Southwest Regional Office for the Spanish Speaking

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MEMO

DATE: May 10, 1977

TO: Bishops in Region X and Colorado

SWROSS Executive Board

Diocesan Spanish Speaking Directors

Immigration Task Force

FROM: Lupe Anguiano Lupe Anguiano

RE: SWROSS--Activities Progress Report

A. NATIONAL ENCUENTRO--AUGUST 18-21, 1977

The National Encuentro Steering Committee (which includes all Regional Directors) met in Chicago May 3, 1977, during the N.C.C.B. meeting. Plans for the National Encuentro were finalized--Paul Sedillo will communicate these plans to the Bishops and Diocesan Encuentro Coordinators in our Region. If you don't hear from Paul within one week, write him requesting the information.

The location for the "National Encuentro" has been changed from the 4-H Center to Trinity University (close to Catholic University) in Washington, D. C.

If you need additional copies of the Encuentro booklets, please let me know. I still have a few sets left.

I am eager to hear from you concerning progress being made in your Diocese with Parish and Diocesan Encuentros.

B. IMMIGRATION

Enclosed are:

1. N.C.S.A.R. and SWROSS Immigration recommendations presented to the Honorable Leonel Castillo, Commissioner for the Dept. of Immigration and Naturalization Service. If you want a copy of the studies or support documentation for these recommendations, ask your Bishop for a copy. I send one copy to each Bishop in our Region. Mr. Castillo was very receptive to our recommendations.

2. Analysis of Immigration legislation pending in the 95th Congress prepared by the Centro de Inmigracion--please read carefully. I would like to discuss these recommendations with you as soon as possible. It is very important that we reach agreement on National Immigration Policy recommendations coming from the Southwest. I would also recommend that you review our past memos on Immigration and the Immigration resolutions resulting from the "Call to Action" Conference in Detroit.

3. A copy of the March 10, 1977, Court Order--which our office participated in obtaining. We are still working for its implementation.

SPECIAL REPORT ON MARCH 10, 1977--IMMIGRATION COURT ORDER

The major part of our SWROSS activities--these past few months (since the passage of the Elberg Bill)--have been concentrated working in and around Immigration problems. Without a doubt current immigration problems in our communities are serious. Developing immigration policies require our immediate attention and involvement.

Our office has processed more than 300 persons (all in Texas) covered by the March 10, 1977, Immigration Court Order.

An analysis of the cases which have come to our office requesting assistance shows that:

a. 90% of the cases deal with family reunification visa petitions.

b. 9% are visa petitions from U. S. citizen and legal resident on behalf of their spouse (these are not covered by Court Order).

c. 1% are visa petitions by undocumented persons who have been in the U. S. for a long time, 15 years--10 years--5 years (these are not covered by Court Order).

The cases show great neglect by both I.N.S. and the Dept. of State in processing visa requests. For example, many United States citizens who have petitioned for a visa on behalf of their spouse are undergoing unnecessary delays two or three years. Some of the most frequent excuses used by I.N.S. range from "we lost your file" to "we are investigating your case" or "we have too many cases to deal with." Dept. of State excuses are "you didn't bring the correct papers so you will have to wait for another visa appointment" (some people wait for another year or so) or another popular excuse is "your health is not good--come at another time" (some people take another health exam by their own physician who in many cases finds them in perfect health) or "your income tax papers are not in correct order" or "you don't make enough money."

I have filed several official abusive conduct complaints. Persons under the Court Order are asked to return to Mexico--their children are not allowed to remain in school, etc., etc.

Many U. S. citizens (of Mexican descent) are refused hospital and other social services because they don't bring with them birth certificates. Yet, U. S. citizens who have light or blonde hair or light skin are not asked to show identification.

I cannot express in words the seriousness of all these happenings in our communities--the fear that is being instilled among our people who are poor.

SWROSS has been fortunate in having had the assistance (volunteer) of two law students: Antonio Bustamante (Antioch Law School) and George Reyes, both from Douglas, Arizona--also attorneys Peter Shey and Tim Barker from the San Diego Law School (Alcala Park) and Soledad Herrera from San Francisco (Concilio Mujeres). Soledad stayed one month. All have helped us implement the March 10, 1977 Court Order--they all stayed at my house. Without their help our work would not have been such a success. I am now working alone again--people continue to come or call requesting assistance on immigration problems.

Expenses for the above have truly drained my budget.

BENEFITS OF COURT ORDER - Some of you have called asking further information on the Court Order. The benefits derived from the Order are:

Undocumented workers and their families become documented, thus removing the illegal label; they receive the benefit of receiving Employment Authorization (this will help them when they are examined for a visa); they can move around the U. S. without fear; their children will be admitted in school. Voluntary departure will cease to be a problem (voluntary departures might hurt aliens in President Carter's Amnesty Program).

This Court Order will probably terminate with President Carter's Amnesty Program. By that time the great majority of persons covered by the Court Order will be available for the Amnesty Program and will be in a better position to take advantage of it. Persons not covered by the Amnesty Program (we believe there may be an extremely limited number) can ask for a Hearing, at which time the accumulation of equity they have already acquired, plus employment, will assist them in a decision to stay. If the stay decision is lost at a local level, we plan to appeal to the National level for a favorable decision. If we lose this attempt, the person can still depart on a voluntary basis. We anticipate favorable decisions in all these cases. We are working closely with both Mr. Castillo and persons in the White House.

Immigration officials on the local level are strongly opposing us, which is to be expected--they fought us against having the Dept. of Justice accept the Court Order.

IMMIGRATION PROPOSALS UNDER CONSIDERATION BY PRESIDENT CARTER

Immigration Proposals being presented to President Carter contain the following:

a. Support for the Elberg Bill what is now the new 1977 Immigration Public Law (U.S.C.C. has defended this Bill in Congressional Hearings). Hispanic delegates at the "Call to Action" conference opposed this Bill and asked that it be re-called or changed, especially the work, U. S. born children provisions, the preference system and the limited 20,000 quota or 120,000 quota for the Western Hemisphere.

b. A call for partial amnesty--for alien persons residing in the U. S. for a period of five continuous years--contingent on family ties (based on new Immigration law Preference categories) and/or property ownership. We feel there is little difference between this and the seven-year U. S. residence requirement. If we study this proposal carefully, we find that the five-year residency, the family ties and/or property ownership recommendation equal or even out with the seven-year Provision.

c. Support for sanctions against employers who hire undocumented workers--the Rodino Bill Provision. We strongly oppose this measure in that this statute would institutionalize employment discrimination against our people.

d. Support for a National Identity Card, which will include Social Security number, Driver's License and brief I. D. on a person's history. Mr. Ray Marshall, Secretary of Labor, is strongly recommending this measure. Some Carter aides opposed this idea--President Carter rejected it also. This recommendation is a Police State measure.

e. There are preliminary talks about a Bracero Program. This is supported by Ray Marshall and some Mexican officials. Our community has and is strongly opposing this recommendation.

P. S. Please write to President Carter with copies to your U. S. Representative and Senator expressing your views on Immigration.

DIOCESAN IMMIGRATION WORKSHOPS

I am eager to visit your Diocese to discuss this vital issue in greater detail.

S. W. IMMIGRATION TASK FORCE

We need to have a Southwest Region Immigration meeting as soon as possible--we need to prepare to respond to Carter's Immigration Proposal--it should be released fairly soon. Please let me know if you agree with the idea of a Southwest Immigration Planning meeting. Possible date considerations could be the middle of June--where??

C. WELFARE REFORM

Enclosed is a copy of the testimony and Welfare Reform recommendations which our office provided to the Honorable Joseph Califano, Secretary of the Department of Health, Education and Welfare on March 10, 1977, in Washington, D. C. I was invited to discuss these recommendations in greater depth with Assistant Secretary for Human Development Arabella Martinez. Both Deluvina Hernandez and I attended this meeting.

TEXAS WELFARE PROJECT

Enclosed is an analysis of the Texas A.F.D.C. Employment and Education Act H.B.1755 and SB 1049 which I designed as a Welfare Reform measure for the State of Texas. The Bill passed both the Texas Senate and House floor vote. Texas SWROSS members--please write to Governor Briscoe asking him to sign the Bill.

Special thanks to Archbishop Francis Furey, Bishop Thomas Drury, Bishop Vincent Harris, Bishop Stephen Leven, Bishop John L. Markowsky, Bishop Thomas Tschoepe, and Bishop Raymond Peña for writing letters of support to the Texas legislature. These letters helped our Bill get through the committee hearings and the floor votes.

Diocese not in Texas--if you wish, I would be happy to work with you in developing a similar program in your state.

To date we (Deluvina Hernandez and I) have conducted Welfare Reform Workshops in the Diocese of Brownsville, Dallas and San Antonio. A workshop has been scheduled in Houston and El Paso. Please let me know if a Welfare Reform Workshop is of interest to you.

I have been asked by Arabella Martinez, Department of H.E.W., Assistant Secretary for Human Development, to assist her office with the review of Day Care and Title XX applications, a request I gladly accepted. The Dept. of H.E.W. pays for travel expenses.

D. TEXAS FARM WORKERS

The pilgrimage to the Austin Capitol was a big success. About one thousand supporters joined the March. Governor Briscoe of Texas and Texas Attorney General John Hill met with the Farm Workers.

The legislative hearings on the Texas Farm Workers Bill also received a great deal of support. Bishop Vincent Harris testified in support of the Bill.

Hopefully the Texas Farm Workers will start to organize a Texas campaign to involve the people of Texas in winning justice for Texas Farm Workers. We will share the plan with you as soon as we receive it.

E. OTHER IMPORTANT ITEMS

1. Diocese of Dallas

Congratulations--14 Spanish-speaking and surnamed men will be ordained permanent deacons June 4, 1977.

