIS system is an extension of the ARGIS (automated Regional Info System) which collects large amounts of information on criminals. The JURIS system goes one step further..." IT COLLECTS LARGE AMOUNTS OF INFORMATION ON ANY CITIZEN WHO HAS "CONTACT OR AN INCIDENT WITH THE SDPD". IN FACT, WE ARE NOW IN THE PROCESS OF COLLECTING INFORMATION ON ALL KINDS OF CITIZENS TO BE MAINTAINED IN COMPUTER BANKS. THE ARGIS, JURIS SYSTEM IS BEING PLANNED TO FEED INTO A NATIONAL COMPUTER BANK. The point is you don't have to be a criminal anymore to be in this computer file. Files of course can be tapped by any agency for personal, private, or heresay statements.

Mexican "looking" individuals can be stopped (contact) by any SDPD officer and his citizenship proof be required. If none available, the victim is bundled off to Border Patrol. (question: who carries his birth certificate around with him?) Police have been ordered in the past the U.S. Attorney General to stay out of INS areas of responsibilities.

Chief Kollender confronted with this Memo on TV39. At first denied

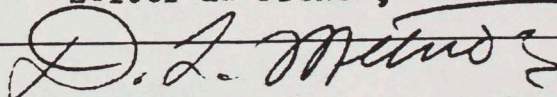
DUPLICATE

SIGNED

knowledge of MEMO....when confronted with it attempted to B.S. way out of it. Finally promised to look into it and inform me of actions he planning to take.....This more than three months ago. No response from Chief. This of course is typical of all complaints filed by Chicanos.

Daniel L. Munoz

Editor La Prensa, San Diego.



DATE

SIGNED

NEW INFORMATION REQUIRED ON  
CRIME/INCIDENT AND ARREST/JUVENILE CONTACT REPORT

Crime/Incident Report

All of the below information is necessary for the victim and the witness:

1. SS# of victim and witness
2. Length of residence in SD County
3. Illegal alien
4. Interpreter required
5. Days off
6. If witness, relationship to victim(s)
7. List of tools, weapons, or force used and how used

Arrest/Juvenile Contact Report

Indicate the following:

1. Suspect's length of time in SD County
2. Whether or not suspect is a suspected user of narcotics/drugs
3. Interpreter required
4. Illegal alien
5. Suspect's relationship to victim(s)



# SAN DIEGO POLICE DEPARTMENT

## ARREST/JUVENILE CONTACT REPORT

FUNCTIONAL  
 Fingerprint

<input type="checkbox"/> ARREST REPORT	<input type="checkbox"/> NOTIFY WARRANT	<input type="checkbox"/> JUVENILE CONTACT	PAGE OF	BOOKING NUMBER SAN DIEGO NUMBER JUVENILE FILE NUMBER
--	---	---	---------	--

CHARGE (S)														
PERSON ARRESTED (LAST, FIRST, MIDDLE)			NICKNAME/AKA			RACE	SEX	AGE	HT.	WT.	BUILD	HAIR	EYES	DATE OF BIRTH
ADDRESS			CITY	STATE	RESIDENT <input type="checkbox"/> YES <input type="checkbox"/> NO	TIME IN YRS		CLOTHING DESCRIPTION						
OCCUPATION			EMPLOYER/RATE			MILITARY SERVICE NO./SSN		DRIVERS LIC. NUMBER		TELEPHONE NUMBER				
IS SUBJECT A SUSPECTED USER OF NARCOTICS/DRUGS YES <input type="checkbox"/> NO <input type="checkbox"/>			INTERPRETER REQUIRED YES <input type="checkbox"/> NO <input type="checkbox"/>			ILLEGAL ALIEN YES <input type="checkbox"/> NO <input type="checkbox"/>		SUSPECT'S RELATION TO VICTIM(S)		RELATIVE ACQUAINTANCE STRANGER <input type="checkbox"/>				
LOCATION OF ARREST			DATE	TIME	LOCATION OF OCCURENCE				DATE	TIME				
CITIZEN ARREST YES <input type="checkbox"/>	ARRESTED BY:			ADMONISHED BY: YES <input type="checkbox"/> NO <input type="checkbox"/>			WAIVER YES <input type="checkbox"/> NO <input type="checkbox"/>	STATEMENT YES <input type="checkbox"/> NO <input type="checkbox"/>	DIVISION	ON BEAT NO.	DISTRICT			

LIVES WITH		ADDRESS		HOME PHONE		BUS. PHONE		RES. BEAT			
FATHER/STEFFATHER'S NAME		ADDRESS		EMPLOYER		HOME PHONE		BUS. PHONE			
MOTHER/STEPMOTHER'S NAME		ADDRESS		EMPLOYER		HOME PHONE		BUS. PHONE			
SCHOOL		GRADE	PARENTS NOTIFIED BY: WHOM, AND HOW				DATE	TIME			
DISPOSITION OF JUVENILE				JUVENILE UNIT DISPOSITION (INVESTIGATOR ONLY)	INF.	DIV.	PO	JH	PARENT	RTN	CLEAR

<b>HAIR LGTH/TYPE</b>		<b>HAIR STYLE</b>		<b>FACIAL HAIR</b>		<b>COMPLEXION</b>		<b>GENERAL APPEARANCE</b>		<b>SPEECH</b>		<b>VOICE</b>		<b>FINGERPRINT CODES</b>	
1 <input type="checkbox"/> BALD	1 <input type="checkbox"/> AFRO/NAT.	1 <input type="checkbox"/> CLEAN SHAVE	1 <input type="checkbox"/> ACNE	1 <input type="checkbox"/> CASUAL	1 <input type="checkbox"/> ACCENT	1 <input type="checkbox"/> DISGUISED	1 _____	6 _____							
2 <input type="checkbox"/> COLLAR	2 <input type="checkbox"/> BRAIDED	2 <input type="checkbox"/> FULL BEARD	2 <input type="checkbox"/> DARK	2 <input type="checkbox"/> DIRTY	2 <input type="checkbox"/> LISPS	2 <input type="checkbox"/> HIGH PITCH	2 _____	7 _____							
3 <input type="checkbox"/> LONG	3 <input type="checkbox"/> BUSHY	3 <input type="checkbox"/> FU MANCHU	3 <input type="checkbox"/> FRECKLED	3 <input type="checkbox"/> DISGUISED	3 <input type="checkbox"/> MUMBLES	3 <input type="checkbox"/> LOUD	3 _____	8 _____							
4 <input type="checkbox"/> SHOULDER	4 <input type="checkbox"/> GREASY	4 <input type="checkbox"/> GOATEE	4 <input type="checkbox"/> LIGHT	4 <input type="checkbox"/> FLASHY	4 <input type="checkbox"/> OFFENSIVE	4 <input type="checkbox"/> LOW PITCH	4 _____	9 _____							
5 <input type="checkbox"/> SHORT	5 <input type="checkbox"/> MILITARY	5 <input type="checkbox"/> LOWER LIP	5 <input type="checkbox"/> MEDIUM	5 <input type="checkbox"/> GOOD-LOOKING	5 <input type="checkbox"/> QUIET	5 <input type="checkbox"/> MEDIUM	5 _____	10 _____							
6 <input type="checkbox"/> COARSE	6 <input type="checkbox"/> PONYTAIL	6 <input type="checkbox"/> MUSTACHE	6 <input type="checkbox"/> PALE	6 <input type="checkbox"/> MILITARY	6 <input type="checkbox"/> RAPID	6 <input type="checkbox"/> MONOTONE	<b>COMPOSITE CODES</b>								
7 <input type="checkbox"/> FINE	7 <input type="checkbox"/> PROCESSED	7 <input type="checkbox"/> NONE/FUZZ	7 <input type="checkbox"/> FOCKED	7 <input type="checkbox"/> UNKEMPT	7 <input type="checkbox"/> SLOW	7 <input type="checkbox"/> NASAL	1 _____	6 _____							
8 <input type="checkbox"/> THICK	8 <input type="checkbox"/> STRAIGHT	8 <input type="checkbox"/> SIDEBURNS	8 <input type="checkbox"/> RUDDY	8 <input type="checkbox"/> UNUSUAL ODOR	8 <input type="checkbox"/> STUTTERS	8 <input type="checkbox"/> PLEASANT	2 _____	7 _____							
9 <input type="checkbox"/> THINNING	9 <input type="checkbox"/> WAVY/CURLY	9 <input type="checkbox"/> UNSHAVEN	9 <input type="checkbox"/> SALLOW	9 <input type="checkbox"/> WELL GROOMED	9 <input type="checkbox"/> TALKATIVE	9 <input type="checkbox"/> RASPY	3 _____	8 _____							
10 <input type="checkbox"/> WIRY	10 <input type="checkbox"/> WIG	10 <input type="checkbox"/> VAN DYKE	10 <input type="checkbox"/> TANNED	10 <input type="checkbox"/> OTHER	10 <input type="checkbox"/> OTHER	10 <input type="checkbox"/> SOFT	4 _____	9 _____							
11 <input type="checkbox"/> OTHER	11 <input type="checkbox"/> OTHER	11 <input type="checkbox"/> OTHER	11 <input type="checkbox"/> OTHER			11 <input type="checkbox"/> OTHER	5 _____	10 _____							

FURTHER SUSPECT DESCRIPTION (I.E., GLASSES, TATTOOS, TEETH, BIRTHMARKS, JEWELRY, SCARS, MANNERISMS, ETC.):

VEHICLE: YEAR	MAKE	MODEL	COLOR/COLOR	BODY STYLE	LICENSE NO.	STATE
ADDITIONAL VEHICLE IDENTIFIERS (DAMAGE, CHROME WHEELS, ETC.)					VEHICLE IMPOUNDED <input type="checkbox"/> YES <input type="checkbox"/> NO	DISPOSITION

EVIDENCE OR PROPERTY IMPOUNDED <input type="checkbox"/> YES <input type="checkbox"/> NO	PROPERTY TAG NOS.	COMPLAINS OF ILLNESS OR INJURY EXPLAIN IF YES	<input type="checkbox"/> YES <input type="checkbox"/> NO	EVIDENCE OF ILLNESS OR INJURY TREATED BY:	<input type="checkbox"/> YES <input type="checkbox"/> NO
EVIDENCE ITEMIZED: WHERE FOUND, DISPOSITION					

VIC./WIT	V	W	ADDRESS	CITY	STATE	RESIDENCE PHONE	BUS. PHONE
RP DC							
V	W	ADDRESS	CITY	STATE	RESIDENCE PHONE	BUS. PHONE	
RP DC							

<b>COMPANIONS</b>				<b>INVESTIGATOR INFORMATION</b>			
#1 NAME	ARRESTED <input type="checkbox"/> YES <input type="checkbox"/> NO	A <input type="checkbox"/> DOB J		DETECTIVE ASSIGNED	DEPUTY DISTRICT ATTORNEY		
#2 NAME	ARRESTED <input type="checkbox"/> YES <input type="checkbox"/> NO	A <input type="checkbox"/> DOB J		CRIME REPORT OFFICER	REVIEWING DEP. DIST. ATTORNEY		
#3 NAME	ARRESTED <input type="checkbox"/> YES <input type="checkbox"/> NO	A <input type="checkbox"/> DOB J		ARRESTING OFFICER	DEFENSE ATTORNEY		
#4 NAME	ARRESTED <input type="checkbox"/> YES <input type="checkbox"/> NO	A <input type="checkbox"/> DOB J		CASE NUMBER	PROSECUTOR'S INFORMATION PG BF PNG		

REPORTING OFFICER	I.D.	RANK	DIVISION	DAYS OFF.	RELATED REPORTS <input type="checkbox"/> YES <input type="checkbox"/> NO	LIST TYPE	REPORT APPROVED	BOOKING APPROVED
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12

NEW INFORMATION REQUIRED ON  
CRIME/INCIDENT AND ARREST/JUVENILE CONTACT REPORT

Crime/Incident Report

All of the below information is necessary for the victim and the witness:

1. SS# of victim and witness
2. Length of residence in SD County
3. Illegal alien
4. Interpreter required
5. Days off
6. If witness, relationship to victim(s)
7. List of tools, weapons, or force used and how used

Arrest/Juvenile Contact Report

Indicate the following:

1. Suspect's length of time in SD County
2. Whether or not suspect is a suspected user of narcotics/drugs
3. Interpreter required
4. Illegal alien
5. Suspect's relationship to victim(s)

# TEZOMOC SPEAKS



Jess Haro issue not taking. Word has it MALDEF taking interest in constitutional issues involved in City Council removing Haro from his council seat. Money becoming available for lawsuit. 15th AUGUST SEEMS TO BE DATE TO WATCH!

LA PRENSA'S hit stories on Councilman Haro's case aroused Union Tribs. curiosity. Streams of investigative reporters taking close look. Interesting things are being discovered.... y era tiempo. Hang in there Jess. The whole truth may yet be known. Monday should see Copley Press say something...maybe.

Local New's blackout on Chatholic Church not appointing a Chicano Bishop for the new San Bernardino Diocese not going to work. La Prensa made sure of that. Channel 8 picking up story. Look for Harold Keen on this Sundays Tele-Pulse program. Sorry Bishop Maher...right is right....and justice is justice.

Heat getting close to U.S. Attorney Walsh. Thursdays morning blast at Councilman Jess Haro looks more and more like acts of a man trying to cover his.....you know what.

Question for Chicanos: WHAT DOES SELLING OUT BUY YOU? Answer: Contempt.

Chief Kolender, who lately has been telling the Union Tribune what a friend he is of Chicanos and Blacks, has now issued his own "Infamous" memorandum. Which, in due course, will probably cause him much grief.

Tezozomoc has learned about Memorandum 15.05, dated August 1, 1978, signed by Chief Kolender, Chief of

Police. In it, the Chief is placing the entire Police Force back into the Border Patrol Immigration Naturalization business. The Memorandum orders San Diego policemen to make a determination of victims, witnesses, adults, juveniles, involved in crime incident reports (Just what constitutes an incident?) whether the individuals are "Illegal Allens!"

The perfect harassment tool has been placed back in the hands of the beat

patrolman, who by the Chiefs own investigation have in the past demonstrated their extreme negative biases against minorities. FOR A MAN WANTING TO BE MAYOR, THIS SURE IS GUARANTEED TO LOSE HIM THE MINORITY VOTE. HAY! MR. ATTORNEY GENERAL, ARE YOU LISTENING? SAN DIEGO IS AT IT AGAIN. (FYI THE MEMO IS PRINTED BELOW FOR YOUR USE.)

## CITY OF SAN DIEGO MEMORANDUM

File No.: 15.05  
Date: August 1, 1978  
To: All Personnel  
From: W. B. Dolender, Chief of Police  
Subject: Additional Data Necessary for Completion Of Crime/Incident Report And Arrest/Juvenile Contact Report

With the implementation of the District Attorney's Justice Records Information System (JURIS), additional information is required on our Crime/ Incident Report and the Arrest/Juvenile Contact Report. These report forms are currently being revised. Effective immediately, the following information shall be included in the narrative portion of the report:

Crime/Incident Report

All of the below information is necessary for the victim and the witness.

1. Social Security number of victim and witness.
2. Length of residence in San Diego County.
3. Illegal alien.
4. Interpreter required.
5. Days off.
6. If witness, relation to victim; relative, acquaintance, stranger.
7. With the list of tools, weapons, or force used, indicate how they were used.

Arrest/Juvenile Contact Report

Indicate the following:

1. Suspect's length of time in San Diego County.
2. Whether or not suspect is a suspected user of narcotics/drugs.
3. Interpreter required.
4. Illegal alien.
5. Suspect's relation to victim(s); relative, acquaintance, stranger.

Investigator's Follow-Up, Witness List

Indicate police witnesses in the following manner:  
Name, ID number, rank, phone number, shift working, and days off.

All Other Victims/Witnesses

Indicate the following information:

All Other Victims/Witnesses

Name, Social Security number, residence/business addresses, resident of San Diego County and for how long, employment status, relationship to defendant and victim, interpreter necessary, illegal alien, and if they have received victim/witness assistance.

Departmental Instructions and a video tape concerning this matter will be forthcoming.

W.B. Kolender  
Chief of Police

LA PRENSA  
8/11/78

rewards are not great nor has the department enjoyed the best of reputations. Frequently, the National City Police Department has been at odds with the Mexican American community which has charged the department with lacking the professionalism necessary for a first rate police department. The department has been characterized as having a "Hick-Town" mentality noted more for its "quick shooting" (particularity of Chicanos) rather than for its "quick thinking" capability. As a consequence the department has suffered in its public image which has led to low morale and lose of public confidence.

The opportunity to select a Chief of Police who will bring to the department a fresh, innovative approach that will propel the department into the present and prepare it for the future is here now. The alternative is for the Mayor and City Council to once again install a yomen police officer who will continue the downward slide of the National City Police Department to the depths of mediocracy and ineptitude. The citizens of National City deserve better than that.

