OUTLINE OF POSITIONS TO BE PRESENTED TO ATTORNEY GENERAL GRIFFIN BELL ON MAY 13, 1977.*

INTRODUCTION

While the Carter Administration has taken up the task of rapidly developing major legislation concerning immigration, deportation, and naturalization, the Mexican/Latino communities and their leaders have been largely ignored in this process. The persons developing what will become the "Carter position" on these issues, are largely inexperienced in the history of immigration law, the current scope of the problem, and the needs of Mexican/Latin-Americans lawfully in the United States.

The following recommendations have been developed following exhaustive debates, discussions, symposiums and legal research into the issues confronting us. This document presents a brief outline of what will actually be presented to the Attorney General at our up-coming meeting.

THE SO-CALLED "AMNESTY" ISSUE

The present trade-off being considered in Washington, D. C. is basically "amnesty in return for Rodino-bill type legislation." That is, enact repressive legislation and "sweeten the pot" with an "amnesty" provision. One or another type of amnesty is going to develop and we must therefore address ourselves to this issue.

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a. The Various Positions on Amnesty.

Numerous Congress-persons have proposed varying time-periods that would provide a "cut-off" date for amnesty. For example, Rodino and Eilberg (H.R. 8713) introduced in 1975 legislation allowing for the regularization of the status of various aliens who entered the United States prior to July 7, 1975. Kennedy (S. 561) has recommended that certain aliens who have resided in the United States from a date beginning three (3) years prior to the passage of his proposal would be entitled to become documented. Cranston has proposed a five-year residency requirement for adjustment of status, and Badillo has suggested providing documentation to certain aliens who entered the United States prior to July 4, 1976. (H.R. 4338).

In contrast, many Mexican/Latino groups, church organizations, and some union locals, have called for "unconditional" amnesty for all undocumented persons in the United States. This position recognizes the human needs of the entire undocumented population, and further understands that a "limited" amnesty will be easily turned into a "surrender yourself and get yourself deported" program.

While politically agreeing with the call for an "unconditional" amnesty, this analysis attempts to outline proposed legislation that could realistically be (1) introduced in Congress, and (2) would have broad-base support within the Mexican/Latino communities and with workers.

1. Document all Documentable Aliens.

Following an in-depth analysis of recent INS statistics and budget-breakdowns, it is our finding that the previous administration, under the leadership of General Chapman, Commissioner of INS, has intentionally and/or negligently subverted the entire Congressional concern in implementing the Immigration and Nationality Act of 1952; namely, the reunification of families. In 1952, and in subsequent amendments, Congress has provided for the rapid immigration of "immediate relatives" of United States citizens and certain relatives of immigrants. See, 8 U.S.C. 1151 The entire purpose of the law was to provide for the immediate "unification" of families. The Operating Instructions of INS (which have the force of law) provide that a petition to immigrate an "immediate relative" should take 5 days to process.

Commissioner Chapman chose to ignore this Congressional mandate and during the past two years developed new internal priorities for INS. The largest adjustment involved withdrawing INS officers from the "documentation" process, and reassigning them to law-enforcement. As a result, at the present time a petition to immigrate an "immediate relative" takes eighteen (18) months to process in Los Angeles, California, instead of five (5) days as the law requires. This effect is visible throughout the country.

The net result of Commissioner Chapman's policies has been to expand the so-called "illegal alien" population due to a failure on the part of the agency to expeditiously document persons with petitions pending. Hundreds of thousands of document-

able aliens continue to reside in the United States without documents because of the illegal delays caused by Commissioner Chapman's reorganization of priorities. The Commissioner would in turn use this expanding undocumented population to justify his continued expansion of a law-enforcement budget.

RECOMMENDATION: THE PROCESSING AND ADJUDICATION OF VISA PETITIONS SHOULD BE GIVEN TOP PRIORITY AND THE FIVE (5) DAY REQUIREMENT IN SECTION 204 OF THE OPERATING INSTRUCTIONS SHOULD BE ENFORCED. INS SHOULD DISCONTINUE JUSTIFYING A LARGE LAW-ENFORCEMENT BUDGET WHILE A SUBSTANTIAL NUMBER OF THE POPULATION THAT THEY WISH TO APPREHEND AND DEPORT ARE DOCUMENTABLE ALIENS, NOT YET IN POSSESSION OF DOCUMENTATION SOLELY BECAUSE OF ILLEGAL INS DELAY IN PROCESSING THEIR APPLICATIONS.

2. Amend certain parts of the recently enacted Eilberg Law.

The Eilberg Law became effective on January 1, 1977. While in previous years an average of 45,000 persons per year were immigrating (under the quota system) from Mexico to the United States, the Eilberg Law restricts each country to 20,000 quota immigrants per year. It is naive to believe that this provision of law will not increase the undocumented population. Many smaller Western Hemisphere countries do not have anywhere close to 20,000 people immigrating to the United States each year.