The support given the program by Bishop Tschoepe and Fr. Sheehan was outstanding. Sister Angela from the Mexican-American Cultural Center was also a major contribution in the success of their ordination.

2. Archdiocese of Santa Fe Encuentro Plan

The Archdiocese of Santa Fe has developed an excellent Diocesan Encuentro Plan. It is too lengthy so I am not including it in this packet. If you are interested in receiving a sample copy, please write to:

Rev. Ramon Aragon
Archdiocese of Santa Fe
202 Morningside Drive, S.E.
Albuquerque, New Mexico 87108
(505) 268-4572

3. Archdiocese of Oklahoma City

Congratulations for the successful organization of the Archdiocesan Commission for the Spanish-Speaking. The Director is Mr. Thomas Silva--Secretary for the Commission is Sally Montgomery (is Spanish-surnamed).

LA:mls

National Center for the Study of Aliens' Rights

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MEMORANDUM

FROM: PETER A. SCHEY, Attorney

TO: Leonel Castillo, NOMINEE FOR COMMISSIONER, Immigration & Naturalization Service

RE: POSITIONS AND RECOMMENDATIONS OF REPRESENTED ORGANIZATIONS (ATTACHED PARTIAL LIST), AFFILIATES, AND MEMBERS OF THE NATIONAL CENTER FOR THE STUDY OF ALIENS' RIGHTS - PROPOSALS FOR MODIFICATIONS IN IMMIGRATION LAWS, REGULATIONS AND POLICIES.

DATE: March 31, 1977

BRIEF INTRODUCTION TO NCSAR

The National Center for the Study of Aliens' Rights (NCSAR) is a broad-based community supported legal institution developed to participate in impact litigation, legislative advocacy and education, in the area of aliens' rights. The goal of the Center is to establish a legal arm available to undocumented and recently documented persons. In order to maximize it's research and technical abilities and resources, NCSAR is associated with the University of San Diego, School of Law. Centros, coalitions, organizations, and projects, located throughout the United States, provide us with consistent input concerning their experiences with government policies affecting aliens. NCSAR acts as a resource and clearinghouse center for many of these projects.

CURRENT AND ANTICIPATED AREAS OF LITIGATION AND LEGISLATIVE ADVOCACY SUPPORTED BY NCSAR AND RELATED RECOMMENDATIONS.

A. Deportation Process

I. Right to Representation.

Indigent aliens are not entitled to representation at

government expense. See, 8 U.S.C. 1252. Regulations promulgated by INS (8 C.F.R. 292.1) are overly restrictive in terms of who is allowed to represent an alien in proceedings before INS. This regulation furthermore provides unbridled discretion to INS officers in rejecting an indigent alien's choice of a non-attorney representative. While finding that deportation constitutes a "savage penalty", the United States Supreme Court has thus far held that "the rights guaranteed in criminal proceedings [e.g. right to appointed counsel] by the Fifth and Sixth Amendments do not in their strict terms apply to deportation hearing." Woodby v I.N.S., 385 U.S. 276 (1966). NCSAR is involved in litigation pending before the United States Court of Appeals, Ninth Circuit, on this issue. NCSAR assisted the Los Angeles Bar Association in a study which found that a high percentage of aliens could be successfully defended in deportation proceedings if represented therein. NCSAR is currently coordinating an effort to provide free representation to indigent aliens detained at the Alien Detention Facility in El Centro, California.

RECOMMENDATION: THE COURTS AT THIS TIME ARE RELUCTANT TO CREATE A CONSTITUTIONAL RIGHT TO REPRESENTATION IN DEPORTATION PROCEEDINGS WHILE RECOGNIZING THE HARSH RESULTS THAT MAY BE IMPOSED IN THESE MATTERS. THREE POSSIBLE APPROACHES MAY BE TAKEN BY INS: (1) A LIBERALIZATION OF THE REGULATIONS PERTAINING TO REPRESENTATION; (2) A PILOT PROGRAM OF ASSIGNING ONE OR MORE TRIAL ATTORNEYS IN EACH DISTRICT OFFICE TO ACT AS COUNSELLORS FOR INDIGENT ALIENS; (3) SUPPORT OF OUTSIDE PROJECTS AIMED AT PROVIDING INCREASED REPRESENTATION FOR INDIGENT ALIENS (E.G., MAKING OFFICE-DESK SPACE AVAILABLE IN DISTRICT OFFICES, REFERRING INDIGENT ALIENS TO SUCH PROJECTS, ETC.) SEE ATTACHMENT I, 25 pages, ENTITLED "REPRESENTATION AT DEPORTATION HEARINGS: THE CONSTITUTIONAL RIGHTS OF THE INDIGENT ALIEN" PREPARED BY NCSAR.

II. Right to Retain Documentation Pending Hearing.

The current practice of INS is to confiscate an alien's documentation once proceedings are initiated against the alien and prior to a final agency determination. It is the view of NCSAR that this practice violates the Fifth Amendment guarantee of Due Process. Once such documentation is retrieved by INS, the aliens right to work, to travel, to receive public benefits, etc., is severely restricted. This policy reflects a "presumption of guilt" which in all probability violates the alien's Fifth Amendment rights. NCSAR is ready to proceed with class-action litigation in this regard.

RECOMMENDATION: A REGULATION SHOULD BE PROMULGATED, OR AN OPERATING INSTRUCTION ISSUED, WHICH WOULD SPECIFICALLY PROHIBIT INS AGENTS FROM SEIZING AN ALIEN'S DOCUMENTATION (INCLUDING I-151, I-94, ETC., AND FOREIGN PASSPORTS) UNTIL A DECISION IS RENDERED IN AN AUTHORIZED HEARING INDICATING THAT THE ALIEN IN FACT HAS NO LAWFUL RIGHT TO POSSESION OF SUCH DOCUMENTATION.

IN THE EVENT AN ALIEN APPEALS SUCH A DECISION PURSUANT TO A SPECIFIC STATUTE OR REGULATION AUTHORIZING SUCH APPEAL, SEIZURE OF DOCUMENTATION SHOULD AWAIT OUTCOME OF THE APPEAL. IN THE ALTERNATIVE, INS SHOULD DEVELOP SECONDARY DOCUMENTATION THAT WOULD BE PROVIDED TO ALIENS WHOSE PRIMARY DOCUMENTATION IS SEIZED PENDING A HEARING ON THE ALIEN'S CONTINUED RIGHT TO POSSESS SUCH DOCUMENTATION.

III. Fifth Amendment Right Against Self-Incrimination.

See Attachment II, 18 pages, entitled "Admissibility of Confessions in Deportation Proceedings: Does Miranda Apply?" prepared by NCSAR. While some courts have allowed challenges to the admissibility of statements made by aliens who received no warnings concerning incriminating statements, the majority of judicial decisions seem to hold that Miranda type warnings are not required in deportation proceedings due to the "civil" as opposed to "criminal" nature of the proceedings. E.g., Diric v. INS, 400 F.2d 658, 661 (9th Cir. 1968). These holdings fail to recognize that a person in the United States in violation of the Immigration & Nationality Act may be liable under numerous sections of the law which provide for criminal penalties. E.g., 8 U.S.C. § 1324, 1325, 1326.

It is further interesting to note that INS utilizes a form (I-214) which specifically (and seemingly incorrectly) advises aliens that they possess "a right to remain silent." At a deportation hearing the alien is required to show the time, place and manner of his/her most recent entry into the United States.

NCSAR has interviewed virtually hundreds of aliens who allege that statements were extracted from them by INS agents following lengthy periods of intimidating and harrassing interrogation. Our experience remains that in the Deportation Hearing these statements may or may not be admitted into evidence depending on the peculiarities of the Immigration Judge presiding over the proceedings.

RECOMMENDATION: INS SHOULD PROMULGATE A REGULATION OR ISSUE AN OPERATING INSTRUCTION THAT WOULD DETAIL THE MANNER IN WHICH INS AGENTS ARE TO CONDUCT INTERROGATIONS OF ALIENS. THE REGULATION OR OPERATING INSTRUCTION SHOULD SPECIFY THAT STATEMENTS EXTRACTED IN A MANNER INCONSISTENT WITH THE REGULATION OR OPERATING INSTRUCTION WILL NOT BE ADMISSIBLE IN ANY PROCEEDINGS INITIATED BY AGENCY. SUCH A REGULATION WOULD INJECT UNIFORMITY INTO THE INTERROGATING PROCEDURES UTILIZED BY ALL INS OFFICERS AND WOULD DISCOURAGE FUTURE ABUSES.

IV. Written Reasons Should be Provided on Denials of Applications for Extension of Voluntary Departure.

An alien may be granted voluntary departure in lieu of depor-

tation. See, 8 U.S.C. § 1252 (b) and (e). Pursuant to 8 C.F.R. 242.5 voluntary departure may be granted to an alien by a District Director prior to the commencement of a deportation hearing. Pursuant to 8 C.F.R. § 244.2 an alien may apply for an extension of voluntary departure but the District Director is not required to provide written reasons upon which his/her decision is based. At least two unreported cases have recognized that an alien has a right to receive written reasons for a denial of such an application. See, Andres Silva Herrera v. Bartley, District Court for the Northern District of Illinois, 74-C-2704, and Palomares Herrera v. Bartley, District Court for the Northern District of Illinois, 75-C-3734. In contrast, an alien applying for a stay of deportation pursuant to 8 C.F.R. § 243.4, is entitled by the terms of that regulation, to receive written reasons for a denial of such an application. Failure to provide written reasons in denying applications for extensions of voluntary departure encourages arbitrary decisions on the part of INS officers, promotes "secret law", and makes review by Federal District Courts an extremely difficult task. NCSAR is in the process of litigating this issue.