## TEZOMOC SPEAKS



Chief of Police Kolender of the San Diego Police Department ought to check whats going on in his department. Insiders at Mexican Council Offices indicate frequency of SDPD Officers going out on "Mexican Roundups" is increasing....listen to police frequencies Chief. Sounds like regular roundup going on. Better let Mayor Wilson know that SDPD is back in the immigration naturalization

the high percentage of all Anglo students in and keeps all minority students out. According to statistics compiled in Education is Our Right, by Tom Scott, San Diego Equal Rights Council member, the Health, Education, and Welfare Department found that in 1974, of those students with socalled "high-ability level" but with a "low socio-economic status" 52 percent did not get into college; among students with "high-ability level" and "high socio-economic status", 81.2 percent made it into college. This is almost double the rate for those students with the same ability, but have lowsocio-economic status. The implementation of tuition at San Diego State University can only result in an automatic exclusion of all working class students; it will be almost impossible for them to stay in school.

border patrol business.

Chief Kolender claimed ignorance on TV-39 Alive when confronted with fact he had issued memorandum requiring beat-officers to check citizenship of all individuals who are stopped by police for whatever reason

Interesting to note, SDPD has issued cards to beat-officers which are titled "New

Federal funding would also put an end to regressive taxes. At the present time, the federal government maintains an absolutely unjustifiable \$115 military budget; some of this money should be used for education and other more socially productive programs. And if this money is not enough, there are plenty of corporations and wealthy individuals who do not pay any where near their share of taxes. These are just some of the ways suggested to eliviate the effects of Proposition 13 and the funding crisis in general.

This is why M.E.C.H.A. at San Diego State University has taken a firm stand against the implementation of tuition and supports the idea of the nationalization of education with local autonomy. We feel it is time to stop spending so many billions of dollars in the

information required on crime/incident and arrest/juvenile contact report." Item 3 which calls for making determination whether illegal alien.DEA Form 202 personal history report made on individuals requires on Item 15 to make determination whether individual is illegal alien.....

If in fact SDPD is now an extension of Border Patrol let

called "Targeting", whereby individuals can state whether or not they want to receive the same ballot and voter information in Spanish or in English.

You will be receiving, if you have not already, a sample ballot and voter information materials. The materials you receive will generally be in the language you have requested i.e. Spanish or English. However, if you by chance receive ballot material in the other language, there is a pre-paid post card contained in the packet which need only be returned to the Registrar to insure that you get the right type of sample ballot or call 565-5800.

It is the Board of Supervisors and the County Registrar of Voters' goal to insure that every voter regardless of language, has the information available to them so they may be an informed voter on November 7.

us ask the FEDS for a billion dollars to pay for it....Our Taxes not intended for this purpose....People demand safe streets, less murders, robberies, rapes, beatings, and the right to be safe in their homes...Our cops too busy playing.....Border Patrolmen.

10/13/78  
LA PRENSA



Committee on Chicano Rights, Inc

STATEMENT BY  
COMMITTEE ON CHICANO RIGHTS  
CHAIRPERSON  
HERMAN BACA  
TO  
NATIONAL CITY - CITY COUNCIL  
FEBRUARY 1, 1983

WE ARE HERE TODAY, TO INQUIRE AS TO WHOM IN THE NATIONAL CITY ADMINISTRATION HAS GIVEN THE NATIONAL CITY POLICE DEPARTMENT THE AUTHORITY TO ENFORCE FEDERAL IMMIGRATION LAWS BY STOPPING, DETAINING, AND ARRESTING PERSONS OF MEXICAN ANCESTRY ON THE STREETS OF NATIONAL CITY. THAT THIS PRACTICE OR POLICY IS BEING CARRIED OUT BY THE N.C.P.D., I CAN PERSONNALLY ATTEST TO BECAUSE OF THE INCIDENT WHICH I WITNESSED ON JANUARY 10, 1983 WHEN I SAW TWO MEXICAN MALES BEING DETAINED BY A NATIONAL CITY POLICE MOTORCYCLE TRAFFIC OFFICER WHO THEN TURNED THEM OVER TO ANOTHER NATIONAL CITY POLICE OFFICER WHO THEN ARRESTED, HANDCUFFED AND, THEN TRANSPORTED THE TWO INDIVIDUALS TO THE NATIONAL CITY POLICE DEPARTMENT WHERE THEY WERE SUBSEQUENTLY TURNED OVER TO THE US. BORDER PATROL. FURTHER INVESTIGATION OF THIS MATTER BY CCR MEMBER DAVID AVALOS WHO SPOKE WITH LT. NOSAL OF THE N.C.P.D. CONFIRMED THE INCIDENT WHICH I HAD WITNESSED AND VARIFIED THAT THE PRACTICE OR POLICY OF ENFORCING FEDERAL IMMIGRATION LAWS IS IN FACT BEING CARRIED OUT BY THE N.C.P.D. LT. NOSAL'S (1-11-83) STATEMENTS TO MR. AVALOS ARE AS FOLLOWED:

THAT ON THE MORNING OF JANUARY 10, 1983 A NATIONAL CITY TRAFFICE MOTORCYCLE OFFICER NAMED DELUCIA, OBSERVED TWO MALES IN THE AREA OF THE 100 BLOCK OF S. HARBISON AVENUE AND ACTING ON HIS "INSTINCTS," DELUCIA QUESTIONED THE TWO MALES AND DETERMINED THAT THEY WERE "ILLEGAL ALIENS." A CALL WAS MADE FOR A NATIONAL CITY SQUAD CAR AND THE TWO MEN WERE THEN TRANSFERRED TO THE

NATIONAL CITY POLICE DEPARTMENT BY AN OFFICER CHEVARRIA. AT THE STATION THE DESK OFFICER NOTIFIED THE U.S. BORDER PATROL AND UPON THEIR ARRIVAL THE N.C.P.D. TURNED OVER THE TWO MALES, TO THEM. ACCORDING TO LT. NOSAL, THE NAMES OF THE TWO APPREHENDED MALES WERE NOT RECORDED NOR WERE THE NAMES OF THE BORDER PATROL AGENTS. NO FORMAL REPORT WAS MADE AND NO SPECIFIC REASON FOR STOPPING THE TWO MALES WERE RECORDED. WHEN ASKED AS TO THE NUMBER OF INDIVIDUALS STOPPED, QUESTIONED, AND DETAINED AND ARRESTED, LT. NOSAL STATED THAT NO STATISTICS WERE KEPT ON THE NUMBER OF SUCH INCIDENTS, THAT THE TURNING OVER OF SUCH INDIVIDUALS WAS NOT AN UNCOMMON PRACTICE FOR THE N.C.P.D.

MEMBERS OF THE NATIONAL CITY COUNCIL LET ME REMIND YOU THAT THE U.S. DEPARTMENT OF JUSTICE, ATTORNEY GENERAL GRIFFIN BELL, ISSUED A RULING THAT STATED AND I QUOTE, "THAT STATE AND LOCAL POLICE FORCES ARE TO OBSERVE THE FOLLOWING GUIDELINES:

DO NOT STOP, QUESTION, DETAIN, ARREST, OR PLACE AN "IMMIGRATION HOLD" ON ANY PERSONS NOT SUSPECTED OF CRIME SOLELY ON THE GROUND THAT THEY MAY BE DEPORTABLE ALIENS."

THE ABOVE RULING WAS SIGNED BY THE ATTORNEY GENERAL OF THE UNITED STATES AND THESE GUIDELINES ARE AS BINDING ON THE N.C.P.D. AS THEY ARE ON ANY OTHER LAW ENFORCEMENT AGENCIES OF THE UNITED STATES OTHER THAN THE I.N.S. (see attachment A) NATIONAL CITY BY IT'S LACK OF SUPERVISION OF IT'S POLICE DEPARTMENT IS IN FLAGRANT VIOLATION OF A RULING MADE BY THE HIGHEST RANKING LAW OFFICIAL OF THE UNITED STATES. IN OTHER WORDS, IT IS BREAKING THE LAW AND WE ARE HERE TODAY TO WARN YOU THAT OUR ORGANIZATION WILL NOT STAND BY IDLY AND PERMIT THE N.C.P.D. TO CARRY OUT IT'S RACIST AND UNCONSTITUTIONAL POLICIES OF HARRASSMENT AND INTIMIDATION THRU IT'S FLAGRANT DISREGARD OF THE LAW OF THE LAND. FOR THAT REASON, THE CCR IS HEREBY DEMANDING THAT THE CITY COUNCIL OF THIS CITY IMMEDIATELY ISSUE AN ORDER TO THE NATIONAL CITY POLICE DEPARTMENT TO COMPLY WITH THE U.S. ATTORNEY GENERAL'S RULING OF JUNE 23, 1978 TO CEASE AND DESIST FROM STOPPING, QUESTIONING, HARRASSING, OR INTIMIDATING PERSONS OF MEXICAN ANCESTRY BECAUSE OF IT'S ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

CONT. PAGE 3

IN CONCLUDING, I WISH TO STATE TO YOU THAT OUR ORGANIZATION WILL BE SENDING 50 PERSONS OF MEXICAN ANCESTRY TO WALK THE STREETS OF NATIONAL CITY AND IF ONE OF THEM IS STOPPED, QUESTIONED, DETAINED, OR ARRESTED ON THE BASIS OF IMMIGRATION STATUS, LET ME ASSURE YOU THAT IF WE HAVE TO BANKRUPT THIS CITY WITH LAWSUITS, THAT WE SHALL. OUR ORGANIZATION WILL BE AWAITING YOUR WRITTEN RESPONSE TO OUR DEMAND.

END

# The San Diego Union

SAN DIEGO, CALIFORNIA, WEDNESDAY MORNING, FEBRUARY 2, 1983

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## Harassment Of Hispanics Is Alleged

By JESÚS RANGEL

Staff Writer, The San Diego Union

NATIONAL CITY — Addressing the City Council, the head of a local civil rights organization yesterday charged that National City police are stopping, questioning and harassing people of Mexican ancestry solely because they have the appearance of undocumented aliens.

And, warned Herman Baca, chairman of the Committee on Chicano Rights, the organization will be sending 50 people of Mexican ancestry to walk National City streets to further document the charge.

"Let me assure you that if we have to bankrupt this city with lawsuits, that we shall," said Baca.

The council, without comment, asked City Manager Tom McCabe to investigate the charge.

Baca said he witnessed an incident last month in which two Mexican males were detained by a police motorcycle officer here.

They were turned over to another officer, who arrested, handcuffed and transported the two individuals to the police station, where they were

turned over to the U.S. Border Patrol, Baca said.

The police made no report of the incident nor did it note the individuals' names, he said.

Baca added that the practice of stopping people solely on the ground that they may be deportable aliens is contrary to guidelines issued by the U.S. attorney general's office in 1978. Those guidelines, he said, placed responsibility for enforcement of immigration laws in the hands of the Immigration and Naturalization Service and not state or local police.

Police Chief Terry Hart said that while the Police Department does not have a written policy on the issue, its procedures on stopping aliens are in accordance with the Justice Department guidelines, issued by then Attorney General Griffin Bell.

The guidelines urge state and local police not to question or hold a person not suspected of a crime solely because they may be aliens.

"There was no violation," Hart said of the incident referred to by Baca. "Officers understand that they have to have probable cause to act."

Hart added that no statistics are kept on how many persons are turned over to the Border Patrol, but that it happens.

Baca said he was not satisfied with the council's response and said that in the near future 50 members of the Committee on Chicano Rights will be walking the streets to observe police actions and see if police officers stop them.



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# THE TRIBUNE

San Diego, California, Wednesday, February 2, 1983

## Chicano chief critical of National City police

By Paul Van Nostrand  
*Tribune Staff Writer*

The chairman of the Committee on Chicano Rights says police are breaking the law by stopping and arresting persons of Mexican ancestry on the streets of National City.

Herman Baca told the City Council yesterday that police are carrying out "racist and unconstitutional policies of harassment and intimidation" against Mexican-Americans.

Baca said he witnessed National City Police Officer Gerry DeLucia detain two Mexicans on Jan. 10, then turn them over to another officer who handcuffed them and took them to police headquarters.

Baca said police Lt. William Nosal told committee member David Avalos that DeLucia had determined the two men to be undocumented aliens and that they had been turned over to the Border Patrol shortly after their arrival at the police station.

"No formal report was made, and no specific reasons for stopping the two males were recorded," Baca said. "When asked as to the number of individuals stopped, questioned and de-

tained and arrested, Lt. Nosal said that no statistics were kept on the number of such incidents, that the turning over of such individuals was not an uncommon practice for the National City Police Department."

Baca said enforcement of the immigration law falls to

the Immigration and Naturalization Service.

Police Chief Terry Hart said Baca contacted him about the arrests but said no formal complaint has been filed with the department.

He said DeLucia needed only reasonable cause to suspect the two men had

broken a law to stop and question them.

"It happens a few times a year," Hart said. "We're not out looking for aliens — we're too busy for that — but it does happen."

Mayor Kile Morgan directed the city manager to submit a report on the matter to the council.

# National City Star-News

EDITION

PUBLISHED THURSDAYS AND SUNDAYS

More news of National City than any other newspaper in the world

National City, California, Thursday, February 3, 1983

## Council asked to stop arrests

# Chicanos claim harassing

By MAX BRANSCOMB

Star-News Staff Writer

In an emotional presentation before the National City City Council, Herman Baca, chairman of the Committee on Chicano Rights, charged the National City Police Department with harassing Hispanic pedestrians and illegally enforcing federal immigration laws.

Baca made the allegations at a special meeting of the City Council Tuesday afternoon.

"We are here to inquire as to whom in the National City administration has given the National City Police Department the authority to enforce federal immigration laws by stopping, detaining, and arresting persons of Mexican ancestry on the streets of National City," Baca told the council.

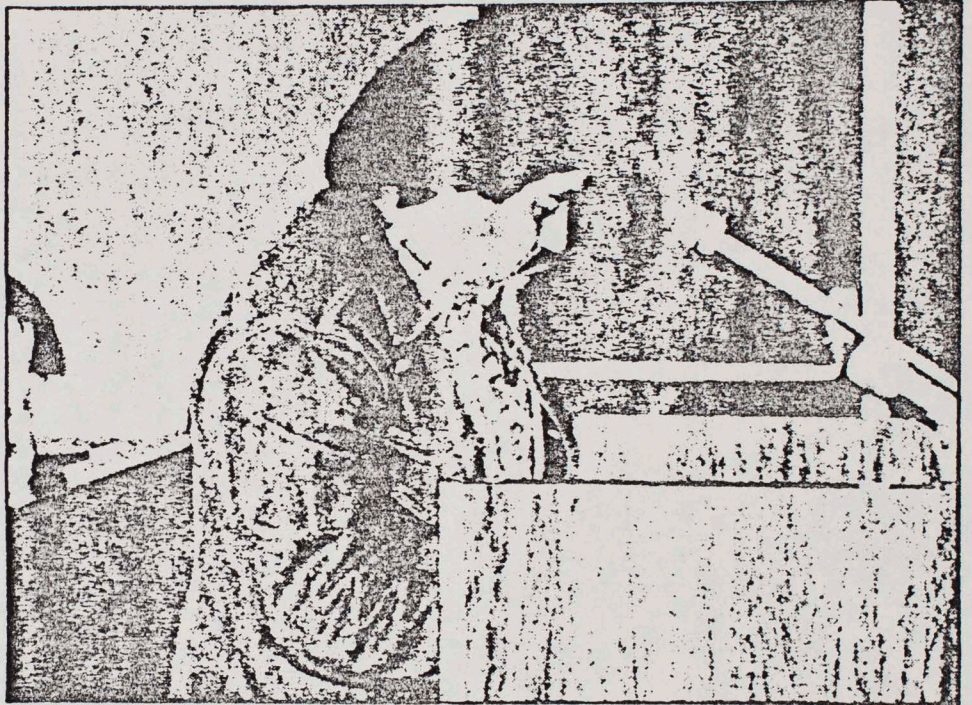
**BACA SAID** the Chicano committee decided to bring the matter to the council after he witnessed the arrest of two Mexican men Jan. 10 in the 100 block of S. Harbison Ave.

According to Baca, the men were detained by a National City motorcycle officer, who turned them over to another National City policeman. The second officer, Carlos Chavarria, then

arrested, handcuffed, and transported the two men to the police station where they were turned over to the U.S.

Border Patrol, according to Baca.

When Chicano committee member David Avalos asked the National City



HERMAN BACA BEFORE COUNCIL  
Protests arrests of Hispanics

Star News photo

✓ Chicano group to test police

STAR NEWS  
2/3/83

# Baca charges harassment

(Continued from Page A-1)

Police Department about the arrest, Baca said, he was told by police spokesman Lt. Bill Nosal that the officer who detained the men was acting on "instincts" and determined that they were "illegal aliens."