The Eilberg Law also amended Section 245 of the Immigration and Nationality Act, allowing Western Hemisphere aliens to "adjust their status" but only if (1) they lawfully entered the United States, and (2) they have not participated in unauthorized employment since January 1, 1977, up to the time they file an

application for adjustment of status. This provision of course takes away with the left hand, what was seemingly given with the right hand.

RECOMMENDATION: AMEND THE EILBERG LAW TO: (1) CREATE A GENERAL POOL OF UNUSED WESTERN HEMISPHERE QUOTA NUMBERS AND PROVIDES THESE, ON A FIRST-COME-FIRST-SERVE BASIS TO PERSONS FROM COUNTRIES THAT HAVE USED UP THEIR 20,000 ALLOTMENT. SECONDLY, ELIMINATE THE TWO EXCEPTIONS FRO ADJUSTMENT OF STATUS CONTAINED IN THE ELIBERG LAW. THAT IS, PROVIDE DOCUMENTATION TO ALL DOCUMENTABLE ALIENS EVEN IF THEY ENTERED THE UNITED STATES IN VIOLATION OF LAW, AND EVEN IF THEY HAVE PARTICIPATED IN UNAUTHORIZED EMPLOYMENT.

3. Concerning Aliens Not Documentable Under Current Law Because of the Lack of Family-Ties.

Some portion of the undocumented population is not documentable under current law because of the lack of family-ties. Many of these aliens are fully employed and have other roots in the United States. We cannot tolerate the on-going mass raids on factories and in the fields against these workers. Lawfully present aliens and citizens are frequently arrested during these raids and the net effect is widespread discrimination and harrassment of Mexican/Latino persons lawfully present in the country.

Persons employed are obviously filling an employment vacuum, and are largely contributing taxes, social security and other benefits to the government. Due to their single-adult status, these persons rarely qualify for, or apply for, governmental benefits.

RECOMMENDATION: ALL ALIENS IN THE UNITED STATES WHO ARE NOT

DOCUMENTABLE, DUE TO THE LACK OF FAMILY-TIES, SHOULD BE DOCUMENTED ~~IF THEY ARE INVOLVED IN FULL-TIME EMPLOYMENT AND (1) HAVE BEEN PHYSICALLY PRESENT IN THE UNITED STATES FOR SIX (6) MONTHS OR MORE (PROVABLE BY THE AFFIDAVITS OF TWO (2) U. S. CITIZENS OR PERMANENT RESIDENT ALIENS); OR (2) HAVE A HOME IN THE UNITED STATES WHICH THEY ARE PURCHASING. OR (3) ????~~

4. Amendment the Eilberg Law to Allow the Mother or Father of a U.S. Citizen Child to Immigrate.

The Eilberg Law additionally took away the right to immigrate through a U.S. citizen under the age of 21. This results in the deportation of hundreds of thousands of parents of U.S. citizens. It further results in the de facto deportation of thousands of Mexican/Latin-American children who are United States citizens.

RECOMMENDATION: AMEND 8 U.S.C. SECTION 1182(a)(14), SECTION 212(a)(14), TO ONCE AGAIN WAIVE THE LABOR CERTIFICATION REQUIREMENT FOR THE PARENTS OF U.S. CITIZEN CHILDREN UNDER 21 YEARS OF AGE. PROVIDE FOR THE IMMEDIATE IMMIGRATION OF THIS GROUP OF PERSONS.

RODINO-TYPE LEGISLATION

It is clear to every person who has studied the undocumented alien issue that Rodino-type legislation would have the following results: (1) Widespread discrimination against Mexican/Latin-Americans lawfully in the United States; (2) Widespread discrimination against non-English speaking workers lawfully in the United States; (3) Minimal sanctions against employers due to the difficulty in prosecution and the easy defense that the

employer was not qualified to determine the immigration status of the concerned employees; (4) No impact in terms of improving working conditions for both documented and undocumented workers; (5) No impact on preventing the practice of paying large portions of the Mexican/Latin-Americans below minimum wage; (6) Large-scale domestic law enforcement that will impact not only on undocumented workers, but also on workers lawfully in the United States.

Rather than attempt to concentrate on the immigration status of workers, the government should instead concentrate on the working conditions and wages in all areas of the economy that historically involve exploitation of workers. Labor law violations would be far easier to determine and prosecute than violations of Rodino-type legislation. Squeezing undocumented workers out of the exploitative parts of the economy will not decrease the exploitation---it will simply replace those being exploited.