RECOMMENDATION: 8 C.F.R. 244.2 AND 8 C.F.R. 242.5 SHOULD BE AMENDED BY INS TO SPECIFICALLY PROVIDE THAT DISTRICT DIRECTORS MUST PROVIDE WRITTEN REASONS SETTING FORTH THE BASIS OF THEIR DENIAL OR GRANT OF AN APPLICATION FOR EXTENSION OF VOLUNTARY DEPARTURE. SUCH WRITTEN REASONS SHOULD BE SIMPLE TO PROVIDE IF A REASONED DECISION HAS IN FACT BEEN REACHED. SUCH WRITTEN REASONS WOULD BE MORE LIKELY TO ELICIT RESPECT AND OBEDIENCE TO THE TERMS OF THE DECISION THAN WOULD AN INEXPLICABLE DECISION RECEIVED BY AN ALIEN.

V. Narcotic Offenses:

The deportation laws currently in effect allow for the deportation of an alien, regardless of the length of lawful residence in the United States and of the alien's family ties in the United States, for the simple possession of one marijuana cigarette. See, 8 U.S.C. 1251 (a) (11). Various defenses to deportation, available in non-narcotic cases (including serious charges such as murder) are not available to a lawful resident alien convicted of possession of a small quantity of marijuana. See, 8 U.S.C. § 1251 (b).

Many states have enacted laws that drastically lower penalties for simple possession of marijuana. As a result, large numbers of defendants simply enter guilty pleas and receive light penalties. The vast majority of defense attorneys, prosecutors, and judges are unaware of the devastating impact such a plea has on an alien's immigration status. The greatest number of persons effected are young immigrants who cannot accurately be characterized as "criminals."

After handling many such cases, NCSAR determined that the only approach, given the current federal law, was to initiate legis-

lation on a state level requiring judges to advise non-citizens of the consequences of such a plea. Such legislation, co-authored by NCSAR, is currently pending in California and is being pursued in other states by NCSAR. This is one of many areas in which the Commissioner could advise Congress on possible amendments to the Immigration Act.

RECOMMENDATION: THAT THE COMMISSIONER URGE CONGRESS TO AMEND SECTION 241 (a) (11) OF THE IMMIGRATION ACT IN A MANNER THAT WOULD PROVIDE CERTAIN ALIENS, WITH CERTAIN FAMILY TIES IN THE UNITED STATES, TO AVOID DEPORTATION BASED ON A MINOR CONVICTION FOR SIMPLE POSSESSION OF SMALL QUANTITIES OF MARIJUANA. SEE ATTACHMENT III FOR A COPY OF THE CALIFORNIA LEGISLATION CO-AUTHORED BY NCSAR.

VI. Detention of Aliens:

Many aliens are incarcerated pending a final decision as to their deportability.To the best of our knowledge only three detention facilities exist that are operated by INS. Conditions in these facilities are intolerable and the concept of due process simply does not exist within the walls of these camps. Aliens are generally detained hundreds of miles from their homes. Contact with the alien's family is often impossible and access to legal representation is virtually eliminated. No legal materials are available to aliens detained in these camps for possible use by aliens wishing to represent themselves.

The standards used to determine when an alien will be held in custody are contained in 8 C.F.R. 242.2. That section allows the District Directors to order detention when they determine such action to be "necessary or desirable." No further guidelines are established. The lack of definitive standards invites abuse of discretion. Furthermore, an alien once detained may apply for release to an Immigration Judge. See, 8 C.F.R. 242.2 (b). However, no standards or guidelines are provided for use by the Immigration Judge in determining what amount of bail to set or whether to release the alien on his own recognizance pending the deportation hearing.

RECOMMENDATION: THE FEDERAL BAIL REFORM ACT SHOULD BE CONSULTED AND SIMILAR CONSIDERATIONS SHOULD BE DEVELOPED INTO AMENDMENTS TO THE CODE OF FEDERAL REGULATIONS TO BE UTILIEZED IN SETTING BAIL ON DETAINED ALIENS. ALIENS SHOULD BE RELEASED ON THEIR OWN RECOGNIZANCE WHERE THEY HAVE SUFFICIENT COMMUNITY TIES TO ESTABLISH A LACK OF DISPOSITION TO FLEE THE JURISDICTION. THE COMMISSIONER SHOULD AMEND 8 C.F.R. § 242.2 TO INCLUDE SPECIFIC GUIDELINES TO BE UTILIZED BY DISTRICT DIRECTORS IN DETERMINING WHETHER TO ORDER AN ALIEN'S DETENTION. SIMILAR GUIDELINES SHOULD BE DEVELOPED FOR USE BY IMMIGRATION JUDGES IN REVIEWING ORDERS OF DETENTION.

VII. Spanish forms and other materials should be prepared by INS:

Much of the alien population that is impacted on by INS speaks only Spanish. However, the Immigration and Nationality Act, the Code of Federal Regulations, the vast majority of INS instructions to aliens and forms that must be completed to gain benefits are all printed in only the English language. This presents unusual hardship to spanish-speaking persons attempting to exercise their rights pursuant to the Immigration & Nationality Act.

RECOMMENDATION: CERTAIN PORTIONS OF THE IMMIGRATION & NATIONALITY ACT THAT ARE MOST FREQUENTLY APPLIED TO SPANISH SPEAKING ALIENS (E.G. SECTIONS 201, 202, 203, 212, 241, 242, 244 AND 245 OF THE ACT) SHOULD BE PRINTED IN SPANISH. INSTRUCTIONS AND FORMS UTILIZED BY INS SHOULD BE AVAILABLE AT ALL DISTRICT OFFICES IN SPANISH.

VIII. Board of Immigration Appeals:

The Board of Immigration Appeals is delegated authority to hear various appeals by the Attorney General. See 8 C.F.R. § 3.1 (a)(1). The Board consists of five (5) members appointed by the Attorney General. The Board has jurisdiction to hear appeals taken from deportation hearings, exclusionary hearings, and various other applications for discretionary relief. See, 8 C.F.R. § 3.1 (b). The regulations specifically provide that "oral arguement" may be had before the Board, See, 8 C.F.R. § 3.1(e). However, the Board only convenes in Washington D.C. The result is that indigent aliens from throughout the Southwest are precluded from ever having oral arguments before the Board of Immigration Appeals. This result would appear to violate the Fifth Amendment right to equal protection and due process.

RECOMMENDATION: AT A RELATIVELY LOW COST A SECOND PANEL OF BOARD MEMBERS COULD BE DEVELOPED TO SERVE IN A MAJOR CITY IN THE SOUTHWEST. THIS COULD BE ACCOMPLISHED BY AMENDING THE CODE OF FEDERAL REGULATIONS. SUCH A BOARD WOULD NOT ONLY MAKE ORAL ARGUMENT AVAILABLE TO A MUCH LARGER PORTION OF THE ALIEN POPULATION, BUT WOULD ALSO EXPEDITE MATTERS SUBMITTED TO THE BOARD OF IMMIGRATION APPEALS. IN THE ALTERNATIVE, ONE BOARD COULD BE MAINTAINED WITH THE BOARD SCHEDULING ORAL ARGUMENTS IN TWO OR MORE KEY LOCATIONS, MAXIMIZING ACCESS TO ORAL ARGUMENTS. SUCH LOCATIONS COULD BE DETERMINED BASED UPON THE RESIDENCE OF ALIENS FROM WHOM THE BOARD RECEIVES THE HIGHEST NUMBER OF APPEALS.

IX. Law Enforcement.

a) "ALIEN AFFINITY STUDY": NCSAR recently completed a study of three Southern California communities, all populated by a high percentage of Hispanic residents. The primary purpose of the study was to determine people's attitudes towards several possible

law-enforcement mechanisms that could be utilized by INS in it's efforts to locate deportable aliens. Interview data was coded, verified and analyzed through the computer facilities at the University of California, San Diego.

The essential findings were as follows: 56.5% of all interviewees stated that any effort on the part of INS to locate "illegal aliens" in their communities would result in discriminatory practices. 26.0% stated that such efforts would not result in discriminatory practices. Only 17.5% of all interviewees stated that they preferred law enforcement efforts be focused in their communities, while 50.6% stated they preferred that such efforts be focused at the International Border. 13.0% of all interviewees stated that they would be "very likely to report the presence of an "illegal alien", and 29.9% stated that they were "not at all likely" to report the presence of an "illegal alien." SEE ATTACHMENT IV, "ALIEN AFFINITY STUDY", 22 pages, prepared by NCSAR.

RECOMMENDATION: THE DOMESTIC LAW ENFORCEMENT POLICIES OF THE PREVIOUS COMMISSIONER ARE IMPRACTICAL, UNREALISTIC, AND TOO COSTLY TO THE TAXPAYERS. THESE POLICIES INCLUDED INTENSE URBAN LAW ENFORCEMENT IN AREAS OF HIGH CONCENTRATIONS OF HISPANIC PERSONS. INS HAS NOT AND WILL NOT RECEIVE THE COOPERATION OF THESE COMMUNITIES IN APPREHENDING DEPORTABLE ALIENS. URBAN LAW ENFORCEMENT CLEARLY RESULTS IN WIDESPREAD DISCRIMINATION AGAINST MANY LATINOS LAWFULLY IN THE UNITED STATES. UNDOCUMENTED ALIENS, ONCE LIVING IN URBAN AREAS, ARE LARGELY ASSIMILATED INTO THE COMMUNITY AND CAN EASILY EVADE DETECTION. URBAN LAW ENFORCEMENT THEREFORE COULD NOT BE SUPPORTED ON A COST-BENEFIT ANALYSIS. MANY PERSONS INTERVIEWED BY NCSAR INDICATED THAT OF THE MINIMAL NUMBER OF PERSONS THAT ARE APPREHENDED IN URBAN SWEEPS, MOST MAKE THEIR WAY BACK TO THESE COMMUNITIES VIRTUALLY IMMEDIATELY FOLLOWING DEPORTATION.

b) INS ITSELF HAS CREATED A LARGE PORTION OF THE SO-CALLED "ILLEGAL ALIEN" POPULATION AND SHOULD IMMEDIATELY TAKE STEPS TO DOCUMENT "DOCUMENTABLE" ALIENS

It is the finding of NCSAR that the previous administration, under the leadership of General Chapman, Commisioner of INS, has intentionally and/or negligently subverted the entire Congressional concern in implementing the Immigration & Nationality Act of 1952; Namely, the reunification of families. In 1952 and in subsequent amendments, Congress has provided for the rapid immigration of "immediate relative" of United States citizens. 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 documentable 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.