**AVALOS SAID** Nosal told him the Border Patrol was notified, and that the two men were turned over to the federal agents.

Baca, in his statement, told the council that the action was illegal and unconstitutional, because the National City police are not authorized to arrest anyone just because they are suspected of being undocumented aliens.

"Members of the National City City Council, let me remind you that the U.S. Department of Justice, through former attorney general Griffin Bell, issued a ruling that stated 'state and local police forces are to observe the following guidelines: Do not stop, question, detain, arrest, or place an immigration hold on any persons not suspected of a crime, solely on the grounds that they may be deportable aliens.'"

**NATIONAL CITY** Police Chief Terry Hart confirmed that the incident Baca witnessed took place as described, but

denied that the police department harasses Hispanics.

"We have told Mr. Baca that we are aware of the federal rulings in this matter," Hart told the council following Baca's remarks. "It is the policy and practice of the department to only detain aliens, and people we suspect of being aliens, if we discover or have reason to believe they are aliens, following detention or arrest on other charges."

Chief Hart said it was "feasible" to turn over detained or arrested aliens to the Border Patrol.

And he again denied Baca's allegations that the National City police harassed Hispanics.

"Mr. Baca is wet, he is wrong, let's put it that way," he said. "There is no evidence of that fact."

"About 35 percent of our arrests are Hispanics, which is somewhat consistent with the population. We're not harassing anybody; this is not a racial issue," he said.

**BACA, HOWEVER,** feels race is an issue, especially when it comes to his charges that local police are doing the work of the Border Patrol.

"We've had an 11-year struggle at the local level with the National City Police Department over problems of

harassment and unlawful detainment of Latinos and Hispanics," Baca said. "Just because we may look like illegal aliens doesn't mean the police should be arresting us. We (all Hispanics) look like illegal aliens to some people."

Baca told the council that the Chicano committee would be sending 50 persons of Mexican ancestry to walk the streets of National City to monitor police activity.

"If one of them is stopped, detained, questioned or arrested on the basis of immigration status, let me assure you that, if we have to bankrupt this city with lawsuits, that we shall," he stated.

**HE ALSO ASKED** the council to issue a written order to National City police to comply with the attorney general's ruling of 1978, for local police to cease and desist from stopping and arresting persons of Mexican ancestry and leave that issue to federal immigration authorities.

Mayor Kile Morgan told Baca that the City Council would look into the complaints and thanked him for his presentation. Police Chief Hart said he welcomed an investigation, and would soon issue a written departmental policy paper regarding the issue of suspected aliens.

# = Police blotter =

MC THE STAR-NEWS Thursday, February 3, 1983 — A-9

The following victims this week reported crimes to National City Police:

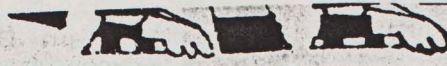
## ASSAULT WITH A DEADLY WEAPON

Alfredo C. Pallones, 25, 1800 block K Ave.; cut on hand with a knife, allegedly during fight. Arrested: Felipe Pentuan, 24.

## ROBBERY

United Parcel Service; delivery truck driver robbed inside his truck by a man armed with a gun and wearing a ski mask; occurred behind Safeway in the 1600 block Sweetwater Rd.; wallet containing \$721 of UPS money, \$150 of driver's money and two rings worth a total \$430 taken.

Felipa M. Laguna, 18; \$33 and pants taken by man who was to drive him and another man to Los Angeles; Laguna said the man ordered him out of the car at gunpoint; Laguna, a Mexican citizen who had allegedly crossed the border illegally, was delivered into the Border Patrol's hands.



# National City Police Claim "Instinct" In Finding Illegal Aliens!

"I am flabbergasted that 5 years after the U.S. Attorney General ruled that, the responsibility for enforcement of the immigration laws rests with the Immigration and Naturalization Service (INS) and not with state and local police, that the National City Police Department feels that it is beyond the authority of the U.S. Attorney General and the Department of Justice. That they (the National City Police Department) think that they can run around like a bunch of vigilante Klan members picking up Mexican ancestry persons without reasonable or probable cause that they have committed a crime demonstrates a flagrant

(see, Police Break Law, pg 2)

National City, Ca. Feb. 4, 1983...National City Police Chief Terry Hart and his top aides confirmed to the press that the members of the National City Police Department have the "ability" to detect and determine that persons of Mexican ancestry are legal or illegal! Using this so-called "instinct," Chief Hart attempted to justify the illegal actions of his police department in stopping two Mexican ancestry persons, handcuffing them, transporting them to the police station, then calling the INS and turning them over to the INS. There was no small problem with this scenario which probably would have gone unreported except that there was a witness to the whole affair...Herman Baca, Chariman of the Committee on Chicano Rights.

(con't from pg 1)

## Police Break Law



*Herman Baca, CCR Chairman, lashes out at City Council*

disregard for the laws of the land, a lack of leadership and administration by Police Chief Hart, and a total failure of the Mayor and City Council to adequately control the police of this city," Baca told La Prensa San Diego.

Baca and the Committee on Chicano Rights asked for and received permission to bring before Mayor Kyle Morgan and the City Council a demand that they take action to immediately order the Chief of Police to cease and desist from assuming the duties and responsibility of the Immigration and Naturalization Service or face civil lawsuits for violations of a persons civil and constitutional rights. "If we have to, we will bankrupt the city in order to stop them from making false arrest, and illegally kidnapping Mexican ancestry persons

from the streets on enforcement of immigration statutes," said Baca. "Ten years ago we stopped Sheriff Duffy and the San Diego Police Department from carrying out exactly the same kind of racist attacks against our people. If the National City Police Department thinks they have a higher mandate or authority then we shall be happy to so inform the Department of Justice and the U.S. Attorney General."

National City Police Chief Hart in later comments told reporters that "It is the policy and practice of the Department to only detain

aliens, and people we suspect of being aliens, if we discover or have reason to believe they are alien, following detention or arrest on other charges."

Later Police Chief Hart confirmed that the incident Mr. Baca witnessed in fact took place as he described. "We have informed BACA that we are aware of the Federal ruling in this matter."

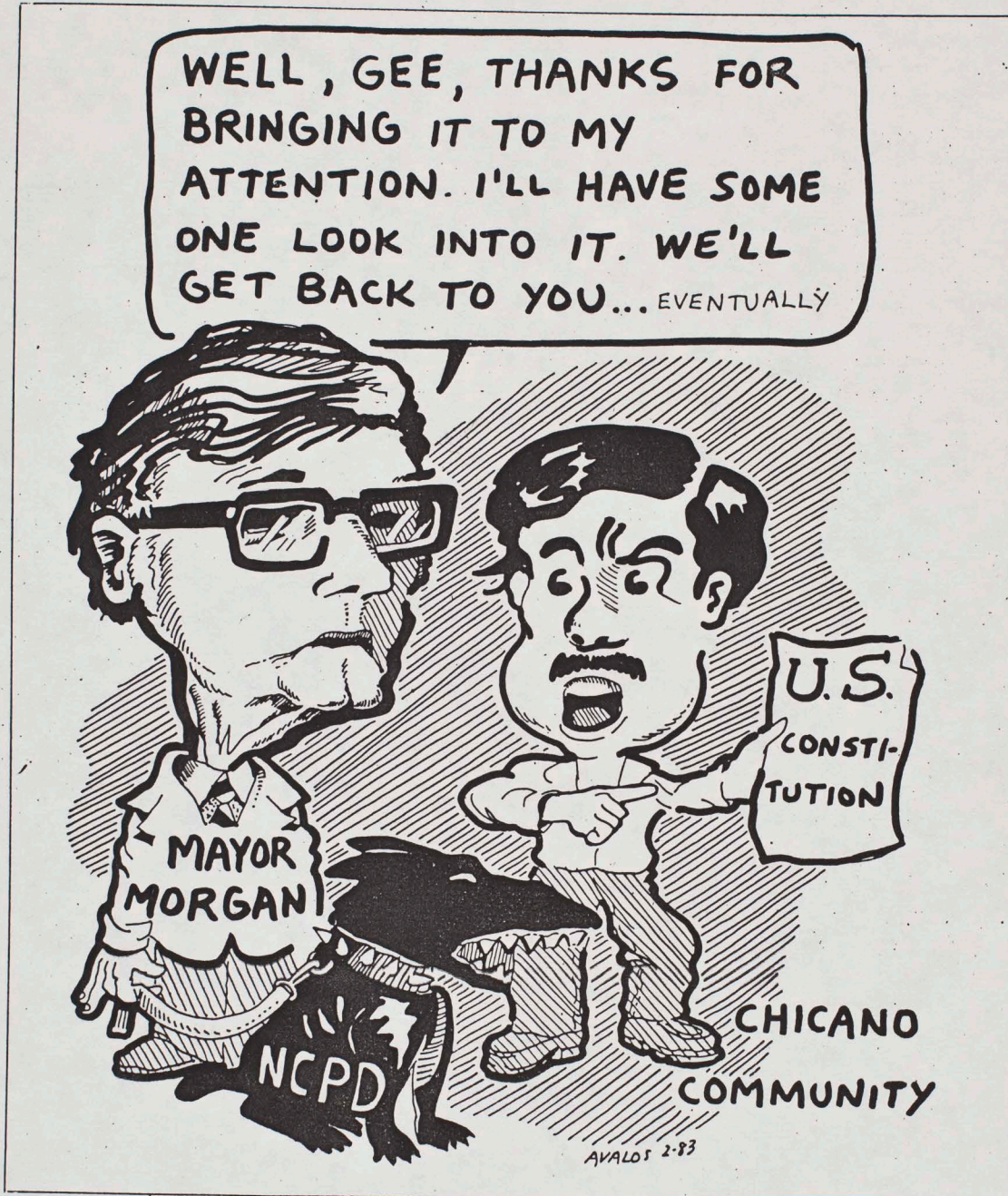
Baca pointed out that the U.S. Attorney Generals ruling is very clear and states "do not stop and question, detain, arrest, or place an immigration hold on any person not suspected of a crime solely on the ground that they may be deportable aliens." "Now if the Chief of Police can't understand that simple language than I suggest that there is something seriously wrong with the administration of the National City Police Department. Our organization investigated the

facts behind the Jan. 10, incident involving two Mexican ancestry persons and Motorcycle Officer Delucia. At no time, were these two individuals charged with a crime. At no time were they booked, at no time were they even

logged in the station as suspects in a crime. They were there only because Officer Delucia had an **instinct** that they were illegal! Well may we recommend that Officer Delucia immediately hire himself to the Border Patrol, they are famous for hiring officers with "sixth senses and instincts" as to whom is illegal and who is legal. The fact remains these gentlemen were denied every single protection afforded by the law of this

country because Delucia decided to take the law into his own hands...and how the police chief admits that it is the policy and practice of his department to do just that," said Baca.

The City Council meeting, which at times was emotional, did not resolve the issue but merely ended with the Mayor requesting the city manager to submit a report on the matter to the council.



LA PRENSA SAN DIEGO

*Bilingual Newspaper*  
 Founded Dec. 1976

## The Mexican Connection

by **Maria L. Legal**

Ahora si les cuento porqué muchos de nosotros somos tan mal comprendidos, nada mas imaginense que comparan la Dignidad y el Honor con las faltas de ortografía. Pos caray que falta de cultura...Dignidad es respetarse a uno mismo...Honor: Cualidad moral que nos induce al cumplimiento de nuestros debéres; Gloria o buena reputación que sigue a la virtud, al mérito o a las acciones heroicas, de verdad pos yo no entiendo que tiene eso que ver con la ortografía, nosotros pos seremos faltos de ortografía pero si que tenemos Honor y Dignidad, pos luchamos por lo que creímos, defendemos nuestros derechos, ayudamos a quién necesita y mas importante damos a conocer a nuestra gente através de nuestras historias lo que se sucede alrededor de su partia, Yo María me siento orgullosa de poderme comunicar con los que no saben ortografía, al fin y al cabo somos mas que los que presumen...en Mexcio hay 60 millones de gentes, de las cuales 80% son iliterales, pos saben deletrear y hay veces que también pos hablan...otros no saben nada, pero honor y dignidad tienen de a chorros.

Aquí en este país tan grandotote, pos la verdad que hay muchos de nosotros que apenas asiná podemos expresarnos, un poco de English un poco de español, but dear readers we have dignity and honor....por supuesto que siempre hay que aprender más y más, imaginense yo todos los dias aprendo algo nuevo y hay como me gusta...Chicharrones por hablar de tanta moral, se me esta acabando the paper y nos le he platicado come me fue en el shower...pos ahí les va: se reunieron un monton the Ladies, no men, no way José y luego pos que llega un muchachón Oh my God y estaba desvestido y lleno

de globos y que se pone a bailar y va dejando de uno en uno los globos hasta que volaron todos y entonces me voltie y vi a todas las ladies con la boca abierta y con la mirada fija, eso si ni crean que les digo en donde y todo mundo a gritar. Ole! Ole me dije yo pa mis adentros, si mi familia me viera aqui buena paliza te diera mi papa, pos ahí por mi pueblo nadie pos hace casas de esas, solamente aquí los americanos nos enseñan através de tanta publicidad que el sexo es cosa punto y aparte y no tiene naida que ver con el amor. Imaginense la siguiente semana el novio recibe una fiesta pos igualita lo único que cambia es que van hacer muchachonas. Hay madre mia que relajo, como me alegro que no este mi Juan.

Anadaba yo de paso por National City con mis cuatachas y me dijeron que fuéramos a ver y oír un señor llamado Herman Baca, gran lider de la comunidad por los derechos de los chicanos y yo que no tenia nada que hacer pues me lance. Hijoles que esparadota me llevé cuando entre a salón y vi a todos esos gringos sentados escuchando a un chicano de honor, me quede con la boca abierta y con un coraje que tenia ganas de echarles de gitomatasos a esos gringos que ni siquiera se inmutaron cuando oyeron la historia de nuestra tierra seamos marcados como si pertencecíamos a un ganado. Asi nos ven desgraciadamente por eso yo aunque mojada estame uno a la cauza. Se. Baca si algo puedo ayudar pos ahi me tiene, le deseo un montón de fuerzas pa' que siga luchando.



# National City Star-News

EDITION

PUBLISHED THURSDAYS AND SUNDAYS

More news of National City than any other newspaper in the world

National City, California, Sunday, February 6, 1983

## Chicano protest over National City arrests

# Letter asks order to police

National City Hispanic leaders have appealed to the U.S. Attorney General's office for a ruling on the police department's practice of turning over illegal aliens to the Border Patrol.

In a letter to U.S. Attorney General William French Smith, Committee on Chicano Rights chairman Herman Baca asked the federal government to intervene in the controversy.

"We have asked the attorney general to inform the National City Police Department that they are not to act as an immigration enforcement agency," Baca said.

"We requested that they issue an order to Police Chief Terry Hart and his men, to cease and desist from enforcing immigration law and to contain themselves within

matters of their own jurisdiction."

**BACA SAID** his committee also has applied for assistance from the Mexican-American Legal Defense Fund and is ready to go to court over the issue.

"Our organization will not rest until an order comes down to Chief Hart and the National City police from the City Council telling them to cease and desist from enforcing immigration law illegally. We've gone to court before over this issue, and won, and we'll go again if we have to. It's an issue close to our hearts and it won't just go away," said Baca.

Hart said he appreciates the concerns of the Hispanic community, but has no immediate plans to change the depart-

ment's policy of turning over undocumented aliens to immigration authorities.

"**WE ARE NOT** operating out of our bounds by notifying the Border Patrol when we run across an illegal alien," said the police chief.

"We realize that municipal and state police are not to be the primary enforcers of immigration laws, and we are not. If, however, in the normal course of an investigation, it becomes known that a contacted person is an illegal alien we are not obligated to turn him loose."

Hart said that, though it may appear the National City police are doing the work of the Border Patrol, particularly when aliens are taken to the police station, they are not.

"**IT'S A MATTER** of practicality," he explained.

"We used to detain illegal aliens in the field and call the Border Patrol to come and pick them up. But cutbacks in the staffing of the Border Patrol, and limitations on our own time and staffing, have often made this difficult.

"As far as I know," he continued, "there is no law against transporting a person to the police station to hold them before turning them over to the Border Patrol."

Hart denied the Chicano committee's claim that aliens are regularly turned over to the Border Patrol.

"It is not a prevalent practice, not a common kind of thing," he said.

**BACA ARGUED** that the National City police "have turned over more

STAR NEWS  
2/6/83

people to the Border Patrol than they realize.

"The police don't keep records on the people they hand over to immigration," Baca said. "If no statistics are kept, then how can he say that this type of thing only happens a few times a year? We know that it happens much more frequently than they would like to admit."

Baca said his group was particularly upset over the case of Felipe Laguna, an 18-year-old Mexican who was

robbed of his money and pants, then turned over to the Border Patrol for deportation after he called the National City police for help.