Federal monies should be appropriated to the Department of Labor to allow effective enforcement of labor laws dealing with wage rates and working conditions. Complainants should be guaranteed anonymity as persons are currently guaranteed under Federal and State Occupational Safety and Health Acts. Only when such a system is developed will aliens, social service organizations, and others aware of exploitation dare to step forward with their complaints.

RECOMMENDATION: THAT LEGISLATION PENALIZING EMPLOYERS FOR HIRING UNDOCUMENTED WORKERS NOT BE ENACTED DUE TO ITS DISCRIMINATORY

EFFECTS AND INABILITY TO ENFORCE. THAT LABOR LAWS CONCERNING WORKING CONDITIONS, OCCUPATIONAL HEALTH AND SAFETY, ORGANIZING RIGHTS, WAGE RATES, ETC. BE STRICTLY ENFORCED WHETHER WORKERS ARE DOCUMENTED OR UNDOCUMENTED. THAT COMPLAINANTS BE PROVIDED ANONYMITY. THAT MONIES BE APPROPRIATED TO THE DEPARTMENT OF LABOR TO EFFECTIVELY ENFORCE EXISTING LABOR LAWS.

RE-INTRODUCTION OF THE BRACERO PROGRAM.

Senator Eastland has for many years been pushing for a liberalization of the H-1 visa, non-immigrant "temporary worker" laws. He represents large corporations and agricultural interests in these efforts. These business interests desire easy access to cheap, exploitable labor. Temporary workers also provide a good resource for businesses fighting the organizing efforts of exploited workers lawfully in the United States.

The contradiction of the federal government's position on undocumented persons comes into full view here. On the one hand they argue that undocumented persons are substantially creating unemployment in this country. On the other hand, they argue for a liberalization of the "temporary worker" statutes.

We should not be fooled by the fact the government officials are now calling their proposed changes in the law "guest worker" statutes. It is the Bracero program with a new name. The program is not being suggested by Eastland and the interests he represents for humanitarian reasons. They are merely seeking cheap resources of labor that can be easily exploited, easily deported and easily stopped from organizing.

. . ."national identifier" cards, we can expect local police agencies to begin stopping and detaining persons simply to require production of their "national identifier" card. Those without cards will inevitably face long periods of detention and possible incarceration by INS; (4) The requirement that every worker possess a "national identifier" card appears to be a move on the part of corporate interests to monitor, control and manipulate the work force for their own purposes; (5) It can be expected that in the process of issuing "national identifier" cards Mexican/Latin-American workers will be severly discriminated against, particularly those who cannot prove their lawful residence in the U.S. Many persons may be denied access to the job market merely based on their inability to obtain a birth-certificate, or similar document, thus depriving them of access to a "national identifier" card. RECOMMENDATION: THAT NO SPECIAL LEGISLATION BE ENACTED REQUIRING WORKERS TO POSSESS ANYTHING OTHER THAN SOCIAL SECURITY CARDS AS CURRENTLY REQUIRED BY LAW.

CALL FOR NATIONAL HEARINGS

Major legislation that will impact on millions of Mexican/Latino-Americans is currently being developed by the Carter Administration. Virtually no input has been received from the communities that will be most impacted by the legislative changes currently under consideration. No experts in this area of the law outside of government agencies have been consulted. This is an "in-house" effort by a group of high officials that unless checked immediately will probably result in massive violations of civil

rights in Mexican-Latino communities throughout the United States, and in black communities on the East Coast. The federal government should realize that policies that do not have the support of the communities upon which they will impact will never be enforceable. This should be clear from the policies followed by General Leonard Chapman - he attempted massive domestic law-enforcement, at tremendous cost to the tax-payers, and with virtually no results.

The time has come to review the entire Immigration and Nationality Act of 1952, not just certain provisions concerning quotas, adjustment of status, etc. The entire law is bankrupt and needs to be overhauled. However, this task should not fall into the hands of government officials removed from the cities and fields where the problem manifests itself. Prior to the enactment of major changes in the law, national hearings should be conducted, primarily in the impacted communities of the Southwest, where community representatives and leaders can have an opportunity to provide in-put into where the law should be going. Furthermore, such national hearings should be held by a board or commission whose membership represents those who will be affected by the recommendations of such a group.

RECOMMENDATION: THAT NATIONAL HEARINGS BE CALLED TO EXAMINE THE POSSIBLE OVERHAUL OF THE ENTIRE IMMIGRATION AND NATIONALITY ACT OF 1952, AND THAT THE COMMUNITIES MOST LIKELY TO BE IMPACTED BY THE RECOMMENDATIONS COMING OUT OF SUCH NATIONAL HEARINGS SHOULD HAVE A LARGE AMOUNT OF INPUT INTO THE HEARINGS.