NCSAR is prepared to litigate this issue.

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.

IMMIGRATION PROCESS

a) Translation of Documents supporting Immigration Petitions.

NCSAR has become aware that various INS District Offices, in an effort to stem the tide of increasing visa petitions, recently instituted the requirement that all supporting document in Spanish for such petitions be accompanied by certified translations into English. Although 8 C.F.R. 103.2(b) provides the authority to request such translations, NCSAR is aware that this requirement was waived by INS prior to February, 1977. This shift in policy has caused great hardship and expense to persons submitting immigration petitions. The average cost of a translation is twenty (20) dollars per page. INS has previously demonstrated its ability to process documents (birth certificates, marriage certificates, divorce decrees, etc.) in the Spanish language. It is apparent that the only basis for the change in policy is the interest of the various District Offices to deter the number of Immigration petitions being filed.

RECOMMENDATION: A POLICY DIRECTIVE BE ISSUED STATING THAT FOREIGN DOCUMENTS SHALL BE ACCEPTED WITHOUT TRANSLATIONS IF SUCH DOCUMENTS CAN BE HANDLED IN THE NORMAL COURSE OF THE AGENCY'S OPERATION AND THAT THE REQUIREMENT FOR TRANSLATIONS BE MADE ONLY UPON THE BASIS THAT THERE ARE NO QUALIFIED PERSONS IN THE PARTICULAR SERVICE OFFICE ABLE TO TRANSLATE SUCH DOCUMENTS.

b) Requirement that Form I-130 must be submitted to establish eligibility for preference status when Form I-550 has already been approved - Implementation of the preference categories to Western Hemisphere Aliens.

INS has taken the position that implementation of the 1976 Amendments to the Immigration Act require that aliens who have previously filed Form I-550 for the immigration of a spouse or child must now file a Form I-130, supporting documents, and filing fee, in order to establish eligibility under the second preference category. INS has also taken the position that they will now adjudicate the authenticity of the claimed relationship. Prior to the 1976 Amendments, the United States Consulates were given the task of adjudicating such relationships. Given the current work overload of INS in processing and adjudicating visa petitions, it is apparent that these policy decisions are unreasonable. There is no reason why a new visa petition should be filed by an alien when a I-550 has already been filed establlshing the viability of the claimed relationship. It would be more efficient for INS to simply review the prior I-550 approvals and notify the Consulate that the alien now qualifies for the second preference category. Similarly, efficiency dictates that the Consulate should retain the task of verifying the authenticity of the claimed relationship.

RECOMMENDATION: IT IS NOT NECESSARY FOR AN ALIEN TO REFILE A FORM I-130 IN ORDER TO QUALIFY FOR SECOND PREFERENCE STATUS WHEN A FORM I-550 HAS ALREADY BEEN APPROVED. FURTHER, VERIFICATION OF THE RELATIONSHIP WILL BE EFFECTED BY THE CONSULAR OFFICIAL ADJUDICATING THE VISA PETITION.

c) Procedural Guarantees in the Adjudication of Visa Petitions.

In the case of Stokes v. INS (U.S.D.C.S.D.N.Y.: 74 Civ. 1022 CLB), a challenge was made to the procedure involved in the adjudication of visa petitions. The challenge basically called for the application of the procedural guarantees of the Administrative Procedure Act. The Consent Judgement in that case calls for, in part, the separation of investigatory and adjudicatory process, a verbatim record of the hearing, right to representation at all times, right to call witnesses and cross-examine adverse witnesses, disclosure of investigative reports, specific reasons for the denial of a petition, and the stay of deportation of the alien spouse pending the determination of the petition.

RECOMMENDATION: THE STANDARDS OF THE CONSENT JUDGEMENT IN STOKES v. I.N.S. BE IMPLEMENTED ON A NATIONWIDE BASIS.

d) Extended Voluntary Departure to Documentable Aliens.

As previously noted above, hundreds of thousands of documentable aliens are currently residing in the United States not yet in possession of their documentation due to illegal administrative delays by INS. Title 8, Section 1252(b) and 8 C.F.R. 242.5 allow for the granting of voluntary departure prior to the commencement of a deportation hearing. Operating Instruction 242.10, which in part implements this authority, was recently up-dated to provide that immediate relatives and the unmarried sons and unmarried daughters of permanent resident aliens can be given extended voluntary departure until their visa appointments at the Consulate are available. The up-date extended this right only to such aliens who had the appropriate relationship and were in the United States on or before December 31, 1976. The update excluded from this benefit the spouses of permanent resident aliens who were included under the prior Operating Instruction. Given the administrative delays in the processing and documentation of alien beneficiaries by INS, and the hardships caused by family separation, the Operating Instruction should be amended to allow for the granting of extended voluntary departure to all immediate relatives and the spouses, sons and daughters of permanent resident aliens in the United States, regardless of the time of entry or establishment of the relationship.

RECOMMENDATION: OPERATING INSTRUCTION 242.10 BE AMENDED TO PROVIDE FOR INDEFINITE VOLUNTARY DEPARTURE FOR ALL IMMEDIATE RELATIVES OF UNITED STATES CITIZENS AND SPOUSES, SONS AND DAUGHTERS OF LAWFUL PERMANENT RESIDENT ALIENS. IN EFFECT NCSAR HERE RECOMMENDS THAT ALL DOCUMENTABLE ALIENS (I.E., ALIENS DOCUMENTABLE UNDER EXISTING LAWS), BE ALLOWED TO REMAIN IN THE UNITED STATES PENDING PROCESSING OF THEIR APPLICATIONS. THIS APPROACH REALISTICALLY APPRAISES THE PROBLEM, RECOGNIZES THESE ALIENS WILL IN ALL PROBABILITY NEVER BE APPREHENDED, AND WOULD ALLOW THIS GROUP OF DOCUMENTABLE ALIENS TO EMERGE FROM THE UNDERGROUND EXISTANCE THEY ARE NOW FORCED TO LEAD.

e) Employment Authorization.

The current INS practice of granting "employment authorization" is without standard or regulation and is administered in an arbitrary and capricious manner. The failure of INS to develop regulations concerning this fundamental right has caused great hardship and confusion in the alien community.

The denial of employment authorization to aliens awaiting documentation has forced many into the receipt of public assistance, thus jeopordizing their future admissibility for permanent residence. It has forced other aliens into electing to continue in

unauthorized employment to support their families thus giving up the opportunity to adjust their status in the United States pursuant to the 1976 Amendments to the Immigration & Nationality Act.

NCSAR is aware of many ad hoc policy determinations concerning work authorization. For example, denial of work authorization to persons protected by Preliminary Injuction issued in Silva v. Levi, Unites States District Court, Northern District of Illinois, No. 76 c 4268; the denial of work authorization to aliens qualified for suspension of deportation relief (Section 244 of the Act) who INS has no intention of deporting.

RECOMMENDATION: RULEMAKING PROCEEDINGS UNDER 8 C.F.R. 100.6 BE INITIATED TO DEVELOP STANDARDS FOR EMPLOYMENT AUTHORIZATION. SUCH GUIDELINES WOULD CREATE UNIFORMITY IN DECISION-MAKING, WOULD DISCOURAGE ABUSE OF DISCRETION, AND WOULD ENCOURAGE ALIENS TO ABIDE BY INS DECISIONS IN THESE MATTERS.

MISCELLANEOUS MATTERS

I. Legislation Introduced before the 94th Congress Concerning Aliens:

NCSAR has prepared a summary of all legislation introduced in the 94th Congress relating to aliens. A copy of that study if affixed hereto as Attachment V, for your interest and review.

II. Hiring of Hispanics and Women:

NCSAR is currently involved in administrative proceedings that will probably lead to class-action litigation on the issue of INS employment discrimination against Hispanics and women. Virtually every organization represented by NCSAR agrees that INS practices such discrimination and recognize the negative impact such practices have on the alien population impacted by INS agents. NCSAR recommends that the Commissioner thoroughly re-examine the hiring and promotion practices of INS. NCSAR further recommends that INS intensify it's human relations training programs, particularly for officers stationed at the various ports of entry along the international border fronting Mexico.

III. Penalizing Employers for Hiring Of Undocumented Workers:

NCSAR is in the process of completing an exhaustive study of the history of prior efforts (both state and federal) to enact laws penalizing employers for hiring undocumented workers. We can only report preliminary findings and recommendations at this time.