"This shows us that the police aren't just turning over criminals," Baca said. "This young man was robbed and had his pants stolen, he was a victim of a crime, not a criminal."

HART SAID he was not completely familiar with the Laguna case, but said he found no fault in the way it was handled.

"In the normal course of our duties, if it is discovered that a person is an illegal alien then we will turn him over," he said.

The police chief emphasized that alien victims receive the same protection and investigation that American citizens do.

"Just because a victim is an alien doesn't necessarily mean the investigation has come to an end," he said.

"We will investigate

any crime we can, especially if it is a severe, substantial crime. Often, we will keep an alien witness around to help the investigation or, if we need to, call him back from Mexico. We've done both in the past."

The City Council has ordered City Manager Tom McCabe to look into the Chicano complaints and issue a report. Hart expects a written policy paper on the issue in about two weeks.

# National City Star-News

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*More news of National City than any other newspaper in the world*

National City, California, Sunday, February 6, 1983

## **Chief gets grilling — for practice**

National City Police Chief Terry Hart was recently grilled with questions from the press and found himself staring into a camera.

The press conference, however, was staged by fellow police executives from around the country.

Hart returned this week from a two-week Law Enforcement Executive Development Seminar for police executives, held at the FBI National Academy in Quantico, Va.

Among the mini-courses Hart signed up for was one on media relations.

He said the 25 to 30 police executives practiced drafting brief press releases, and endured a "press conference" which was videotaped.

Hart said the workshop also featured sessions on police use of deadly force, labor law and negotiations, department management and police ethics.

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National City, California, Sunday, February 6, 1983

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## Box score ...

The National City Council considered the following issues this week:

**Immigration:** Heard Committee on Chicano Rights Chairman Herman Baca charge police with harassing persons of Mexican ancestry and illegally enforcing immigration laws.

## 'Crime of color': It's happening in SY, too

Your editorial, "A crime of color?" really tells it like it is — but why limit the geographic location to National City. I live in the San Ysidro area, and I sometimes wonder if the San Diego police department should be renamed the San Diego Border Patrol. We all know the local police go out of their way to enforce immigration laws.

I have called the police department to inquire as to their policies and to tell them of abuses, and what I get is, "File a formal complaint." I have discussed this with community leaders in San Ysidro, and they are well aware of this

continuing problem. How do we get action from the Board of Supervisors, the City Council and the police chiefs to get them to stop these abuses?

And I might add it's not only the police department, I witnessed an employee of the MTB stop, detain and call the Border Patrol for two persons his instincts said were illegal. I wrote to MTB and they said they would investigate. What does that mean? This guy didn't even have a uniform. I think he was a janitor with a walkie-talkie.

Perhaps The Star-News can make a concentrated drive to once and for all bring our various officials to task for civil rights abuses. What right does any one have to stop a person on the street and question him about whether he is legally in this country? It's way past high time to resolve this blight on our community. I was of the opinion that bronze skin is native to this soil. Who really is here illegally? We have an Israel-Palestine problem right here in "America's Finest City."

I will volunteer my time to cooperate with any group to help curb this problem. Who else will help?

RALPH D. SLOCUM  
416 San Ysidro Blvd.  
San Ysidro

*Ralph D. Slocum*  
2/17/83

NATIONAL CITY  
STAR NEWS  
2/10/83

## Editorial

# A crime of color?

How do you spot an illegal Mexican alien?

Is his brown skin a different shade than that of a Mexican citizen traveling in this country with the proper visa in his pocket? Or perhaps it's not the same color as that of an American-born citizen of Hispanic ancestry?

Granted, if the fellow is splashing through the Tia Juana sloughs, headed north with shoes in hand, it's a safe bet he doesn't have his documents in order. The Border Patrol halts bands of such fence climbers night after night.

**BUT THE** National City police department has no such give-away clues when it comes to stopping and interrogating brown-skinned persons traveling city streets.

Herman Baca, a Chicano activist who has been rather quiet on the local scene in recent years, has blasted the National City police for harassing Hispanic pedestrians and enforcing federal immigration laws.

As Baca reminded the City Council, a U.S. Department of Justice ruling stated that "state and local police forces are to observe the following guidelines: Do not stop, question, detain, arrest or place an immigration hold on any persons not suspected of a crime, solely on the grounds that they may be deportable aliens."

**POLICE CHIEF** Terry Hart has denied that his department harasses Hispanics, but admits it routinely hauls in illegals and holds them for the Border Patrol.

"If, in the normal course of an investigation," said Hart, "it becomes known that a contacted person is an illegal alien we are not

obligated to turn him loose."

The conflict comes in that "normal course of an investigation." Baca insists National City police are going out of their way to halt Hispanics just because of their brown skins, with no indication that they've committed a crime.

One lieutenant's response to a specific case doesn't dispel that belief. Baca has referred to a particular incident in which a motorcycle officer detained two pedestrians who were handcuffed and taken to the police department before being turned over to the Border Patrol.

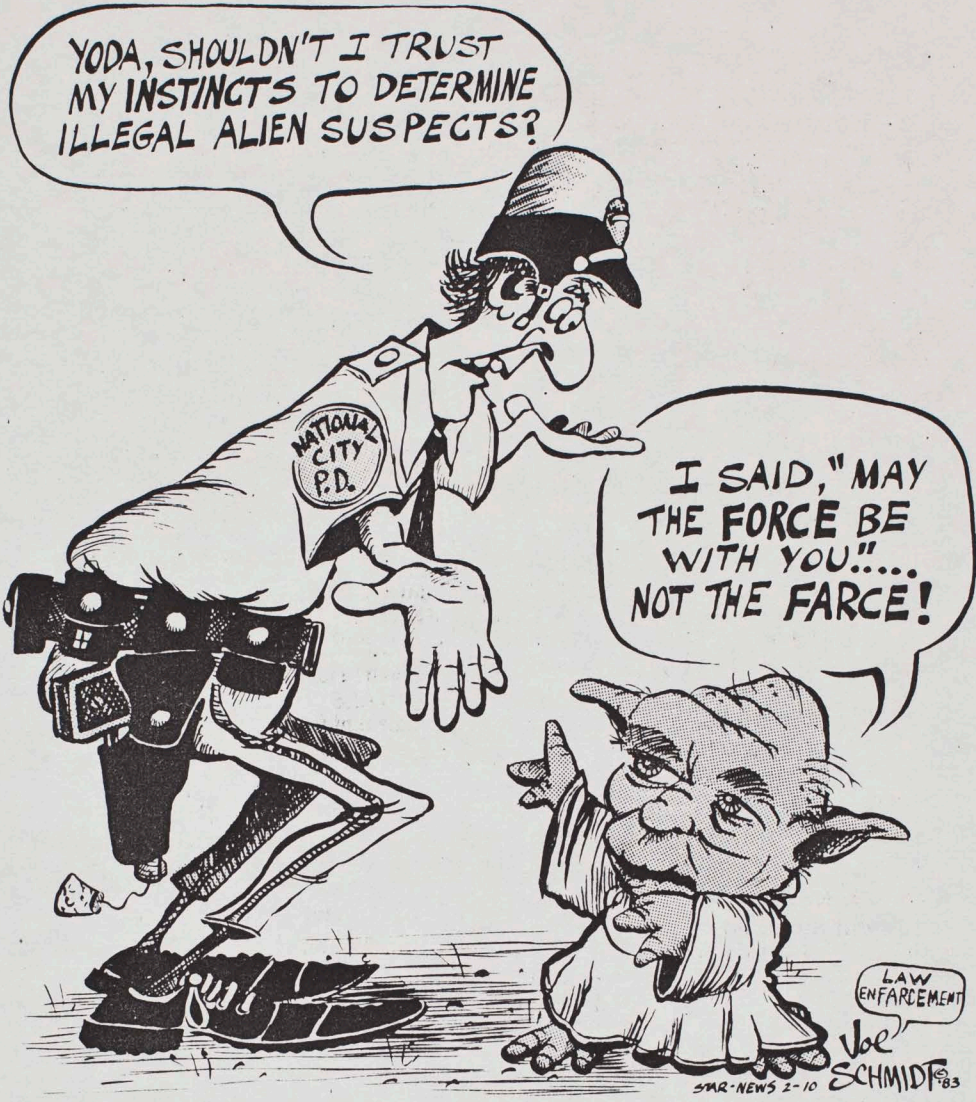
The officer who detained the men was acting on "instincts," a lieutenant was quoted as saying. It's just such "instincts" that have gotten police departments in trouble in the past.

Instincts aren't enough grounds for detaining someone. That was established back in the '60s when police had a nasty habit of halting all long-haired, who looked suspicious just because of their unshorn locks.

**PERHAPS** the National City department is clean as a whistle in this area. Perhaps officers have only taken to the station those illegals who were stopped for legitimate reasons — reasons other than their brown skin. After all, Herman Baca has been known to exaggerate problems in the past.

But if Baca is correct this time, it behooves the National City police department to clean up its act.

In a city where the population is 39% Hispanic, a brown skin can't be looked upon as a suspicious circumstance.



February 10, 1983  
Star News



Calexico Police Chief J. Leonard Speer surveys the fence separating the U.S. and Mexico located on the city's southwest side. Speer said Calexico police officers will now begin apprehending

suspected undocumented persons for trespassing on city land in an effort to reduce the city's rising crime rate.

(Staff photo by Sam Ramirez)

## CALEXICO CITES CRIME RATE

# Crackdown on aliens on

CALEXICO — Police, stressing they were operating within the confines of the law, said they have detained in a two-day period 19 persons on suspicion of being illegal aliens after Police Chief J. Leonard Speer vowed to

crackdown on crime he attributed to undocumented persons.

Of those, 14 were detained Wednesday and early today, police said.

Speer said those detained on suspicion of being undocumented persons were being turned over to the U.S. Border Patrol for deportation.

Speer told the City Council Tuesday that a rising crime rate was forcing him to begin the crackdown. Speer added, however, that people would only be detained on violations of California penal code and if those detained turned out to be illegally in the country they would be turned over to the border patrol.

Police said the majority of the detentions were made on suspected trespassing or prowling violations.

"We're not just stopping them if they're walking down the street. It has to be of a suspicious nature," said one police officer who asked not to be identified.

Speer said his department would abide with guidelines issued by the U.S. Attorney General's office in 1978 that state only the U.S. Immigration and Naturalization Service (INS) is responsible for the apprehension of undocumented persons.

Speer told the council the local border patrol had all but given up trying to apprehend illegal aliens. El Centro Sector Chief Patrol Agent W.S. King Jr. denied his men have given up.

Speer and some city councilmen charged the majority of illegal entries were being made through a broken down border fence on the city's southwest side.

In a related development, police, a U.S. Border Patrol agent and a city street cleaning crew teamed up Wednesday to apprehend a suspected burglar.

Speer labeled the incident a "good example of interagency

cooperation."

Ortiz and border patrol Agent Eugene Garcia gave chase and pulled down the man as he attempted to climb the border fence into Mexico near First Street and Heffernan Avenue.

### Calexico eyes 34 for manager

CALEXICO — The City Council reviewed 34 applications for City Manager Wednesday in a continued closed door session. The council continued the session from the Tuesday regular meeting.

Acting City Manager Froilan S. Pedroza said the council was going through a "preliminary weeding out" process with the applications and would hold another meeting soon on the matter.



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# Crackdown on crime by 'illegals'

IMPERIAL  
VALLEY PRESS  
2/17/83

By Sam Ramirez

CALEXICO — Police Chief J. Leonard Speer said Tuesday night his police officers will become unofficial border patrolmen in order to combat a rising crime wave Speer attributed to persons illegally crossing the border from Mexico.

Speer, speaking to the City Council, charged that regular U.S. Border Patrol agents had all but given up trying to apprehend undocumented persons locally. As a result, the city's crime rate was rising.

"I'm going to shame them in 30 days," Speer said, "by getting more picked up (for illegal entry)."

Speer added police will work within the guidelines issued by the U.S. Attorney General's office in 1978. The guidelines stated that only the U.S. Immigration and Naturalization Service (INS) was responsible for apprehending undocumented persons.

The issue of illegal entry into the U.S. came up when Mayor pro tem Fred M. Knechel said the Border Patrol had failed to repair a border fence on the city's southwest side.

Knechel said undocumented persons have no trouble crossing the fence and committing crimes in the U.S. because of the disrepair.

Knechel said the Golf and Country Club and the Calexico Airport were being repeatedly burglarized by people crossing the fence. Both facilities are nearby.

Speer said that beginning this week, his officers will

arrest any persons on the property for trespassing. If the suspects turn out to be undocumented persons, they will be turned over to the border patrol, Speer said. "I will work hand-in-glove with the border patrol," he said.

Today, El Centro Sector Chief Patrol Agent W.S. King Jr. denied his men had all but given up. King said more than 4,000 persons were apprehended in the sector for January on suspicion of being undocumented persons. The figure was an 82 percent increase from January 1982, he said.

Meanwhile, Speer said his own crime statistics have risen. For January, there were 25 residential burglaries, an increase from nine in January 1982.

Non-residential burglaries in January were 20, up from 15 in January 1982. Arrests from major crimes were 157, an increase from 106 a year ago.

"We're working with the resources provided by the government," King said.

King refused, however to provide information on how many agents were on patrol in the Calexico area on any given shift. King admitted the number was public information, but said to release the information would provide a service to people illegally crossing the border.

He did say he had a 190 border patrol agents for the sector and 77 agents stationed in Calexico.

Knechel, however, also said the border patrol was

not doing its job of stopping illegal entry. "We should go above the border patrol and demand more protection and safety," Knechel said.

Speer said he had informally been asking the border patrol to repair the fence but so far has had no progress. From now on, Speer said, such efforts will be made formally.

But Councilman Tony P. Tirado, however, said it was not the job of police to pick up undocumented persons. "That's their job.

"They should cover the hole and prevent illegal entry. If we do the job, we should send them the bill for doing it," Tirado said.

Speer said 90 percent of the town's burglaries were from people crossing the fence. Speer quoted unidentified agents as saying they were reluctant to patrol the fence area because rocks were thrown at agents from people on the Mexico side.

Speer said he has been in the area daily and to date, he has not witnessed any rock-throwing incidents. "I drive the area constantly and nobody is throwing rocks. I find people playing soccer (on the vacant land)."

Speer said such land could be used to provide parking for "snow birds," people who come to the Valley to escape snow in other areas.

"It would be an ideal situation," Speer said, adding such tourists would help the city's economy.



U.S. Department of Justice  
Immigration and Naturalization Service

Office of the General Counsel

425 Eye Street N.W.  
Washington, D.C. 20536

APR 7 1983

Mr. Herman Baca  
Chairperson  
Committee on Chicano Rights  
1837 Highland Avenue  
National City, California 92050

Dear Mr. Baca:

Your letter of February 11, 1983, to the Attorney General, has been forwarded to me for reply.

It is the position of the Immigration and Naturalization Service that only the Service is authorized to enforce the civil provisions of the Immigration and Nationality Act. However, there is no mechanism whereby the Service or the Department of Justice can issue "cease and desist" orders to localities which independently undertake such practices.

Sincerely,

Maurice C. Inman, Jr.  
General Counsel



Committee on Chicano Rights, Inc

January 18, 1984

Tom Hamilton, Chairman  
San Diego County Board of Supervisors  
County Administration Building  
1600 Pacific Highway  
San Diego, California 92101

Dear Mr. Hamilton,

A matter of great concern to the Committee On Chicano Rights and persons of Mexican ancestry has come to our attention which we believe is under the jurisdiction of the County Board of Supervisors.

John Duffy, San Diego County Sheriff, has once again, as in the past has seen fit to unlawfully involve the Sheriff's Department in the illegal enforcement of immigration laws. As noted by recent news articles, San Diego Union, Evening Tribune and La Prensa newspaper, it is our strong opinion that Sheriff Duffy is acting in collusion with the Immigration and Naturalization Service/ Border Patrol in enforcing federal immigration laws. (See attachment A & B and Sheriff's Memorandum-1972)

On three separate incidents, November 25, 1983, January 13 and 14, 1984, the Sheriff's Department, using the pretense of rising high crime (no individual arrested on criminal charges), conducted immigration sweeps against businesses and patrons of Mexican ancestry in Vista, California. In fact, the sweeps of January 13 and 14 were initiated by Sheriff Duffy as verified by Captain Robert Desteunder of the Sheriffs Department. (See L.A. Times article)

Duffy's raids have raised many serious questions of jurisdiction (See Atty. General Bell's memo-1977 and attachment C), usurpation of federal law and violations of constitutional rights. These concerns have been expressed in a letter dated January 18, 1984 to the United States Department of Justice for an immediate investigation.