RECOMMENDATION: EMPLOYERS ARE NOT QUALIFIED TO COMPETENTLY ASSESS A WORKER's IMMIGRATION STATUS. KNOWLEDGE OF HUNDREDS OF LAWS, REGULATIONS, ADMINISTRATIVE AND JUDICIAL INTERPRETATIONS IS NECESSARY IN ORDER TO MAKE REASONABLY ACCURATE DETERMINATIONS OF AN ALIEN'S RIGHT TO REMAIN IN THE UNITED STATES. ULTIMATELY THIS DECISION CAN ONLY BE MADE BY AN IMMIGRATION JUDGE IN DEPORTATION PROCEEDINGS. EMPLOYERS SHOULD NOT BE REQUIRED TO MAKE A PREDETERMINATION ON SUCH A COMPLEX QUESTION. SUCH LEGISLATION RESULTS IN NUMEROUS INCIDENTS OF RACIAL DISCRIMINATION AGAINST SPANISH-SPEAKING PERSONS AND WORKERS NOT IN POSSESSION OF PROOF OF CITIZENSHIP OR LAWFUL RESIDENCE. SMALLER COMPANIES/CORPORATIONS, THAT DO NOT HISTORICALLY RELY ON UNDOCUMENTED WORKERS, ARE THE MOST LIKLY TO AVOID POTENTIAL LIABILITY BY DISCRIMINATING AGAINST THIRD WORLD WORKERS. LARGER CORPORATIONS, THAT HISTORICALLY DO RELY ON UNDOCUMENTED WORKERS, WILL NOT BE DETERRED BY THE TYPE OF LEGISLATION PREVIOUSLY INTRODUCED IN CONGRESS (E.G., RODINO AND EASTLAND BILLS) DUE TO THE NEGLIGIBLE PENALTIES PROVIDED. SUGGESTED SANCTIONS WOULD NOT ALTER EXISTING MARGINAL COST-REVENUE FACTORS. OUR ANALYSIS OF LEGISLATION INTRODUCED IN THE 94th CONGRESS FURTHER INDICATES THAT ENFORCEMENT TECHNIQUES WOULD BE LARGELY UNMANAGEABLE. A COST-BENEFIT ANALYSIS OF SUCH LEGISLATION WOULD NOT JUSTIFY THE LARGE INVESTMENT OF PUBLIC FUNDS INTO ENFORCEMENT MECHANISMS WHEN CONTRASTED WITH THE MINIMAL IMPACT SUCH LAW WOULD PRODUCE ON THE LABOR MARKET. STUDIES CONCLUDING THAT UNDOCUMENTED ALIENS DISPLACE AMERICAN WORKERS NEED TO BE REEVALUATED IN LIGHT OF CONTRASTING STUDIES THAT CONCLUDE THAT UNDOCUMENTED WORKERS CREATE SURPLUS VALUE AND JOBS, PAY MORE IN TAXES THAN THEY DRAW IN GOVERNMENTAL BENEFITS, AND GENERALLY DO NOT AVAIL THEMSELVES OF SOCIAL SERVICES. OTHER POSSIBILITIES, SUCH AS CONSISTENT ENFORCEMENT OF MINIMUM WAGE LAWS, NEED TO BE EXPLORED. THE IMPACT OF LARGESCALE FOREIGN INVESTMENT IN MEXICO NEEDS TO BE EXAMINED TO DETERMINE EFFECTS ON THE MASS MOVEMENT OF WORKERS BOTH NATIONALLY AND TRANS--NATIONALLY.

CENTRO DE INMIGRACION
GEORGETOWN UNIVERSITY LAW CENTER
600 NEW JERSEY AVENUE, N.W.
WASHINGTON, D.C. 20001

April 14, 1977

Dear Friends:

Enclosed is a copy of the current monitoring report prepared by Centro de Inmigracion. The report provides a status review of immigration activity currently pending in state or federal legislative bodies or in the courts. Monitoring of state activities principally address Rodino-type legislative proposals because of the present drive by state and local governments to adopt such legislation.

The monitoring report is made available to groups and individuals whose work invovles immigration. The reports are designed to assist you in staying abreast of current immigration developments and of informing the community.

We will continue to send you reports as they become available. If you know of any other group or organization that may benefit from this service, please forward their name and address to us so that they may be included in the mailing list.

We will appreciate any information from your area regarding immigration. Although our state monitoring activity centers upon Rodino-type bills, we are interested in other developments as well. Your input and assistance will help to make the monitoring service more effective. We look forward to hearing from you soon.

Sincerely,

José Medina

Jose Medina
Director

enclosures

CENTRO DE INMIGRACION
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MONITORING REPORT

April 1977

MONITORING REPORT ON CONGRESSIONAL BILLS IN IMMIGRATION.

The following chart indicates those bills dealing with immigration which have been presented to the 95th Congress. The 95th Congress was convened in January of 1977. Any bills that had been either in Committee or on the House or Senate floor during the 94th Congress cannot be considered unless presented as new bills to the 95th Congress. At present, Senator Kennedy's and Senator Eastland's bills dealing with penalties for employers knowingly hiring undocumented workers and with amnestly have not yet be presented, after having died in the 94th Congress.

All of the bills shown on the chart are presently being considered by the House and Senate subcommittees on immigration. None of them has yet gone through mark-up, the first stage before a bill is presently to the full Judiciary Committees.

The Congress is presently on recess for two weeks. In addition, most committees are presently concentrating on organizations plans and on confirmation hearings. So it can be anticipated that no immediate action will take place on any of the immigration bills listed.

SENATE IMMIGRATION BILLS
95th Congress

NUMBER	SPONSOR	DESCRIPTION	STATUS OF BILL
S. 68	Cranston (D-California)	To increase Western Hemisphere quota to 130,000. To increase the maximum number of visas each foreign state may receive to 50,000.	In Subcommittee. Awaiting Reports from State Department and Attorney General.
S. 158	Cranston (D-California)	To allow aliens with no more than one violation for marijuana to be admissible to the U.S.	In Subcommittee. Awaiting reports from State Department and A.G.
S. 993	Packwood (R-Oregon)	To penalize employers who knowingly hire undocumented aliens. Criminal penalities for first offense.	In Subcommittee.

HOUSE BILLS ON IMMIGRATION
95th Congress

NUMBER	SPONSOR	DESCRIPTION	STATUS OF BILL
H.R. 197	Bingham (D-New York)	To penalize employers who knowingly hire undocumented workers. Civil penalities for first violation, increasing to criminal. Contains provisions for HEW disclosure to INS of aliens receiving Social Security benefits unlawfully.	In the Judiciary Committee (Immigrat Subcommittee)
H.R. 324	de la Garza (D-Texas)	To prohibit the relocation of the Border Patrol Academy maintained by INS at Los Fresnos, Texas to Glynco, Georgia	In the Judiciary Committee (Immigrati Subcommittee)
H.R. 409	Holtzman (D-New York)	To expand the definition of child to include children of natural fathers.	In the Judiciary Committee (IMM. Subc
H.R. 1024	Murphy (D-New York)	To establish a Board of Visa Appeals for persons claiming immediate relative preference status. To make 12,000 refuge visas available yearly, notwithstanding numerical limitations. To limit deportation to activities not less than ten years before deportation proceedings began, except for fraud. To establish a Select Commission on Nationality and Naturalization to study judicial decisions and policy and operation of the INA.	In the Judiciary Committee (Immigration Subc.)
H.R. 1481	Devine (R-Ohio)	To eliminate the procedures for voluntary departure of those aliens entering without inspection and to increase the penalties for the illegal entry of aliens.	In the Judiciary Committee (Immigration Subc.)
H.R. 1663	Eilberg (D-Pennsylvania)	To penalize employers who knowingly hire undocumented workers. Civil penalties for first violation, going to criminal after the third violation. Amnesty for persons in U.S. since 1968 who were spouse, parent or child of citizen or lawful alien,	In the Judiciary Committee (Immigration Subc.)

NUMBER	SPONSOR	DESCRIPTION	STATUS OF BILL
H.R. 2388	Broomfield (R-Michigan)	To provide for deportation of any alien who receives welfare benefits as a result of causes not affirmatively shown to have arisen after entry.	In the Judiciary C. (Immigration Subc.)
H.R. 4338	Badillo (D-New York)	To provide for a record of admission for permanent residence for aliens who entered the US prior to July 4, 1976 and who are not excludable because of crime, immorality or subversion.	In the Judiciary Committee (Immigration Subc.)

I. Introduction

Though the U.S. Supreme Court on numerous occassions has ruled that immigration is an exclusive area for federal regulation and that states are preempted from this field, states have nonetheless promulgated laws regulating the activity of immigrants and most notably in recent times, that of undocumented immigrants. The closest the U.S. Supreme Court has gotten to permitting such state laws occurred in DeCanas v. Bica, ___U.S.___,96 S.Ct. 933 (1976)(statute punishes employers who hire undocumented immigrants). Though the Supreme Court held that the state was not preempted, it did not resolve the issue of whether a federal/state conflict existed. As a result, the California statute (Labor Code Sec. 2805) litigated in DeCanas has never been implemented. Certain groups in California, however, have called for the enforcement of the California statute even though its constitutionality has not been completely settled (see, "Enforcement of Alien Law Recommended", San Diego Tribune, Feb. 23, 1977).

It should be noted that the introduction of state Rodino-type laws spread like wild fire across the country after the introduction of the California law and more so after the incomplete decision in DeCanas was rendered. A similiar trend could occur with the current controversy in Texas concerning a state law which denies free public education to undocumented immigrant children.

II. State Rodino-type Legislation

A. Caifornia
   1. Labor Code Sec. 2805(prohibits hiring of undocumented immigrants), enacted 1971.
   2. Status - Defendant's injunction has kept that law from being enforced. Court decision of conflict issue still pending.