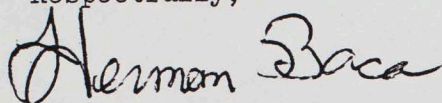
However, our most serious concern in this matter is the dangerous implications that these illegal raids pose to the constitutional rights of the more than 300,000 persons of Mexican ancestry in the County of San Diego.

It is with these reasons that the Committee On Chicano Rights is requesting the Board of Supervisors to initiate an immediate investigation into the following issues:

1. Has the Board of Supervisor's approved the expenditures of County funds, i.e., taxpayer monies, for the enforcement of federal immigration laws by Sheriff John Duffy?
2. Does the Charter of the County of San Diego authorize or permits the use of County funds to enforce federal immigration laws by Sheriff John Duffy?
3. Does the County Board of Supervisors have a complete and detailed report on the expenditures used in the raids of November 25, 1983 and January 13,14, 1984 by Sheriff John Duffy?

Our organization will be expecting a prompt reply from your office regarding this serious matter.

Respectfully,

A handwritten signature in cursive script that reads "Herman Baca". The signature is written in dark ink and is positioned above the typed name.

Herman Baca, Chairman  
CCR



Committee on Chicano Rights, Inc

January 18, 1984

William French Smith  
United States Attorney General  
U.S. Department of Justice  
Washington D. C. 20530

Dear Mr. Smith,

The Committee On Chicano Rights demands an immediate investigation by your department into the following:

1. The collusion between the Immigration Service/Border Patrol and San Diego County Sheriff John Duffy in carrying out immigration sweeps in Vista, California on November 25, 1983 January 13 and 14 1984 against businesses and patrons of Mexican ancestry. (See attachment A and B)
2. Under what statute and legal authority did the San Diego Office of the INS/Border Patrol deputize San Diego Sheriff John Duffy to enforce federal immigration laws?
3. Who in the San Diego Office of the INS/ Border Patrol gave the authorization to Sheriff Duffy to carry out immigration sweeps?

Since 1972 Sheriff Duffy has involved his department (See enclosed memorandum-1972) in the illegal enforcement of federal immigration laws. This practice prompted the U.S. Department of Justice in 1973 to stop Sheriff Duffy from further enforcing federal immigration laws. (See attachment C) Sheriff Duffy now, in defiance of both the 1973 memo and 1977 memorandum from the Attorney General Griffin Bell (See Bell memo) has once again chosen to intrude into enforcing immigration law.

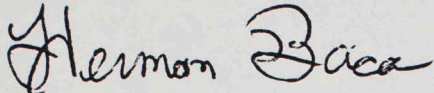
Sheriff Duffy's involvement in the immigration area poses a serious threat to the constitutional rights of San Diego County's 300,000 persons of Mexican ancestry.

It is with these reasons that the Committee On Chicano Rights is demanding the immediate investigation by the Reagan administration of both the INS and San Diego County Sheriff John Duffy. Furthermore, it is our organizations position that the Department of Justice take immediate action to enjoin Sheriff John Duffy from violating the constitutional rights of persons of Mexican ancestry

by his enforcement of federal immigration laws.

Our organization will be awaiting for a prompt response to this serious matter.

Respectfully,

A handwritten signature in cursive script that reads "Herman Baca". The letters are fluid and connected, with a prominent initial "H".

Herman Baca, Chairman  
CCR

DEPARTMENT OF JUSTICE  
Washington, D.C.

PRESS RELEASE

June 23, 1978

Attorney General Griffin B. Bell today reaffirmed Department of Justice policy that the responsibility for enforcement of the immigration laws rests with the Immigration and Naturalization Service (INS), and not with state and local police.

INS officers are uniquely prepared for this law enforcement responsibility, because of their special training and because of the complexities and fine distinctions of immigration laws, Mr. Bell said.

The Attorney General stated that the Department would continue to urge state and local police forces to observe the following guidelines:

1. Do not stop and question, detain, arrest, or place an "immigration hold" on any persons not suspected of crime solely on the ground that they may be deportable aliens;
2. Upon arresting an individual for a non-immigration criminal violation, notify the Service immediately if it is suspected that the person may be an undocumented alien, so that the service may respond appropriately.

INS officials will continue to work with state and local law enforcement officials to carry out this policy.

# SAN DIEGO COUNTY SHERIFF'S DEPARTMENT

Post Office Box 2931

San Diego, California 92112

(714) 232-3811



September 15, 1972

JOHN F. DUFFY, Sheriff

TO ALL TAXI CAB DRIVERS

SUBJECT: TRANSPORTING ILLEGAL ALIENS

Due to the increasing number of aliens entering the county and their utilization of taxi cabs for transportation into the State of California a meeting was held with the owners of taxi cab companies licensed by the Sheriff and the following policy was adopted in an attempt to assist the Border Patrol in alleviating this problem.

When a taxicab driver picks up a person or group of persons whom he feels may be in this country illegally he should notify his dispatcher via the radio of the situation by use of a code number or otherwise, and advise of his destination. The dispatcher will then notify this department who will contact a police agency to stop the taxicab and determine the status of the passengers.

If the driver follows the above procedure every effort will be made by the law enforcement agency making the stop to keep his actions confidential and get him back in service as soon as possible. HOWEVER, if the driver of a taxicab is stopped by a law enforcement officer and found to have illegal aliens in his vehicle and the circumstances indicate he was aware they were in this county illegally and he has not notified his dispatcher of the situation then his permit to operate a taxicab in the county area will be SUSPENDED.

Further, it should be noted that according to Section 1324 of the United States Code it is a felony to transport or move persons who are in this county illegally if the person knows or has reasonable grounds to believe that they have entered this county illegally. This is punishable by a \$2,000 fine or imprisonment in prison for FIVE years for each alien transported.

As you can see this is a serious matter and while we do not expect the drivers to act as police officer, we are requesting your cooperation. Moreover, we do not expect you to call on each individual you transport, but are primarily interested in the large groups of 5 or 6 persons who are obviously, by their mannerisms and dress, illegal entrants into this county.

If you desire any further information on this matter contact your dispatcher or Deputy M. Stayrook of this department, 236-2951.

JOHN F. DUFFY, Sheriff

*M. C. Rath*  
M. C. Rath, Sergeant  
Investigative Support Unit

City Station  
625 Broadway

North County Station  
325 G. Highway

Lemon Grove Station  
7800 Broadway

Encinitas Station  
143 "D" Street



# 22 arrested in Vista alien sweep

By Jim Okerblom  
Staff Writer

VISTA — A task force of Border Patrol officers and sheriff's deputies swept into three Vista bars last night in a surprise raid, but the results were less than spectacular.

Only 22 suspected undocumented aliens were arrested, 11 fewer than the number of officers who participated in the raid.

"It's just one of those nights," said a clearly disappointed Capt. Robert DeSteunder, in charge of the sheriff's deputies.

In a coordinated effort beginning about 8:30 p.m., a force made up of 15 sheriff's deputies, 17 Border Patrol officers and one investigator from the Department of Alcoholic Beverage Control simultaneously burst through the doors of My Place and the El Rey bar on South Santa Fe Avenue and into the Sundowner on East Vista Way.

It was the second raid in less than two months at the three bars, which the Sheriff's Department says are havens for undocumented aliens.

On Nov. 25, also a Friday night, a task force of 26 deputies and Border Patrol agents arrested 72 undocumented aliens in a similar raid, officials said. (The November raid included another bar, the El Sombrero on South Santa Fe, that deputies said has since closed.)

At My Place last night, about 20 surprised patrons sitting at the bar and playing pool watched as Border Patrol officers questioned those suspected of being undocumented.

"I think it's just a show," said an angry Joe Diaz, manager of My Place, as 10 men and one woman were escorted from the bar and placed into a waiting bus.

"All these people (the officers) are getting paid by the government, and they are doing absolutely nothing but wasting people's time. They'll send these guys across the border, and they'll come back the next day."

In the November raid, which occurred about the same time of night, about 30 undocumented aliens were taken into custody at My Place. Officials could not account for the lower number this time.

"They could have been tipped off,

~~REDACTED~~  
ATT. A

*Jim Okerblom*  
1/24/84

ATT B

# New Vista raids net more aliens

By Ed Jahn, Staff Writer

VISTA — Los Daddy's Band played last night at The Sundowner on East Vista Way here despite the fact the Border Patrol arrested two band members and 18 other people at the bar Friday night when they looked for undocumented workers.

As Richie Macedo, bouncer at the downtown bar explained, "The band always plays, no matter."

And undocumented workers, many of them here for the beginning of the tomato planting season and the clearing of the celery fields, will continue to flock to The Sundowner and places like El Rey Club nearby and My Place south of town, which also were raided Friday, he said.

"As long as they don't make trouble, what can you do?" he asked. "Two raids in one night, though, that's overdoing it."

Friday, the Border Patrol swooped down on The Sundowner at about 8:30 p.m. and expected to net several dozen illegal aliens, according to Michael Connell, patrol agent in charge of the El Cajon Border Patrol station.

"We thought they'd be coming back from Mexico after the holidays and the new crop season is starting," he said. But the Border Patrol, with the assistance of county sheriff's deputies, found only two people suspected of being in this country illegally.

See SWEEP on Page B-5

1/15/84



The San Diego Union/Don Kohlbauer

Border Patrol officers frisk suspected undocumented aliens after conducting raids on three Vista bars last night. Sheriff's dep-

uties also participated in the roundup, which occurred less than two months after another sweep at the same establishments.

## Sweep: 22 arrested in Vista

maybe it's too early in the evening or maybe it's just one of those nights where there's not many around," DeSteunder said.

The November raid resulted, DeSteunder said, after residents and business owners near the bars complained about undocumented aliens and increased crime, especially in the 500 block of South Santa Fe.

DeSteunder said there had been a substantial increase in residential burglaries, automotive thefts, narcotics violations and prostitution in the neighborhood that was linked to patrons of the bars. He said fights in and around the bars also have been common.

Vista city officials also had complained about the situation at the three bars, saying they were attracting a "criminal element."

But Julia Sanchez, who tends bar at My Place, disagreed with the description of her clientele. She said most of her patrons are hard working men, and that any criminals were very few in number.

"Most of these people never cause any trouble," she said. "I'll go out from behind the bar and grab any man by the collar and drag him out."

"The trouble is, the aliens are going to be back tomorrow, anyway. They will be headed back, as soon as they step off the bus."

Before the raid, Border Patrol officers were warned about a recent federal district court ruling prohibiting officers from "creating a detentive environment" by blocking the exits to bars. "That does not mean we are not to remain vigilant of those exits," said Michael Connell, patrol agent in charge.

Agents waited outside My Place and questioned patrons who left. Sheriff's deputies were warned not to question any patrons about their immigration status. DeStuender said deputies were there to "watch the backs" of Border Patrol officers as they did their work.

# Sweep: Aliens arrested in Vista

Continued from B-1

Twenty more were taken into custody at the other two bars, leading Connell to think someone may have leaked information about the raid, he said.

"These places get busy right at sundown because that's when the workers start coming in. We figured someone either tipped them off or they put two and two together," Connell said.

So at 10:30 p.m., the raiding team struck again and this time arrested 68 more people for a total of 90 suspected illegal aliens.

Connell said all but eight of those arrested voluntarily went by bus to Tijuana and Calexico. The remainder requested deportation hearings, he said.

Macedo said a couple of those arrested joked about getting a free ride home for the weekend.

"I wouldn't call this harassment," said Connell of the contention that the raids were selective enforcement of the law. "We are in these places on a routine basis making arrests and knew what we could expect."

Vista Councilwoman Gloria McClellan said she was pleased about the raids and said she has been pushing for them because of the number of complaints she has been receiving about prostitution, narcotics and robberies near the bars.

"We certainly aren't trying to run anybody out of town. I'd just like to see those businesses take hold and upgrade and clean up what's happening," she said.

But Sergio Molina, owner of El Rey Club, said there is little he can do except run a legal and safe business "and I can't control what happens out on the street."

"I can't say one person gets in and another person can't. I try to make sure everyone is the legal age but this is a free bar to people and I'm here to sell beer," he said.

"Even the sheriff's deputies can't ask someone for their immigration papers, so what can I do? They (undocumented workers) are just going to keep coming back," Molina said.

Molina and others said the raids Friday were conducted without problems, for the most part. But Molina said El Sombrero, a bar just down the street from his in the 500 block of Santa Fe Avenue, was raided so often last year that it had to close.

Last Nov. 25, the Border Patrol rounded up 73 suspected illegal aliens at El Rey Club, My Place, the Sundowner and El Sombrero.

McClellan said that area of downtown is considered "the hot spot" and has occupied a disproportionate amount of the time of law enforcement people.

"The facts speak for themselves. The sheriff's deputies flush people out and make arrests. I'd think the bar people would know in two minutes if someone they were selling beer to happened to be an illegal alien," she said.

Although many signs in the three bars are in Span-

ish and many patrons speak the language, the establishments do not appear to be "dives" and yesterday served a clientele of both Chicanos and Anglos.

The Sundowner, which has a beer license, is at Santa Fe Drive and Vista Way and is flanked by retail stores. Shopkeepers in the

area said the bar has had some incidents that have required the attention of sheriff's deputies but it could not be singled out as worse than any bar in the area.

At My Place, the barmaid yesterday said a dance planned for last night would go on as scheduled even

though several band members had been arrested there Friday also.

A sign at the door in Spanish asked gentlemen to please not spit on the floor.

"Yes, it hurt business last night when they came twice. But I think business will be OK tonight," the waitress said.

# Hands-Off' Policy On Aliens Aired

ATT. C

## Only Immigration Authorities May Hold Suspects, Lawmen Told

Local peace officers generally do not concern themselves with arresting suspected illegal aliens, a survey showed yesterday.

Sheriff John Duffy said he has been legally advised that "no one but immigration authorities, not even the FBI, has the right to detain, interrogate or arrest illegal aliens." Such aliens come under federal immigration statutes.

"We do not even have the right to ask them to show their papers," Duffy said.

### SHERIFF'S JURISDICTION

The sheriff's department, under contract, polices three of San Diego's 13 cities as well as unincorporated areas. The three cities are Del Mar, Vista and San Marcos.

The department's policy is pretty much followed now by police in Escondido, El Cajon, La Mesa, National City and Coronado.

Said Police Chief Arthur G. LeBlanc of Coronado, "Until a month ago, our policy was to apprehend aliens and turn them over to the Border Patrol. But because of legal interpretations about our authority, we stopped doing so. It's a gray area. The Border Patrol is an enforcement arm of the Immigration and Naturalization Service.

Police Chief Frank LeCount of Imperial Beach said that "we do not bother" anyone walking through town who might be an illegal alien.

### LA MESA POLICY

Police Capt. Don Fach of La Mesa said, "We used to pick up suspected illegal aliens. Now we notify the Border Patrol and otherwise treat the suspect as John Q. Citizen."

In El Cajon, Police Chief Wallace Dart said his department's policy was altered several weeks ago after a meeting between Sheriff Duffy and police chiefs. "We now pass the word to the Patrol and go our way," Dart said.

Oceanside's police chief Ward Ratcliff said, "If they violate the law in some way and get into our net, we turn them in, but we are not getting cars stuck in the river bottom looking for them."

### ESCONDIDO PRACTICE

In Escondido, "our policy has been that it is not necessary to get involved," according to Police Chief Chester Lund. Sometimes, late at night, if officers are not pressed by other duties, they may pick up a suspected alien, he said.

Chula Vista's policy is to notify the Border Patrol, and the policeman may stand by until the Patrol arrives. "But we have told our officers to stop beating the bushes," said Police Chief William J. Winters.

Carlsbad's police chief, Ralph Laughlin, said, "If nothing illegal is done in the officer's presence, we can't do much but pass our suspicions on to the Patrol."

National City follows this pol-

icy, too, according to Police Chief Jack Liesman.

But Police Sgt. G. T. Reed of the San Diego police department, which patrols the San Ysidro border crossing, said, "Anytime we find illegal aliens, we apprehend them."

San Diego's department appears to be an exception in dealing with aliens.

"If we see people prowling back roads, we stop them," said Robert Jauregui, assistant police chief. "We want to find out who they are and why they are there."

### MARCH ARRESTS

During March, 14,195 aliens were arrested in the Chula Vista sector and returned to Mexico, according to Richard Batchelor, in charge of the sector for the Border Patrol.

Batchelor said the influx began increasing in the mid-1960s when the United States ended its bracero program—bringing in farm workers from Mexico.

In 1961, the arrest rate here ran about 400 a month. Now it is 35 times higher.

The rising influx, plus the change in law-enforcement policy by local agencies, has federal officials worried.

S. P. ...  
4-26-73

Thursday, January 19, 1984

## Crackdown on Illegal Aliens Stirs Controversy

By DANIEL M. WEINTRAUB and DAVID SMOLLAR, *Times Staff Writers*

VISTA—To his friends, Felix Valencia is a longtime Vistan, a graduate of Vista High School and Palomar Community College and a U.S. Army veteran. But to the Border Patrol, Valencia is just another Latino face.