B. Texas
   1. Wallace/Hall Bill (prohibits hiring of undocumented immigrants), introduced in House FEbruary 1, 1977.
   2. Legislative hearing being held. Heavy opposition from

Hispanic community lead by Leonel Castillo(Houston). See news articles: "Alien Bill Introduced", El Paso Post, Feb. 2, 1977; "Bill Would Fine Texans $500 to $2000 For Hiring Illegal Aliens", Houston Chronicle, Feb. 2, 1977; "Hall Says He'll Fight Against Illegal Alien Bill", Laredo Times, Feb. 17, 1977; "Rep. Wallace says Exemptions Needed if Alien Bill To Pass", Houston Chronicle, Feb. 13, 1977; "Area Mexican-American Leaders Oppose Illegal Alien Legislation", Houston Post, Feb. 12, 1977; "Illegal Alien Legislation Too Broadly Drawn", Editorial, Houston Post, March 24, 1977.

C. Delaware
   1. Law prohibiting employment of undocumented immigrants (Title 19, Chapt. 7, Section 705, Del.Code), enacted July 7, 1976.
   2. Status - not available (n/a)

D. Kansas
   1. Public Law No. 275 (prohibiting employment of undocumented immigrants), enacted May 10, 1972.
   2. Status - n/a

E. Massachusetts
   1. House Bill No. 4701 (prohibiting employment of undocumented immigrants), introduced 1976.
   2. Status - n/a

F. New Hampshire
   1. House Bill No. 42 (prohibiting employment of undoucmented immigrants) introduced 1976.
   2. Status - n/a

G. Colorado
   1. Bill introduced by Rep. Sam Zakhem (prohibiting employment of undocumented immigrants) Feb. 8, 1977.
   2. Status - Hearing being held. See news article: "Proposal Aims to Pressure Firms Hiring Illegal Aliens", Rocky Mountain News (Denver), Feb. 9, 1977.

H. Indiana
   1. H.B. 1306 (prohibiting employment of undocumented immigrants), introduced around FEb. 7, 1977.
   2. Status - Hearings being held. See news article: "Bill Would Outlaw Hiring Illegal Aliens", Indianapolis Star, Feb. 8, 1977.

I. New Jersey
   1. Bill introduced by Rep. Owens (prohibiting employment of undocumented immigrants) around Jan. 1977.
   2. Status - Hearings being held. See news article: "Bill Seeks to Control Illegal Alien Workers", Star-Ledger, Feb. 1, 1977.

J. Rhode Island
   1. Sen. Bill 77-S-4 (prohibiting employment of undocumented immigrants). Passed Senate March 11, 1977, sent to House.
   2. Status - Hearings being held in House. Widespread Hispanic opposition. See news articles: "Hearings Held on Rhode Island Bill Prohibiting Hiring of Illegal Aliens", Provider Journal-Bulletin (Prov.,R.I.), Feb. 25, 1977; "Bill Setting Fine for Hiring Aliens CAll Discriminatory", Prov. Journal-Bulletin, Feb. 25, 1977; " Hispanics Score Alien Fine Bill", Prov. Journal-Bulletin, Feb. 24, 1977; "Illegal Alien Job-Curb Bill Passes Senate", Prov. Journal-Bulletin, March 12, 1977.

K. Illinois
   1. Bill introduced by Rep. Skinner (prohibiting employment of undocumented immigrants), Feb. 12, 1977.
   2. Status - n/a. See news article: "Bill Would Ban Illegal Aliens", Aurora Beacon News, (Aurora,Ill.) Feb. 13, 1977.

L. Nebraska
   1. LB 507 (prohibiting employment of undocumented immigrants) introduced around March 5, 1977.
   2. Status - Hispanic opposition. See news article: "Delay Urged on Alien Hiring Bill", Omaha World-Hearld (Omaha,Neb. March 10, 1977.

M. Nevada
   1. SB 278 (Sen. Hernstadt)(prohibiting employment of undocumented immigrants), introduced Feb. 25, 1977.
   2. Status - n/a. See news article: "Alien Bill Introduced", Las Vegas Review-Journal, Feb. 26, 1977.

N. City Ordinance of Las Vegas, Nevada
   1. Chapter 13, Sec. 6-13-2 (prohibiting employment of undocumented immigrants) enacted 1976.
   2. Status - n/a.

III. State Court Litigation

A. Hernandez v. Houston Independent School District, No. 253-854 (Travis County District Court, 53rd Dist.)

Plaintiffs brought suit in state court to declare unconstitutional a state law which denies free public education to undocumented immigrant children (Education Code Sec. 21.031). This law was enacted by the State of Texas on June 6, 1975. The plaintiffs (undocumented immigrant parents) cite both state and federal constitutions as basis for relief.
On February 7, 1977, District Court rendered judgment for defendants. Plaintiffs have appealed to state civil appeals court. They are prepared to take it to state supreme court and to U.S. Supreme Court.
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MONITORING REPORT ON UNITED STATES SUPREME COURT

I. NEW COURT DECISIONS

A. Chavez-Salido v. Cabell (USDC,CAL)(3-judge court)(U.S.Sup.Ct. decided 2/3/77)

The Supreme Court declared unconstitutional a California statute which required that probation officers be U.S. citizens. The California statute was used to deny three permanent residents employment as probation officers. The court held that a state statute or regulation classifying citizens and noncitizens and attaching disabilities to noncitizens involves a "suspect classification." The court held that state discrimination against a member of a suspect class could be justified only on "compelling state interests" grounds. The compelling state interest advanced in Chavez-Salido involved the state power to define its "political community." The court held that the requirement of citizenship for "political community" reasons is applicable and confined to high policymaking positions. The court found no adequate justification for the statutory discrimination against permanent residents and also found the statute too broad in scope.

II. CASES RECENTLY FILED

A. Shin v. INS (9th Cir.)(filed with S.CT. 2/2/77)
False testimony to obtain benefit under INA disqualifies alien from receiving such a benefit. The alien in this case was found to have falsely represented to an American counsel abroad the purpose of his travel to the U.S. when he obtained a nonimmigrant visa. The INS, however, recognized the alien's eligibility for the privilege of voluntary departure in lieu of deportation, but at the same time denied as a matter of discretion alien's application for adjustment of status.

B. Levc v. Connors, 555 P.2d 750 (1976)(filed 2/4/77)
Statute of limitations for bringing action to recover property which has escheated to the state applied to plaintiffs (Yogoslavian citizens and residents). However, tolling provision was statutorily limited to citizens. Dissenting judge argued that there is no basis for discrimination.

III. HEARINGS SCHEDULED

Nyquist v. Mauclet (writ of appeal from USDC W+ENY)
406 F Sup 1233

A three judge federal district court declared New York State's financial aid policy unconstitutional. The state restricted financial aid to citizens and permanent resident aliens who intended to become citizens. The court pointed out that other aliens pay taxes, register for the draft and otherwise contribute to the community. Further, the court found that the state had no compelling interest in denying other aliens aid. Therefore it held that the policy violated the equal protection clause of the Fourteenth Amendment.

IV. CERTIORARY DENIED

Okabare v. INS (CA 6)

Court of appeals lacked jurisdiction to hear petition for review in an exclusion hearing.

V. DECISION EXPECTED

Fiallo v. Bell (argued 12/7/76) 75-6297
(appeal from USDC ENY)

A three judge district court held that Sec. 101 (b)(1)(D) and 101(b)(2) of the Immigration and Nationality Act of 1952 do not violate due process. It had been argued that it was unconstitutional to exclude the relationship between an illigitimate child and its natural father from the preferences accorded by the act to such a child and its mother. The court based its decision in part on the difficulty of proving a relationship and the consequent opportunity for fraud.

Hulse-Guerrero v. Immigration and Nationalization Service, 548 F. 2d 846 (2d Cir. 1977)

Plaintiff was denied request for discretionary relief by the Board of Immigration Appeals, under 8 U.S.C. 1251 (f), 1254 (e) and 1255.

The Court of Appeals held that in view of the amendments abolishing different treatment of Western and Eastern Hemisphere aliens, petitioner was entitled to apply for discretionary relief. The application for adjustment of status was permitted.

Lok v. Immigration and Nationalization Service, 548 F.2d 37 (2d. Cir. 1977)

Petition for review of order for deportation. Board of Immigration Appeals found the petitioner was ineligible for discretionary waiver of exclusion.

The Court of Appeals held that even though the petitoner had not accumulated seven years of residence in the United States since his admission to permanent resident alien status, he was nonetheless eligible for discretionary relief afforded by the Immigration and Natinality Act sec. 212 (c).

Pierre v. United States, 547 F. 2d 1281 (C.A. Fla. 1977)

Haitan Refugees sought a writ of habeas corpus, challenginf the denial of parole request as political refugees. The district court denied relief and aliens appealed.

The Court of Appeals held that the INS had not abused its discretion in refusing refugee status to aliens. Further, the United Nations 1967 Protocol Convention relating to the status of refugees left INS procedure for determining refugee status intact.

Vissian v. Immigration and Naturalization Service, 548 F. 2d 325 (10th. Cir. 1977)

Alien sought review of final order of deportation. The Court of Appeals held that the Attorney General may pretermit ruling on eligibility of alien to seek a discretionary waiver of excludibility if the Attorney General determines that such relief would not be granted in any event.

The Attorney General may not use his pretermission of the eligibility decision as a guise for pretermitting a hearing on the factual grounds for excercising his discretion. The order was vacated and the case remanded to the Board of Immigration Appeals.

Langoria-Castenada v. Immigration and Naturalization Service, 548 F. 2d 233 (8th Cir. 197

Alien sought review of order of deportation. The Board of Appeals had found that the alien had been guilty of knowingly aiding and abetting others in the commission of an illegal entry into the United States. The permanent reisent alien had done so for gain and the aliens actions occured within five years after lawful entry into the United States.

The Court of Appeals affirmed and found the deportation order proper.