During one of the Immigration and Naturalization Service's recent raids on downtown bars, Valencia was ordered outside the El Rey Club along with other suspected illegal aliens, lined up against a wall and forced to identify himself as a legal resident.

"I can put up with that once or twice," said Valencia, a legal resident in Vista since 1963 but not a U.S. citizen. "But you start thinking you can't even walk down the street without getting pulled over."

Valencia is just one Vista resident caught in the middle of the INS crackdown on illegal aliens here. Two recent raids—one in November and another Friday—have netted about 160 illegal aliens in and around four Vista bars.

Despite the contention of Sheriff's Department and INS officials that the raids have been successful, some city officials, bar owners and patrons believe the high-profile action will not have any lasting effects. Some say the raids have served only to heighten the tension between law enforcement agencies and bar owners, who in some other cities are the police's strongest allies.

INS officials say the raids were prompted by an increase in crime in and around the bars. They have received numerous complaints from city officials, nearby shopkeepers and residents along South Santa Fe Avenue, where the El Rey and the El Sombrero bars are situated.

Sheriff's Capt. Robert DeSteunder, head of the department's Vista substation, said he requested the raids after pressure from the City

*'We're not really targeting the bars for doing anything illegal.'*

Council to clean up downtown. A survey of the areas surrounding eight local bars showed that the 500 block of South Santa Fe is the center of much of the city's crime.

DeSteunder said that block was the site of 162 arrests for disturbances, 16 for being under the influence of drugs or alcohol and 68 for other reasons from Jan. 1 to Nov. 19, 1983. Those figures were far higher than the numbers for any of the other areas, he said.

Mike Connell, agent-in-charge of the Border Patrol's El Cajon office, which conducted the raids, said he had received a rash of calls from businessmen and residents in the

area complaining that the number of aliens had gotten out of hand.

"We're not really targeting the bars for doing anything illegal," Connell said. "It's just where the aliens congregate. It's gotten to the point where the citizens of the area have been calling us often and begging us to do something about it."

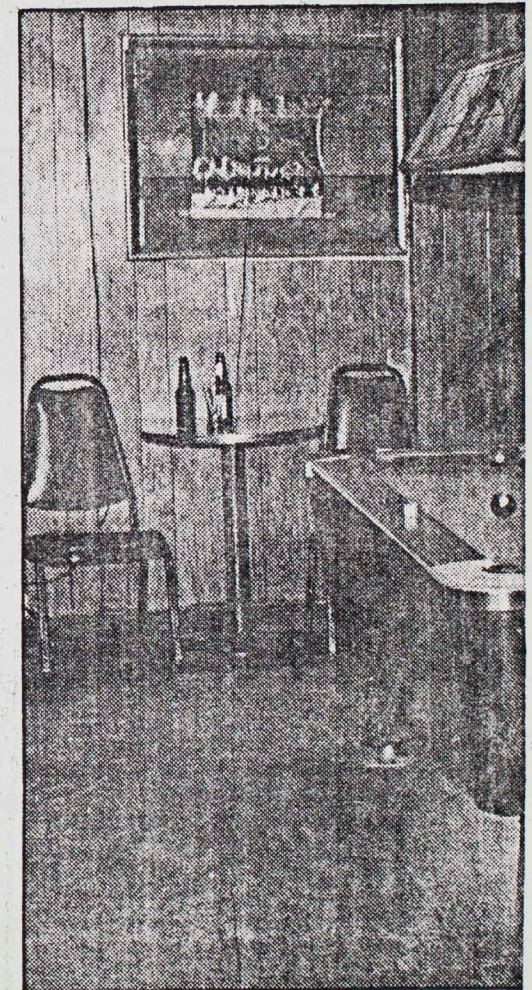
Though DeSteunder has no statistics showing that aliens are at the root of the downtown crime problem (Vista's overall crime rate dropped 27% last year), he said officers "have noticed we are arresting more illegal aliens for serious crimes, such as burglary, than in the past."

The raids have been a combined effort of the two agencies because the sheriff has no jurisdiction over federal immigration laws, and the Border Patrol cannot enforce local and state laws. It is the involvement of the sheriffs, who are present to provide security for the Border Patrol agents, that has upset the employees and owners of the targeted bars.

"Half of us don't trust the sheriffs anymore, and I'm an American," said one patron at My Place who declined to give his name. "It's all just a big game they're playing."

"We don't have any trouble with the Border Patrol," said Hugh Lawson, co-owner of the Sundowner.

Please see VISTA, Page 6



Legal U.S. resident Felix Valencia at a Vi

# VISTA: Arrests

Continued from Page 1

"Hey, if there are illegal aliens in here, we say go ahead and do your duty. That's what the Border Patrol is for. It's the way the sheriffs act that bothers me."

Lawson, whose bar was the site of just one arrest in the period covered by the sheriff's crime survey, said deputies have been rough on his patrons. Deputies block the doorway and use racist language, he said.

"They'll say: 'Hey, you greaseball, you got papers?'" Lawson said. "Well, these 'greaseballs' may have been born in the United States. It's wrong to degrade somebody by making racist remarks instead of talking to them as another human being."

DeSteunder said he has told his deputies it is illegal for them to block the bar's doorway, and he said any officer using the kind of language quoted by Lawson "would be coming from way out in left field. We don't condone that."

### No Sympathy

But DeSteunder said he has no sympathy for those who complain about the presence of the Border Patrol in Vista.

"I have never understood what they're talking about," DeSteunder said. "They've grasped this word 'harassment,' and anything they don't like, they call it that. These people (aliens) have violated United States law. Immigration officers are supposed to enforce the law."

Councilman Lloyd von Haden, however, said he thinks the concern and controversy over the alien question is overblown. Aliens, he believes, are a "rather minor" part of the city's crime picture.

"When a Mexican gets drunk, he's liable to be just as obnoxious as the President of the United States when he's drunk," Von Haden said. "Most of the fights in that area are caused by people in the bars, but I don't think it's just because of the aliens."

Von Haden said he thinks the raids are futile.

"You pick them up one day, and they're back the next," he said. "What we do today or tomorrow is not going to get anywhere near the heart of the problem, which is in the economies of Mexico and Central America."

Mayor Nancy Wade praised the raids as effective but conceded she doesn't think the aliens present much of a problem in Vista.

"I suppose I look at them, trying to make a living, trying to eke out an existence for themselves and their families, and my heart goes out to them," Wade said. "Unfortunately, they seem to like the bars, to relax



BOB GRIESER / Los Angeles Times

Hugh Lawson, co-owner of Sundowner bar, says the way sheriff's deputies act bothers him.

there with their own nationalities, and frequently problems erupt when they're all gathered like that."

But Wade said the crime surrounding the bars might be more due to the taverns themselves than the aliens.

"I think the nature of the bars and their close proximity to one another would still cause some problems," she said. "I'm not saying the illegals don't cause some of them, but I'm not sure the problems would be eliminated completely if the illegals were not there."

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Committee on Chicano Rights, Inc

FOR IMMEDIATE PRESS RELEASE

JANUARY 20, 1984

The Committee on Chicano Rights has called today's Press conference to accuse San Diego County Sheriff John Duffy of "illegally" initiating the January 13 and 14, 1984 immigration raids against businesses and patrons of Mexican ancestry in Vista, California. (See attachment A and B)

Sheriff John Duffy's action according to CCR Chairman, Herman Baca, "borders on the illegality of the law, as he demonstrated in 1972 with his famous Tax Cab Memo, (see Memo-1972), the La Costa issue and now Vista, California".

In initiating the illegal immigration raids in Vista, California in defiance of a 1972 Justice Department ruling(see attachment C) and Attorney General Griffin Bell's 1977 Memo (see Bell Memo), Duffy in collusion with the INS/Border Patrol has stated Baca, "Once again, placed the constitutional rights of over 300,000 persons of Mexican ancestry in San Diego County, in serious jeopardy". For these reasons the CCR has written the following letters requesting the following actions: See enclosed letters to County Board of Supervisors and United States Department of Justice.

In concluding Baca stated, "That failure by the County Board of Supervisors or the Justice Department to stop Sheriff Duffy from future enforcement of federal immigration laws will prompt the CCR to contemplate legal action and to escalate political action against both Sheriff Duffy and the Reagan Administration.

FOR FURTHER INFORMATION, PLEASE CALL THE CCR AT-474-8195, Herman Baca

1837 Highland Avenue, National City, CA 92050 (714) 474-8195



OFFICE OF THE ATTORNEY GENERAL  
State of California

JOHN K. VAN DE KAMP  
Attorney General

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OPINION	:	
of	:	No. 83-902
JOHN K. VAN DE KAMP	:	<u>JULY 24, 1984</u>
Attorney General	:	
RONALD M. WEISKOPF	:	
Deputy Attorney General	:	

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THE HONORABLE JAMES P. FOX, DISTRICT ATTORNEY; SAN MATEO COUNTY, has requested our opinion on the following question:

Is there a general legal duty for California judges and peace officers to report persons to the Immigration and Naturalization Service who they learn have entered the United States illegally in violation of title 8, United States Code section 1325?

CONCLUSION

There is no general affirmative legal duty in the sense of a legally enforceable obligation incumbent on peace officers and judges in California to report to the Immigration and Naturalization Service (INS) knowledge they might have about persons who entered the United States by violating title 8, United States Code section 1325, but such public officials may report that knowledge if they choose to do so unless it was learned in a process made confidential by law.

ANALYSIS

Section 1325 of title 8 of the United States Code makes it a first-time misdemeanor for an "alien" 1/ to enter

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1. Title 8, United States Code section 1101(a)(3), defines the term "alien" as "any person not a citizen or national of the United States." We will sometimes substitute the term "foreign national" herein.

the United States illegally -- that is (a) at any undesignated time or place, or (b) by eluding examination or inspection by immigration officers, or (c) through willfully false or misleading misrepresentations or the willful concealment of a material fact. 2/ A subsequent violation of the section is declared a felony. (8 U.S.C. § 1325; compare id., § 1326 (entering, attempting to enter, or being found in this country after once having been arrested and deported).) A foreign national who has entered the country in violation of the section, or whose presence here is otherwise illegal, is subject to civil deportation proceedings under the Immigration and Nationality Act (8 U.S.C. § 1101 et seq.). (8 U.S.C. § 1251(a)(2) 3/; Ramirez v. Immigration & Naturalization Service (9th Cir. 1977) 550 F.2d 560, 563; Bufalino v. Immigration and Naturalization Service (3rd Cir. 1973) 473 F.2d 728, 739.)

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2. Section 1325 provides:

"Any alien who (1) enters the United States at any time or place other than as designated by immigration officers, or (2) eludes examination or inspection by immigration officers, or (3) obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact, shall, for the first commission of any such offenses, be guilty of a misdemeanor and upon conviction thereof be punished by imprisonment for not more than six months, or by a fine of not more than \$500, or by both, and for a subsequent commission of any such offenses shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment for not more than two years, or by a fine of not more than \$1,000, or both."

3. The Immigration and Nationality Act (I.N.A.) posits a comprehensive body of legislation providing for uniform federal control over the admission, exclusion, and deportation of aliens within the United States. (See generally Auerbach & Harper, Immigration Laws of the United States, 21-23 (3d ed. 1975).) Under it, "there are numerous reasons why a person could be illegally present in the United States without having violated section 1325 [I.N.A., § 241(a)]. Examples include expiration of a visitor's visa, change of student status, or acquisition of prohibited employment." (Gonzales v. City of Peoria [Arizona] (9th Cir. 1983) 722 F.2d 468, 476.) This opinion is confined to violations of that section.

We are asked whether officials of the state or of local government in California, such as peace officers and judges, who in the course of the performance of their official duties come to learn that a person is in the United States "illegally" because of having violated section 1325 have a general legal duty to report that knowledge to the federal Immigration and Naturalization Service ("the INS"). We conclude that while there is no legally enforceable obligation imposed on them to do so, as a matter of comity and good citizenship such officials of the state or of local government may report knowledge they might have of a foreign national present in the United States following an entry in violation of section 1325 unless that knowledge is made confidential by law.

Needless to say, it behooves us at the outset to define our understanding of what is meant by a "general legal duty." The task is not easy because the term "duty" has been used to serve a variety of purposes and it therefore comes with no consistent or singular meaning. There are, to be sure, clear situations in which persons are specifically statutorily compelled to take certain actions which create an affirmative duty for them to do so. (E.g., Pen. Code, §§ 11165-11174 (reporting victims of child abuse); Veh. Code, § 410 (reporting persons with "blackout" disorders); Civ. Code, § 19512 (landlord mitigating damages); and see especially Health & Saf. Code, § 11369, fn. 8, post (reporting persons arrested for certain drug-related offenses to INS where arresting authority has reason to believe they are not citizens).) But they barely touch the "tip of the iceberg" of defining the obligations, legal and other, of community interaction. That need has been filled by the notion of "duty" which has been developed by the courts as a means, peculiar to the "common law," of defining the obligations and the consequences of social interaction. (Prosser, Torts (4th ed. 1971) pp. 325, 338-340.) Unfortunately, even there the notion has no inherent meaning of its own but rather has been used to serve as a "tail to wag the dog," an "artificial" and "conclusionary" statement "not sacrosanct in itself, but only an expression of the sum total of those considerations of policy which lead the law to say [what is due to or from a particular person in particular circumstances]." (Prosser, Torts, supra, § 53, pp. 325-326.) 4/

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4. Prosser is less than sanguine that the term "duty" can ever be defined in negligence cases:

"The statement that there is or is not a duty begs the essential question -- whether the plaintiff's interests are entitled to legal

Generally though, the notion of "duty" may be thought of as an obligation the performance of which is enjoined, required, or compelled by some law, order, usage, custom, or moral injunction which may or may not bring a corresponding sanction to bear on its subject for nonperformance. <sup>5/</sup> We say "may or may not" because the California cases which have explored the notion of "duty" have done so in at least two different situations. The first involves a line of cases which have used the term as a vehicle to characterize the propriety of one person's action or inaction in a particular situation for the purpose of imposing or absolving him or her of liability. <sup>6/</sup> Where such a duty is found, its exercise is mandatory and on failure thereof, legal sanction follows as a consequence. We characterize that type of duty herein as an "affirmative" or

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4. (Continued.)

protection against the defendant's conduct. It is therefore not surprising to find that the problem of duty is as broad as the whole law of negligence, and that no universal test for it ever has been formulated. It is a shorthand statement of a conclusion, rather than an aid to analysis in itself. It is embedded far too firmly in our law to be discarded, and no satisfactory substitute for it . . . has been devised.

"There is little analysis of the problem of duty in the courts. Frequently it is dealt with in terms of what is called 'proximate cause,' usually with resulting confusion. In such cases, the question of what is 'proximate' and that of duty are fundamentally the same: whether the interests of the plaintiff are to be protected against the particular invasion by the defendant's conduct." (Prosser, Torts, supra, § 53, pp. 325-326; fns. omitted.)

5. Webster's Third New International Dictionary (1971 ed. at p. 705) defines a duty both as "2a. obligatory tasks, conduct, service, or functions enjoined by order or usage according to rank, occupation, or profession" and as "3a. behavior required by moral obligation, demanded by custom, or enjoined by feelings of rightness or fitness."