David v. Immigration and Naturalization Service, 548 F. 2d 219 (8th Cir. 1977)

Alien entered the United States as a nonimmigrant spouse of a temporary worker. Alien sought review of order compelling petitioner's voluntary departure in lieu of deportation. Since entry alien had studied and been certified as a practical nurse. Alien had applied but had been denied labor certification. While awaiting the response of the Labor Dept. the alien had worked for 8 days at a nursing home. The Border patrol found the alien had worked against the conditions in his nonimmigrant visa and withdrew the visa from the petitioner.

The Court of Appeals upheld the order for a voluntary departure but expressed a deep concern for such a harsh action and stayed its order for 90 days while the petitic was to file with the INS district director for a "deferred action category".

Cacho v. Immigration and Naturalization Service, 547 F. 2d 1057 (9th Cir. 1977)

Petition for review of order of deportation. Alien had been admitted to the United States as a permanent reident alien as an immediate relative of U.S. citizen. Both he and his U.S. citizen spouse were lawfully married to other spouses at the time the application was granted. Since then Cacho had divorce his previous spouses and married a permanent resident alien. Cacho filed a motion to reopen the termination claiming exception from deportation under sec. 241 (f) of the Immigration and Nationaliza ion Act.

The Court of Appeals held that an alien charged with entering the United States for the purpose of performing labor without a certificate from the Department of Labor did not fall within the waiver provision and thus was subject to being deported.

Aliens who were otherwise admissible under a waiver of deportation provision, might not be excludable by virtue of their fraudulent misrepresentations and lack of valid entry documents, on this issue the case was remanded.

Kashani v. Immigration and Naturalization Service, 547 F. 2d 376 (7th Cir. 1977)

Petition for review of a deportation order. The Court of Appeals held that if an alien seeks to avoid deportation based on a fear of persecution, he must demonstrate he has been a victim of persecution and that his fear is more than a mere conjecture.

DeLeon v. Immigration and Nationalization Service, 547 F. 2d 142 (2d Cir. 1976)

Petition to review an order for deportation. The alien had been found guilty of impersonating a resident alien. The Court of Appeals held that he was not entitled to a waiver of deportation under sec. 241 (A)(5)(f) because his deportability was based on fraud at the time of entry. The waiver was not intended for criminal conduct set forth in the Immigration and Nationality Act, when that same offense was also a ground for deportability. Further the court said that sec. 241(A)(5)(f) is to be narrowly construed.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

REFUGIO SILVA, ELVIRA SILVA, SALVADOR MERCADO, MARIA MERCADO, DONATO GUTIERREZ, MARGARITA GUTIERREZ, MARIO TORRES, RAMONA TORRES, individually and on behalf of all others similarly situated,

and

GABRIEL SILVA and GUADALUPE SILVA, by their parents and next friends, REFUGIO SILVA and ELVIRA SILVA; JULIE CRISTINA MERCADO, SALVADOR MERCADO, JR., and EDGAR ANTONIO MERCADO, by their parents and next friends, SALVADOR MERCADO and MARIA MERCADO; MARIA IRIS GUTIERREZ and JOSE JUVENAL GUTIERREZ, by their parents and next friends, DONATO GUTIERREZ and MARGARITA GUTIERREZ; and MARIO TORRES, JR., by his parents and next friends, MARIO TORRES and RAMONA TORRES,

Plaintiffs,

v.

EDWARD LEVI, as Attorney General of the United States; UNITED STATES DEPARTMENT OF JUSTICE; HENRY KISSINGER, as Secretary of the United States Department of State; UNITED STATES DEPARTMENT OF STATE; LEONARD CHAPMAN, as Commissioner of the Immigration and Naturalization Service; THE IMMIGRATION AND NATURALIZATION SERVICE; DAVID VANDERSALL, as District Director of the Chicago District of the Immigration and Naturalization Service,

Defendants.

CIVIL ACTION

NO. 75 C 4268

TEMPORARY RESTRAINING ORDER

This cause having come before this court on Plaintiffs' motion for a temporary restraining order, and it appearing from

the record on the basis of Plaintiffs' complaint, and documents submitted in support of Plaintiffs' motion for a temporary restraining order and preliminary injunction that members of the class certified by this court on January 19, 1977 are now being subject to the immediate threat of forced departure for deportation from the United States causing them irreparable harm by depriving them of their homes, property, employment, and residence in the United States and by disrupting their family lives; and that Plaintiffs have satisfied this court that they have a reasonable probability of success on the merits on the basis of the supporting documents which show that the Defendants have admitted the illegality of their policy of charging Cuban refugees issued visas under the Cuban Adjustment Act of November 2, 1966, Pub.L. 89-732, 80 Stat. §§1101 et seq., to the Western Hemisphere annual numerical limitation (quota) established by the Immigration and Nationality Act, 8 U.S.C. §§1101 et seq., Pub.L. 89-236, §21e (October 3, 1965); resulting in long delays in the consideration of Plaintiffs' and their class members' visa applications, further resulting in the forced departure of such persons who would otherwise be entitled to immediate consideration of their immigrant visa applications at final visa interviews; and it appearing that entry of this order will cause no adverse effects to the Defendants in light of the previous issuance of the January 18 and 31, 1977 directives by the Defendants, which incorporate similar relief to the Plaintiffs' class, and for the same reasons it appearing that the order has no negative public policy implications; and there being great potential harm to

those class members who would otherwise be entitled to immediate final visa interview, but for Defendants' conduct,

NOW THEREFORE it is hereby ORDERED, ADJUDGED, AND DECREED:

That Defendants must permit all persons from the Western Hemisphere who have priority dates between July 1, 1968, and December 31, 1976, inclusive, i.e. members of Plaintiffs' class, to remain in the United States, and that Defendants be further ordered to suspend any and all expulsion actions directed at members of Plaintiffs' class as heretofore described, regardless of the stage of expulsion proceedings, including, but not limited to, detaining said persons, requiring them to post bonds, issuing to them orders to show cause, holding deportation hearings in their cases, entering deportation orders in their cases, terminating their voluntary departure, issuing warrants of deportation, denying stays of deportation, issuing bag and baggage letters (Form I-166), or otherwise causing or requiring the departure of said persons from the United States and/or failing to inform said persons that pursuant to this order they are not required to depart the United States until further order of this court. Exceptions may be made in cases of aliens clearly ineligible for visas or where an alien's presence in the United States would be contrary to the national interest or security. In these cases the exception must be authorized by the Regional Commissioner and all the reasons for the exception must be stated in writing and forwarded by the Regional Commissioner by certified mail, return receipt requested, to the alien and his attorney or authorized representative 30 days prior to the taking of any of the aforementioned actions against said persons.

Defendants are further ordered to immediately communicate in writing the text of this order to the central office of Defendants Immigration and Naturalization Service (hereinafter "INS") the INS regional, district and sub-district offices, and to all INS officers and to supply each member of the class who is or will be on docket control or subject to expulsion or deportation proceedings with a copy of the attached Notice in English and Spanish, marked as Exhibit A.

This Temporary Restraining Order is entered without requirement that Plaintiffs or the members of their class post bond or security for costs or damages.

ENTER ORDER:

John F. Grady

JOHN F. GRADY, District Judge

Date: MAR 10 1977

IMPORTANT NOTICE

Date:

Re: Name _____
A- _____

Due to a court order in Silva v. Levi, 76 C 4268, entered by District Judge John F. Gracy in the District Court for the Northern District of Illinois, we are taking no action on your case until further order from the court. This means that you are permitted to remain in the United States without threat of deportation or expulsion until further notice.

_____
District Director/
Officer in Charge

Southwest Regional Office for the Spanish Speaking

2114 W. Commerce St.
P. O. Box 7306

San Antonio, Texas 78207
(512) 224-7526

WELFARE REFORM HEARINGS
DEPARTMENT OF HEALTH, EDUCATION AND WELFARE
WASHINGTON, D. C.
March 10, 1977

My name is Lupe Anguiano, founding member and Welfare Task Force chairperson of the National Women's Political Caucus. I am also Executive Director of the Southwest Regional Office for the Spanish Speaking (a project of the National Council of Catholic Bishops in Region X). I am here to testify in this capacity. I will limit my remarks to the A. F. D. C. (Aid to Families with Dependent Children) program.

For the past five years our office in a special Welfare Project has been working closely with Women Heads of Families receiving A. F. D. C., by assisting them find a way out of the Welfare Rolls. The overall majority of these women agree with the General Public that the current A. F. D. C. Welfare System is beyond repair and needs to be completely reorganized; its emphasis and focus must be radically changed. The recommendations that I will be sharing with you today are ideas that originated from these and other women receiving A. F. D. C. throughout the country.

A cost analysis of one State's A. F. D. C. program demonstrated that this particular State spends more than $15,000.00 (counting Federal, State and local administrative costs) annually per A. F. D. C. family to provide $3,600.00 in services (includes grant, food stamps, day care, medical services, etc.). I feel confident, Mr. Secretary, if you assessed program administrative costs in other States, the outcome would be the same. A. F. D. C. administrative costs far outweigh the service benefits to a needy family.

My first recommendation is that the A. F. D. C. program be separated and treated differently from other Welfare Programs; that the A. F. D. C. focus change from providing services to children to assisting heads of

families on A. F. D. C. to become self-support ing. The main reason for this recommendation is that approximately 95% of all the nation's A. F. D. C. recipients are women heads of families; the overall majority are healthy, (before they began receiving A. F. D. C.) intelligent and many are young. On the other hand all other Welfare programs provide assistance to persons due to a physical disability or mental handicap.