6. See, e.g., Tarasoff v. Regents of University of California (1976) 17 Cal.3d 425, 435 (duty of psychiatrist to warn identifiable foreseeable victims of patient's possible conduct; Landeros v. Flood (1976) 17 Cal.3d 399, 414 (duty of physician to report child abuse.)

an "imperative" legal duty. In the second line of cases the notion of duty has been mentioned, often more loosely than not, as an adjunct in describing or discussing a right a person may voluntarily exercise, the consequences of which become an issue either with respect to him or with respect to another. 7/ This type of duty is "nonimperative"; since one's exercise of the corresponding "right" is discretionary, sanction does not follow if it is not performed. (Cf. Doeg v. Cook (1899) 126 Cal. 213, 216.) If our question is understood to refer to a duty in the first sense, i.e., a positive obligation imposed upon judges or peace officers of the state or local government, their exercise of which can be compelled and their failure of which to exercise will bring an appropriate legal sanction, we conclude that there

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7. See, e.g., Barela v. Superior Court (1981) 30 Cal.3d 244 (eviction following tenant's report to police that landlord had committed a crime founds defense of retaliatory eviction; "Citizens have a right and a duty to report violations of the law to the authorities" (at p. 253); "It is the duty and the right, not only of every peace officer of the United States, but of every citizen, to assist in prosecuting, and in securing the punishment of any breach of the peace of the United States." [Citation]" (at p. 252)); Custom Parking, Inc. v. Superior Court (1982) 138 Cal.App.3d 90, 101 (defense of retaliatory eviction found in "tenant's exercise of his duty to testify truthfully," and not to perjure himself in an action involving the landlord); People v. McKinnon (1972) 7 Cal.3d 899, 914 ("a common carrier, no less than any other citizen, has the right, indeed the duty, not to knowingly allow its property to be used for criminal purposes"; carrier has right to open and inspect a package which it suspects contains contraband without an illegal search and suppression of evidence therefrom ensuing); People v. Cohn (1973) 30 Cal.App.3d 738, fn. 9 ("Citizens have the duty to report unlawful activities to the proper authorities"; citizen taking contraband from defendant's garage to police was not an illegal search); cf. United States v. Bumbola (2d Cir. 1932) 23 F.2d 696, 698 (New York State Troopers not only have the right, but ". . . it is [their] duty to arrest without a warrant any person committing an offense against the laws of the United States in their presence [e.g., violations of federal Prohibition Act]"); Kilgore v. Younger (1982) 30 Cal.3d 770, 779-781 (official duty of attorney general to discuss law enforcement issues with press; defamation suit dismissed). And see Tomlinson v. Pierce (1968) 178 Cal.App.2d 112, 116-117 (authority of peace officer to arrest under Pen. Code, § 836 is discretionary; "if he 'may' arrest, he may [also] 'not' arrest" and no sanction or liability attaches for breach of duty if he does not.)

would be no general legal duty as such to report persons to the Immigration and Naturalization Service who they learn have entered the United States in violation of title 8 United States Code section 1325. However, if the question asks of a duty as an adjunct to a right, the exercise of which is discretionary with the holder, such as the right and "duty" to vote, we would conclude that as a matter of comity and good citizenship those officials may inform the INS of a foreign national's presence in the United States following an entry in violation of section 1325, unless of course that knowledge is made confidential by law.

We are unaware of any California statutory authority which would impose on our California public officials an affirmative legal duty to report persons who they know have violated section 1325 to the INS the way, for example, section 11369 of the Health and Safety Code imposes a duty to notify that agency upon an arresting agency having reason to believe that any person arrested for certain enumerated drug (controlled substances) related offenses may not be a citizen. 8/ The duty, if any, would come from a duty to assist in the enforcement of the federal Immigration Act.

In that regard, as we had occasion to discuss recently, state and local law enforcement officials do have the authority to assist in the enforcement of federal criminal laws within their jurisdiction unless, of course, federal law provides otherwise. (66 Ops. Cal. Atty. Gen. 497 (1983) (CHP assisting federal officials enforce 18 U.S.C.A. § 795 (photographing classified material) and 50 U.S.C.A. § 797 (entry into a restricted National Defense Area)); accord Gonzales v. City of Peoria [Arizona], supra, 722 F.2d at 474.) "Where [those] enforcement activities do not impair federal regulatory interests [such] concurrent enforcement activity is authorized." (Gonzales v. City of Peoria [Arizona], supra.) The rule finds its

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8. Health and Safety Code section 11369 provides:

"When there is reason to believe that any person arrested for violation of Section 11350, 11352, 11353, 11355, 11357, 11360, 11361, 11363, 11366, 11368 or 11550, may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters."

The use of the word "shall" in section 11369 indicates that its directive is mandatory. (Health & Saf. Code, § 16.)

underpinnings in principles of our national federalism: since the Supremacy Clause of the federal Constitution (art. VI, § 2) declares the laws of the United States "[to] be the supreme law of the land," they "are as much a part of the law of every state as its own local laws . . ." [citation] . . . 'as though expressly written into them.' [Citations.]" (66 Ops.Cal.Atty.Gen., supra, at 500.) Thus with respect to local enforcement of the federal immigration laws, and particularly with regard to section 1325 itself, it has been specifically held that since the supremacy clause is "a two edged sword, . . . in the absence of a limitation, the states are bound by it to enforce violations [thereof]." (People v. Barajas (1978) 81 Cal.App.3d 999, 1006 (original emphasis); accord Gonzales v. City of Peoria [Arizona], supra, at 474, 475 (§ 1325); I.L. 77-116, supra, at 4-6 (§ 1325); I.L. 73-123 (Aug. 8, 1973) at 4, 8 (§ 1325); cf. United States v. Mallides (S.D. Cal. 1972) 339 F.Supp. 1, 2-3 (§ 1325 + § 2 (aiding and abetting).)

In situations involving the "enforcement" of the federal immigration statutes (or any federal statutes) by state or local officials, absent a federal prescription for or a limitation on the mode and manner of that enforcement, the propriety thereof is determined by reference to state law, insofar as it does not conflict with the federal Constitution. (Gonzales v. City of Peoria [Arizona], supra, at 477; United States v. Mallides, supra, at 2-3; People v. Barajas, supra, at 1006, citing Ker v. California (1963) 374 U.S. 23, 37; cf. 66 Ops.Cal.Atty.Gen., supra, at 500 and cases collected thereat.) Inasmuch as federal law does not impose a limitation on who may "enforce" section 1325, or on the mode of its enforcement (Gonzales v. City of Peoria [Arizona], supra, at 475 approving People v. Barajas, supra, at 1006; cf. United States v. DiRe (1948) 332 U.S. 581, 591), we would look to California law to determine the role state and local officials in California may play in that regard. (People v. Barajas, supra; United States v. Mallides, supra, at 3; I.L. 77-116, supra, at 6; I.L. 73-123, supra, at 4; cf. Gonzales v. City of Peoria [Arizona], supra, at 475-476 (Arizona law in Arizona); 66 Ops.Cal.Atty.Gen., supra, at 500 (California law determines enforcement role of CHP vis-a-vis 50 U.S.C.A. § 797 & 18 U.S.C.A. § 795).) When we do though we see that while peace officers and judges (magistrates) 9/ might be

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9. Section 7(a) of the Penal Code provides that the term "magistrate" signifies any of those persons listed in section 808 thereof. The latter section provides that judges of the Supreme Court, the courts of appeal, the superior courts, the municipal courts and the justice courts are magistrates.

given authority to arrest, without a warrant, persons who have violated section 1325 in their presence 10/, and while they might summon INS officials to aid in that endeavor (Pen. Code, § 839), that cannot be parlayed into a general affirmative and sanctionable legal duty to report a person to the INS who is illegally present in the United States through violating the section.

Aside from the notion that the authority of peace officers and judges to arrest is discretionary, which means that there could be no "flat and unequivocal [sanctionable] duty on the[ir] shoulders to [do so]" (Tomlinson v. Pierce, supra, 178 Cal.App.2d at 116-117; see fn. 10, ante; cf. fn. 7, ante), the problem with extrapolating an affirmative legal duty for these public officials to report knowledge

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10. Section 836 of the California Penal Code provides that a peace officer may arrest a person without a warrant "whenever he has reasonable cause to believe that the person has committed a public offense in his presence." Under that authority a California peace officer could arrest persons who he has reasonable cause to believe have violated section 1325 in his presence. (People v. Barajas, supra, 81 Cal.App.3d 999; I.L. 77-116, supra, I.L. 73-123, supra; cf. Gonzales v. City of Peoria [Arizona], supra, 722 F.2d at 476 (Arizona law, city police); 66 Ops.Cal.Atty.Gen., supra, at 500 (CHP for 50 U.S.C.A. § 797 & 18 U.S.C. § 795); cf. Pen. Code, § 17 & People v. Campbell (1972) 27 Cal.App.3d 849, 854 ("public offense" includes misdemeanors).) Similarly, since section 838 of the Penal Code provides that a magistrate (cf. id., §§ 7(a), 808) may orally order a peace officer or private person to arrest anyone committing a public offense in his or her presence, California judges thereunder would also have authority to have persons arrested who violate section 1325 in their presence. It is thus apparent that these California "officers" (peace officers, judges and agency employees qua private citizens) would have the authority to arrest a person, without a warrant, for entering the United States illegally in violation of section 1325 when that offense is committed in their presence. Moreover it is important to note that even then the authority of the peace officer, or the judge, to arrest would be discretionary ("if he 'may' arrest, he may [also] 'not' arrest"); as such, there would not be any "flat and unequivocal" affirmative and imperative sanctionable legal duty upon the shoulders of the officer [or the judge] to [do so]." (Tomlinson v. Pierce, supra, 178 Cal.App.2d at 117; and see Gov. Code, §§ 820.2 (public employee not liable for act or omission in exercise of discretion), 846 (public employee not liable for injury caused by failure to make an arrest).)



that a person might be in the United States illegally through violating section 1325 from their authority to enforce the section by effecting a warrantless arrest of persons who violate it in their presence is that the offense for which they would arrest is not one of unlimited duration. It "begins with [a] person's physical presence in the United States free from official restraint, and ends when the person reaches a place of temporary safety." (I.L. 77-116, supra, at 9-11; accord Gonzales v. City of Peoria [Arizona], supra, 722 F.2d at 476; United States v. Rincon-Jimenez (9th Cir. 1979) 595 F.2d 1192, 1194 (offense committed at time of entry); United States v. Oscar (9th Cir. 1974) 496 F.2d 492, 493-494 ("entry" = physical presence + freedom from official restraint); cf. Mallides v. United States, supra, 339 U.S. 1, 4 (entry was completed before appellant met aliens in San Diego to transport them to Los Angeles via Oceanside).) A foreign national therefore commits no "continuing" violation of the section merely by being present in this country. (United States v. Rincon-Jimenez, supra, at 1194; compare § 1326, supra.) Since the provisions of the California Penal Code which would authorize our public officials to arrest a person for violating the section without a warrant require that the offense actually have been committed in their presence (see fn. 10, ante), "as a practical matter the limited duration of the . . . offense [would mean] that [they would be] authorized to make arrests for [it] without a warrant only near the immediate area of the border or its functional equivalent" (I.L. 77-116, supra, at 9) which would not be the case in the scenario presented. Since there the offense of illegal entry would already have been completed elsewhere when our California official would learn of it, it perforce would not occur in the presence of the official, and he or she would have no authority to make a warrantless arrest for its violation. 11/ (I.L. 77-116, supra at 9, 11, 13-14; United States v. Mallides, supra, 339 U.S. at 4; cf. United States v. Rincon-Jimenez, supra, 595 F.2d at 1194.)

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11. Even if California law departed from the common law and permitted certain officials to arrest for a misdemeanor or public offense when they have "probable cause to believe a misdemeanor [or public offense] has been committed [outside their presence] and probable cause to believe the person to be arrested has committed the offense" (see, e.g., Ariz. Rev. Stat. Ann., §§ 13-3883(4) (1978)), mere presence in the country would not "without more provide probable cause to arrest [a person] for the criminal violation of illegal entry." (Gonzales v. City of Peoria [Arizona], supra, 722 F.2d at 477.) As noted before, there are numerous reasons why a person could be illegally present without having violated that section. (Id., at 476.)

But what of a duty to report the foreign national nevertheless? It is true that subsequent to an illegal entry the illegally-entering foreign national is not yet "home free" because he or she is still subject to deportation from this country. 12/ (8 U.S.C. §§ 1251, 1252; United States v. Rincon-Jiminez, supra, 595 F.2d at 1194.) But those (deportation) proceedings are civil, not criminal, in nature (Ramirez v. Immigration & Naturalization Service (9th Cir. 1977) 550 F.2d 560, 563; Bufalino v. Immigration and Naturalization Service, supra, 473 F.2d at 739) and, as the Ninth Circuit has recently taught, there is no duty for state and local officials to enforce the civil aspects of the federal immigration laws. (Gonzales v. City of Peoria [Arizona], supra, 722 F.2d 468.) Indeed they may well be preempted from doing so.

Gonzales v. City of Peoria [Arizona], supra, 722 F.2d 468, involved the propriety of an arrest made by Arizona local officers for violations of section 1325 under a state statute which authorized a peace officer to arrest a person, without a warrant, "when he has probable cause to believe a misdemeanor has been committed and probable cause to believe the person to be arrested has committed the offense." (Ariz. Rev. Stats. (1978) § B-3883(4).) (722 F.2d at 476.) It was contended that the regulation of immigration was an exclusive federal power and that the structure of the Immigration and Naturalization Act was such as to evidence a congressional intent to preclude local enforcement of the Act's criminal and civil provisions. (Id., at 474).

The court reviewed when preemption of enforcement of federal statutes by others than federal enforcement agencies occurs:

"[F]ederal regulation of a particular field should not be presumed to preempt state enforcement activity 'in the absence of persuasive reasons -- either that the nature of the regulated subject matter permits no other conclusion, or that the Congress has unmistakably so ordained.' DeCanas v. Bica, 424 U.S. 351, 356 (1976), quoting Florida Avocado Growers [v. Paul] 373 U.S. [132] at 142 [(1963)]. [Vs] . . . To conclude preclusion was the legislative intent, we would have to find that 'complete ouster of state power . . . was "the clear and manifest purpose of Congress"' De

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12. The possibility also exists of arrest upon a federal arrest warrant being secured for the criminal violation of section 1325.

Canas, 424 U.S. at 357 (quoting Rice v. Santa Fe Elevator Corp., 331 U.S. 218, 230 (1947)). . . . [¶] . . . [A]n intent to preclude local enforcement may be inferred where the system of federal regulation is so pervasive that no opportunity for state activity remains. Id." (722 F.2d at 474.)

The court found that not to have been the case with respect to local enforcement of the criminal provisions of the Immigration and Naturalization Act. (722 F.2d at 475, 477.) 13/ It therefore concluded that enforcement by state and local officers of those provisions was authorized (id., at 474, 477) and held that under the aforementioned Arizona statute that state's peace officers could enforce them and that their arrests made thereunder were legal. (Id., at 476.)

The court found the case to be otherwise with respect to local enforcement of the civil aspects of the Act. There the court assumed "that the civil provisions of the Act regulating authorized entry, length of stay, resident status, and deportation [did] constitute such a pervasive regulatory scheme, as would be consistent with the exclusive federal power over immigration." (Id., at 474-475.) From it one could rightly infer that a "complete ouster of state power [to enforce the Act's civil aspects] . . . was the clear and manifest purpose of Congress." (De Canas v. Bien, supra, 424 U.S. at 357 quoting Rice v. Santa Fe Elevator Corp. (1947) 331 U.S. 218, 230.) 14/

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13. "The statutes relating to that element [i.e., the regulation of criminal activities by aliens] are few in number and relatively simple in their terms. They are not, and could not be, supported by a complex administrative structure. It therefore cannot be inferred that the federal government has occupied the field of criminal immigration enforcement." (722 F.2d at 475.)

14. Certainly enforcement of the civil provisions of the Act are supported by a "complete administrative structure" of specially trained personnel. The Immigration and Naturalization Act assigns enforcement of the immigration laws to the Attorney General (8 U.S.C. § 1103), who has delegated that duty to the Immigration and Naturalization Service, a federal agency with national jurisdiction organized under the Department of Justice. (8 C.F.R. §§ 1.1-499.) The INA authorizes the Attorney General to utilize such officers and employees of the Department of Justice and INS as he may appoint in order to administer the immigration laws. (8 U.S.C. § 1103.)

Accordingly, while the court concluded that Arizona law could and did authorize its local police to enforce the criminal provisions of the Immigration and Naturalization Act, it "firmly emphasize[d]" that that authorization "was limited to criminal violations." (722 F.2d at 476.) Thus the court said the "arrest of a person for illegal presence [a civil violation] would exceed the authority granted [Arizona local] police by state law." (Id., at 476.)

Gonzales thus cautioned of the need to carefully distinguish between civil (e.g., illegal presence) and criminal (e.g., illegal entry) violations of the federal immigration laws (722 F.2d at 476, 477) <sup>15/</sup> and circumscribed local enforcement of them to the latter. (Id., at 476.)

California public officers, we have seen, do not share the latitude accorded their Arizona brothers and sisters of being able to arrest without a warrant for misdemeanors committed outside their presence. (Compare Cal. Pen. Code, §§ 836, 837, 838, with Ariz. Rev. Stat. (1978) § 13-3883(4).) Since the offense of illegal entry in the situation posited, as well as in all but "rare circumstances" (I.L. 77-116, supra, at 13), would have terminated before our California public official learns of its occurrence, he or she would lack the authority to make a warrantless arrest therefor. (I.L. 77-116, supra, at 9, 11, 13-14.) And now, as Gonzales teaches, he or she would also

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14. (Continued.)

The congressional purpose "to imbue immigration investigators with rather broad investigatory powers" (Cheug Tin Wong v. INS (D.C. Cir. 1972) 468 F.2d 1123, 1126, fn. 1) and the Supreme Court's approval of the exercise of those powers have depended largely on the extensive training and expertise of those officers. (United States v. Martinez-Fuerte (1976) 428 U.S. 543, 563 n. 16; United States v. Brignoni-Ponce (1975) 422 U.S. 873, 884-885.) In many instances, local police officers would lack comparable expertise or training. (Gonzales v. City of Peoria [Arizona], supra, 722 F.2d at 477; I.L. 77-116, supra, at 12.)

15. The term "illegal alien", noted the court, obscures that distinction when used to indiscriminately describe both the person who has entered the country illegally (a criminal violation under § 1325) and the person who is illegally present in the United States (which is only a civil violation). (722 F.2d at 476.) The former, as we have seen, does not presuppose the latter.

be without authority to enforce (via deportation) the existing civil violation (of illegal presence). (722 F.2d at 476.) Given that want of authority to enforce either aspect of the immigration laws in the situation posed, there can be no general affirmative legal duty with sanction following nonperformance incumbent on California public officials to do so or to see that they are enforced by others with requisite authority. We therefore conclude that those California officials have no such duty to report to the Immigration and Naturalization Service knowledge they might have about persons being present in the United States who are so by having violated title 8, United States Code section 1325. 16/

In so concluding we do not mean to suggest that a California peace officer or judge may not report such knowledge to the INS for its agents to take appropriate action (e.g., 8 U.S.C. § 1357). 17/ As we now proceed to explain, it is still their "business" and they still have a right and a "duty" in the other sense of that term to do so.

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16. Our attention has been invited to title 8, United States Code section 1324(a)(3) which makes it a felony for any person to "willfully or knowingly conceal[], harbor[] or shield[] from detection . . . in any place . . . any [illegal] alien." It is pointed out that the section, by its terms and as construed by the courts, is comprehensive. (See, e.g., United States v. Rubio-Gonzales (5th Cir. 1982) 674 F.2d 1067, 1073, fn. 5 (any conduct which tends to facilitate an alien's remaining in the United States illegally); United States v. Acosta de Evans (9th Cir. 1976) 531 F.2d 428, 430 ("the purpose of the section is to keep unauthorized aliens from entering or remaining in the country"); United States v. Cantu (5th Cir. 1977) 557 F.2d 1173, 1180 (words to be broadly inclusive not restrictive); United States v. Lopez (2d Cir. 1975) 521 F.2d 437, 441 (its purpose was "to strengthen the law generally in preventing aliens from entering or remaining in the United States illegally").) Despite its comprehensive prohibition and manifest purpose however, the fact nonetheless remains that the section only prohibits affirmative types of conduct and does not deal with nonactivity. One cannot eke a duty to act out of a prohibition on activity, no matter how broad a spectrum it might cover.

17. Section 1357(a)(1) of the INA authorizes any officer or employee of the INS to "interrogate any alien . . . as to his right to be or remain in the United States." The foreign national may then be arrested pending a deportation hearing. (Id., § 1252.)

No less an authority than the High Court has said that "It is the duty and the right, not only of every peace officer of the United States, but of every citizen, to assist in prosecuting, and in securing the punishment of any breach of the peace of the United States" (In re Quarles and Butler (1895) 158 U.S. 532, 535) and has called it "an act of responsible citizenship for individuals to give whatever information that they may have to aid law enforcement." (Miranda v. Arizona (1966) 384 U.S. 436, 477-478.) Our own Supreme Court has said likewise:

"The important public policy asserted by petitioner is clear. Citizens have a right and a duty to report violations of the law to the authorities. The effective enforcement of this state's criminal laws depends upon the willingness of victims and witnesses to report crime and to participate in the criminal justice process." (Emphasis added.)

(Barela v. Superior Court, supra, 30 Cal.3d at 253; see also People v. McKinnon, supra, 7 Cal.3d at 914, fn. 6 quoting with approval the conclusion of the President's Commission on Law Enforcement and Administration of Justice. 18/)

This "duty" of "all citizens to assist the . . . authorities in maintaining the peace and in suppressing crime . . . goes back hundreds of years in the common law" 19/ (People v. Ford (1965) 234 Cal.App.2d 480, 487) and

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18. "'That every American should cooperate fully with officers of justice is obvious . . . . [T]he complexity and anonymity of modern urban life, the existence of professional police forces and other institutions whose official duty it is to deal with crime, must not disguise the need -- far greater today than in the village societies of the past -- for citizens to report all crimes or suspicious incidents immediately; to cooperate with police investigations of crime; in short, to "get involved." (The Challenge of Crime in a Free Society, Report by the President's Commission on Law Enforcement and Administration of Justice (1967) p. 288.)'" (Emphasis added.)

19. Witness the remarks of Sir Francis Bacon in the Countess of Shrewsbury's Trial in 1612:

"You must know that all subjects, without distinction of degrees, owe to the king tribute

"California has a long history of protecting those citizens who [exercise their right and perform a nonimperative civic duty] to report violations of the criminal laws." (Barela v. Superior Court, supra, 30 Cal.3d at 252, citing Ball v. Rawles (1892) 93 Cal. 222, 228.) In short, "It is for the best interests of society that those who offend against the laws shall be promptly punished, and that any citizen who has good reason to believe that the law has been violated shall have the right to cause the arrest of the offender." (Emphasis added.) Indeed, peace officers have a special "duty" to do so. As was said in People v. West (1956) 144 Cal.App.2d 214:

"Police officers are guardians of the peace and security of the community and are concerned with criminals in a complex society -- '. . . and the efficiency of our whole system, designed for the purpose of maintaining law and order, depends upon the extent to which such officers perform their duties and are faithful to the trust reposed in them. Among the duties of police officers are those of preventing the commission of crime, of assisting in its detection, and of disclosing all information known to them which may lead to the apprehension and punishment of those who have transgressed our laws. . . . It is for the performance of these duties that police officers are commissioned and paid by the community, . . .' (Christal v. Police Com., 33 Cal.App.2d 564, 567.)" (144 Cal.App.2d at 220-221; emphasis added.)

As we have mentioned, although a foreign national's crime of illegally entering this country by violating section 1325 may be "complete" on entry, the consequences of his/her having done so vis-a-vis the INA are not. The foreign national would still be subject to arrest

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19. (Continued.)

and service, not only of their deed and hand, but of their knowledge and discovery. If there be anything that imports the king's service, they ought themselves undemanded to impart it; much more, if they be called and examined, whether it be of their own fact or of another's, they ought to make direct answer." (Emphasis added.)

(2 How.St.Tr. 769, 778, as quoted in 8 Wigmore on Evidence (3d ed.) § 2190, p. 60, and cited and requoted in People v. Ford, supra, 234 Cal.App.2d at 488, fn. 1.)

and apprehension under a federal court-issued arrest warrant for the criminal violation of illegal entry and/or a federal "administrative" arrest warrant pending deportation itself for his or her illegal presence (*id.*, §§ 1251(a)(2), 1252; 1357(a); United States v. Rincon-Jiminez, *supra*, 595 F.2d at 1194). The Immigration and Naturalization Act is the law of this land and it is an "act of responsible citizenship" and the "duty" and the right of every citizen to assist in prosecuting and securing punishment for its breach by giving whatever information he or she may have in that regard to aid those who enforce it. (Cf. Miranda v. Arizona, *supra*, 384 U.S. 436; In re Quarles, *supra*.) If a California judge or peace officer has knowledge that a foreign national is in this country illegally through violating section 1325, assuming such knowledge has not been learned in a process that is confidential or is otherwise made confidential by law (e.g., Welf. & Inst. Code, § 10850; cf. Evid. Code, § 1040; but see 62 Ops.Cal.Atty.Gen. 70 (1979); In re Lynna B. (1979) 92 Cal.App.3d 682, 705 (need for information may outweigh need for confidentiality)), he or she would have such a "duty" to so impart it. But that "act of good citizenship" is different from an affirmative "duty" incumbent on the official to relay the information, which "duty" may be sanctioned if not performed. (Cf. Doeg v. Cook, *supra*; Tomlinson v. Pierce, *supra*, 178 Cal.App.2d 112, 116-117.)

Accordingly we conclude that there is no general affirmative legal duty imposed on California judges and peace officers to report knowledge they might have to the INS of persons being in the United States after having violated section 1325 but that such public officials may report that knowledge if they choose to do so unless it was learned in a process made confidential by law.

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## SETTLEMENT REQUIRES AGENTS TO HAVE PROBABLE CAUSE TO MAKE ARREST

BY EDUARDO MONTES  
ASSOCIATED PRESS WRITER

EL PASO, Texas (AP) — The U.S. Border Patrol has tentatively settled a class-action lawsuit by agreeing agents cannot detain or apprehend people without probable cause to believe they are illegal immigrants.

Merely looking Hispanic will not be considered sufficient cause for detention, questioning or arrest, according to the proposed settlement for the lawsuit. The action was filed by students and employees at largely Hispanic Bowie High School who allege they have been harassed and abused by agents.

U.S. District Judge Lucius Bunton has given preliminary approval to the settlement, which has been made public to allow anyone who is considered part of the class to make objections.

The judge, who has already ruled the agency violated the plaintiffs' constitutional rights, has scheduled a Feb. 17 hearing to listen to complaints before making a final ruling.

A Border Patrol spokesman and an attorney for the agency declined to comment on the agreement Tuesday, citing a stipulation barring them from making statements to the media. An attorney for the plaintiffs did not return several phone calls to

The Associated Press.

"The agreement ... precludes comments to the press," said Assistant U.S. Attorney Harold Brown, who is representing the Border Patrol.

Bowie High School Principal Paul Strelzin, who is not a plaintiff, said he likes the settlement "very, very much."

"I think our viewpoint has been listened to and we've won that battle as far as our concerns about (agents) harassing our students," Strelzin said.

The agreement states the patrol's El Paso Sector will maintain a policy barring agents from questioning or detaining someone without having a "reasonable suspicion, based on specific ... facts" that the person is either an illegal immigrant or has violated U.S. immigration laws.

This stipulation does not apply to agency checkpoints or other locations where reasonable suspicion is not required by law.

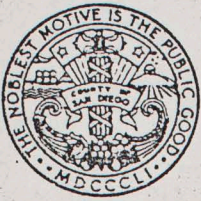
The agency will also enforce a policy that agents cannot arrest anyone on immigration charges unless they have probable cause to believe that person is an illegal immigrant or has violated the laws.

According to the agreement, the El Paso Sector, which covers parts of West Texas and all of New Mexico, must also maintain an existing bilingual toll-free complaint hotline; mail acknowledgments to people who have submitted complaints; and file a quarterly report with the court for five years summarizing the number and types of complaints received.

Announcement of the settlement comes more than

a year after Bunton ordered the agency to stop questioning people in the Bowie High School area — a few yards from the Mexican border — just because they appear to be Hispanic.

The preliminary order, issued Dec. 1, 1992, also came in the lawsuit filed by the Bowie students and faculty, who maintain the Border Patrol harassed, intimidated, physically and verbally abused and even assaulted people at the school.



# COUNTY OF SAN DIEGO

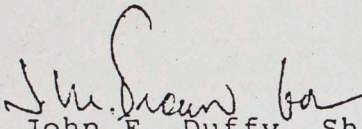
## INTER-DEPARTMENTAL CORRESPONDENCE

May 24, 1988

TO: CONCERNED PERSONNEL

FROM: John F. Duffy, Sheriff

Elected officials are interested in understanding the impact of illegal aliens on the workload and resources of law enforcement agencies. The following questions seek your opinions and estimates of your patrol activity involving illegal aliens. Your candid and open responses will be appreciated. It is not necessary to sign your name.

  
John F. Duffy, Sheriff

JFD/mlg  
Attachment

PATROL OFFICER OPINION SURVEY

PLEASE NOTE: The following questions refer only to California law, not federal immigration law.

1. During a typical week, about how many contacts do you have with individuals? (Contacts include all activity, e.g., response to calls for service, observation, traffic stops, crime incidents, arrests, etc., with all persons.)

\_\_\_ Number of total contacts per week (one number)

2. Using the number of contacts you stated, about how many of those contacts involve illegal aliens?

\_\_\_ Number of contacts with aliens (one number)

3. On a typical shift, please estimate how much time you spend on contacts with illegal aliens:

\_\_\_ Less than 30 minutes per shift  
\_\_\_ 30 minutes to an hour per shift  
\_\_\_ 1 to 2 hours  
\_\_\_ 3 to 4 hours *3-4*  
\_\_\_ 5 or more hours

**TRAFFIC OFFICERS ONLY (OTHERS GO TO #5).**

4. Given 100 traffic-related contacts with illegal aliens, estimate the number in each category:

\_\_\_ Traffic accident (excluding hit and run)

\_\_\_ Hit and run accidents

\_\_\_ Stolen vehicle

\_\_\_ Other traffic violations

100 Total Contacts

5. Please indicate how often you have contacts with illegal aliens for the following types of incidents:

	<u>Daily</u>	<u>3-4 Times Per Week</u>	<u>1-2 Times Per Week</u>	<u>2-3 Times Per Month</u>	<u>Less Than Once a Month</u>	<u>Never</u>
<input type="radio"/> Violent felony	___	___	___	___	___	___
<input type="radio"/> Property felony	___	___	___	___	___	___
<input type="radio"/> Car prowl	___	___	___	___	___	___
<input type="radio"/> Petty theft (shoplifting)	___	___	___	___	___	___
<input type="radio"/> Driving under the influence	___	___	___	___	___	___
<input type="radio"/> Battery	___	___	___	___	___	___
<input type="radio"/> Drunk in public	___	___	___	___	___	___
<input type="radio"/> General disturbance (415 P.C., disturbing the peace, loitering, urinating in public, trespass, etc.)	___	___	___	___	___	___
<input type="radio"/> Traffic violation	___	___	___	___	___	___
<input type="radio"/> Traffic accident	___	___	___	___	___	___
<input type="radio"/> Unfounded incidents	___	___	___	___	___	___
<input type="radio"/> Suspicious circumstances	___	___	___	___	___	___
<input type="radio"/> Other misdemeanor	___	___	___	___	___	___

6. Generally, how do you resolve most of your contacts involving aliens? (CHECK ONE ONLY.)

- Question and release
- Detain for border patrol
- Issue citation
- Arrest for misdemeanor
- Arrest for felony
- Unfounded
- Other (please specify) \_\_\_\_\_

7. Which of the following factors do you use to make a judgment of illegal citizenship status? (CHECK ALL THAT APPLY.)

- Self-admission
- No identification
- Non-English speaking
- Demeanor
- Clothing
- Physical appearance
- Other (specify) \_\_\_\_\_

8. In your opinion, which one of the above factors is the best indicator of illegal status? (CHECK ONLY ONE.)

- Self-admission
- No identification
- Non-English speaking
- Demeanor
- Clothing
- Physical appearance
- Other (specify) \_\_\_\_\_

9. Are you able to determine different types of citizenship status, such as resident alien, students with visas, aliens with amnesty cards?

Yes

No

If yes, how?

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10. About what percent of your contacts with illegal aliens involve aliens as suspects? As victims?

Suspects } (including crime cases, F.I.'s, traffic accidents, traffic  
 Victims } violations, infractions, and unfounded incidents)  
100%

11. For each of the following statements, please circle the number that best describes your opinion, based on your patrol experience.

	Strongly Agree			Strongly Disagree	
	1	2	3	4	5
<input type="radio"/> Contacts with illegal aliens represent a major part of patrol officers' workload.	1	2	3	4	5
<input type="radio"/> Illegal aliens contribute significantly to rising crime.	1	2	3	4	5
<input type="radio"/> Illegal aliens are more likely to be involved in serious, felony crimes than minor, lesser offenses.	1	2	3	4	5
<input type="radio"/> Illegal aliens are more often the victims of crimes than the criminals.	1	2	3	4	5

Strongly  
Agree

Strongly  
Disagree

Contacts with illegal aliens generally take more time than similar types of contacts with citizens.

1 2 3 4 5

Criminal activity by aliens is usually the result of need or financial necessity.

1 2 3 4 5

12. In your opinion, what is the major concern for you in your contacts with illegal aliens; for example, time expended waiting for border patrol, language barrier, other?

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13. Should patrol officers receive special training for handling contacts with illegal aliens?

Yes (please specify)

Spanish language training

Cultural sensitivity training

Knowledge of different documents noting citizenship status

Other (please describe) \_\_\_\_\_

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No

14. Present assignment:

Patrol

Traffic

Other (specify) \_\_\_\_\_

15. Shift:     \_\_\_ 1     \_\_\_ 2     \_\_\_ 3

16. In which area do you generally work? (CHECK ONE)

City of:

- \_\_\_ Carlsbad
- \_\_\_ Del Mar
- \_\_\_ Encinitas
- \_\_\_ Escondido
- \_\_\_ Oceanside
- \_\_\_ San Marcos
- \_\_\_ Solana Beach
- \_\_\_ Vista

Unincorporated Area of:

- \_\_\_ Escondido/Bonsall/Rainbow
- \_\_\_ Fallbrook
- \_\_\_ North County Coastal  
(Rancho Santa Fe, Whispering  
Palms, Fairbanks Ranch, Other)
- \_\_\_ Valley Center
- \_\_\_ Vista/San Marcos

Additional comments?

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THANKS FOR YOUR TIME AND COOPERATION.