THE SOLUTION TO RESOLVING THE MANY A.F.D.C. PROGRAM PROBLEMS IS BASICALLY TO ASSIST WOMEN HEADS OF A FAMILY BECOME ECONOMICALLY SELF-SUFFICIENT SO THAT SHE MAY BE ABLE TO SUPPORT HER FAMILY WITH DIGNITY AND RESPECT. IN OTHER WORDS, I THINK IT HAS BEEN A MISTAKE TO FOCUS A NATIONAL PROGRAM ON PROVIDING SERVICES TO CHILDREN WHILE IGNORING THE ECONOMIC STABILITY, THROUGH EMPLOYMENT OPPORTUNITIES, OF THE FAMILY HEAD WHO SHOULD BE THE FAMILY PROVIDER.

In my estimation a "National A. F. D. C. Income Maintenance Program" to succeed must:

First - Assure a woman and her family an adequate monthly income. Such an income should be determined by each State's current cost of living. In developing a policy in this regard, of prime importance is that a woman and her family not be trapped in a cycle of poverty.

Second - Be coupled with an effective Employment and Education Opportunities Program such as Continuing Career Education, Job training in such areas as non-traditional fields. The Employment Component to the Income Maintenance System should assure that women enter into a high enough wage scale to assure economic security. If this phase is well organized women would most likely remain on A. F. D. C. at the most five years, some less.

Third - Provide comprehensive supportive services such as Day Care, Health, Transportation, etc. to assure the success of the Employment and Education phase.

THE TEXAS WOMEN'S POLITICAL CAUCUS AND OUR OFFICE HAVE SUCCEEDED IN HAVING THE TEXAS LEGISLATURE CONSIDER A "PILOT" A.F.D.C. EMPLOYMENT AND EDUCATION PROGRAM. I AM ATTACHING A COPY OF THE PROPOSED LEGISLATION WITH THIS TESTIMONY. I AUTHORED MAJOR PARTS OF THE LEGISLATION AND THE DEPARTMENT OF PUBLIC WELFARE HAS AGREED TO SUPPORT THE LEGISLATION. PERHAPS THE TEXAS PROJECT IDEA WITH THE NATIONAL INCOME MAINTENANCE PROGRAM WOULD CONTRIBUTE A GREAT DEAL

TO YOUR SEARCH FOR MEANINGFUL APPROACHES IN CREATING AN ADEQUATE A.F.D.C. NATIONAL PROGRAM.

Need for an Adequate Monthly Income

As indicated before, I have been working on Alternatives to A. F. D. C. for the past five years. I started this Welfare Project by living in the San Antonio Housing Projects with families headed by women on A. F. D. C. and found that substandard income traps a woman and her family in a poverty cycle, a living condition that as a general rule causes great physical, psychological and many times moral damage not only to the woman but also to her children. Healing this damage is very costly and sometimes impossible.

I often accompanied the women to a doctor's visit, to a food stamp office or a visit to the Welfare Department. Finding transportation was the first problem, waiting in the Welfare office or the doctor's office or in a food stamp line was another problem. Many times it took the complete day. Finding a baby sitter to stay with the younger children or having someone stay at home to wait for those who come home from school was another problem. Then to top it all, the hostile attitude or treatment received from employees in these offices or agencies was exasperating. Additionally, all the families I lived with ran out of food in three weeks. In Texas a woman must support a family of four with only a $164.00 monthly grant.

In the summer time the apartments were so hot that the family would stay outdoors and not go to bed until 1:00 or 2:00 a. m. when it got cool. In the winter, we would pile blankets, coats, etc. to keep warm because the one heater and heat from the stove's oven did not suffice to keep the apartment warm. In view of these conditions, women in order to stay SANE are forced to restrain and suppress aggressive and intelligent behavior.

Without a doubt women on welfare have serious mental and health problems. In my six month stay in the housing projects I witnessed six suicide attempts. Last week Fr. Al Benavidez told me that he buried a beautiful 21 year old mother, the fourth female suicide from the Cassiano Housing Projects in his parish. Again, I believe that the basic problem is inadequate income for support of basic family needs.

Employment and Education Component

In my estimation the most important phase of an adequate A. F. D. C. program is the success of the Employment and Education Component.

In order for employment programs to be adequate they must assist women obtain jobs that will provide a salary comparable (equal) to wages made by men who are household heads.

Current national employment programs such as W. I. N. (Work Incentive Program), C. E. T. A. (Comprehensive Employment and Training Act) are not assisting women on A. F. D. C. obtain the above mentioned employment goals.

A review of the W. I. N. Program both on the Southwest Regional and the National level provides us with enough data to show its ineffectiveness. In some areas we found that only.08% or 11% of welfare recipients participating in the W. I. N. Program actually obtained permanent employment.

The jobs offered and obtained by the WIN Program are for the most part service jobs which many times pay less than the minimum wage and more important jobs that the women could obtain without the help of WIN.

In some states we also found that the majority of WIN administrators were retired military men who have little or no experience working with women.

The C. E. T. A. Program has failed to adequately assist women workers in general. CETA has made even less effort to reach women on A. F. D. C.

I highly recommend and would encourage consideration to phasing out the W. I. N. Program and developing a special A. F. D. C. employment program within the C. E. T. A. guidelines.

Another major recommendation would be for the Secretary's of the Department of Health, Education and Welfare and the Department of Labor to work with leaders in industry to develop programs for training A. F. D. C. women household heads for high paying jobs. Another idea which needs more discussion and development is that of working with major industries in developing "Day Care" Centers in the employment location.

Reviews which I have made of existing Career or Vocational Educational Programs in continuing education centers connected with colleges and universities also fail to serve the A. F. D. C. recipient and help her obtain adequate employment.

In San Antonio, I helped about 500 women obtain certificates in cash register courses, nurses aid courses, etc. The high motivation of the women after completing these courses was gratifying. However, I could not find a way to assist women who wanted higher educational attainment to enter realistic higher educational programs. Instead the women left the Welfare rolls by taking a job as nurse's aid or a cashier. I recently reviewed the status of these women and found that

they are receiving only $2.10 or a little more an hour. The majority are working night shifts. They are leaving their children at night unattended. With transportation and day care expenses their living conditions are sometimes worse than when they and their families were on A. F. D. C. welfare.

Comprehensive Supportive Services

A well organized comprehensive Service Program should be administered preferrably in a single agency. It would be a mistake to assume that States without federal assistance would be able to assume the financial responsibility of A. F. D. C. Supportive Services Component.

Additional Information

Additional information (too large to include in this testimony) that would substantiate our recommendations and also help the Department in organizing an effective A. F. D. C. Program is the data compiled by Ms. Deluvina Hernandez of the National Chicana Foundation and PhD. candidate from the University of California at Los Angeles. At my invitation Ms. Hernandez came to San Antonio to conduct research on "Role Patterning of Chicana Women Household Heads on Welfare". The research has been financed by the National Institute of Mental Health. Ms. Hernandez will make the data available to you upon your request.

Summary

A. F. D. C. Welfare programs should be viewed as a temporary transition or a bridge toward women reaching economic stability. A healthy woman should perhaps not need to be on A. F. D. C. for more than five or six years; some will need less time.

This approach will not only be more effective, it will also be cost saving. Once you assist a woman obtain adequate employment, you will have taken a complete family off the Welfare Rolls not to return again.

To break the cycle of poverty and dependence it is necessary to refocus our attention on the causes of the problem.

It is possible to provide the services and direction to help women take their families off welfare -- but that requires a commitment to the women who head the households and -- not custodial care for their children.

In closing, the National Women's Political Caucus would like to go on record stating that: PERHAPS NO OTHER PROGRAM SO CLEARLY EXEMPLIFIES AND DEEP ROOTED HARMFUL AND DEHUMANIZING EFFECTS OF INSTITUTIONALIZED SEXISM AS DOES THE CURRENT A. F. D. C. PROGRAM.

SAN ANTONIO EXPRESS—Wednesday March 16 1977 H Page 1-D

Bill would aid AFDC women

EXPRESS CAPITOL BUREAU

AUSTIN — An idea formulated in San Antonio became a bill here Tuesday to provide education and improved job training for women now receiving benefits under the Aid to Families with Dependent Children program.

The proposal seeks to establish a program which would help a limited number of AFDC recipients to become self-sufficient economically.

Introduced by State Rep. Irma Rangel of Kingsville, HB1755 is co-sponsored by Reps. Bob Vale of San Antonio, and Mickey Leland of Houston.

A companion bill is being carried in the Senate by Sen. Carlos Truan of Corpus Christi.

S.A. design

The pilot program the bill seeks to establish, was designed by Ms. Lupe Anguiano of the Southwest Regional Office for the Spanish Speaking in San Antonio.

It has also been endorsed by the Texas Women's Political Caucus.

The pilot program would allow the state Department of Public Welfare to introduce a new training program for AFDC women heads of households providing skill training in non-traditional occupations.

It also includes an educational phase which would help them fill educational gaps.

Currently, virtually all AFDC women heads of households must enroll in the Work Incentive Program, which generally provides training in limited service occupations.

As a result, those completing the program and who succeed in finding employment receive minimum monthly salaries, usually around $370 a month, Rep. Rangel said.

Automatic end

Most of the benefits received are terminated automatically upon placement or shortly thereafter.

HB1755 would extend, where possible, these benefits until a time when the AFDC recipient is well on her way to self-sufficiency, she said.

Rep. Rangel said the program, if enacted into law, would help break the dependency on the welfare system.

She said such a program, if successful, could result in a shift in state and national policy toward AFDC programs from emphasis on costly services to children to one providing women heads of these families with an opportunity for economic self-sufficiency with dignity and respect.

THE EL PASO TIMES, Tuesday, April 12, 1977

Collecting Welfare Benefits Full-Time Job

By JANIS MARSTON

Welfare isn't a handout, it's a full-time job.

After five years of trying to reform the system, investigating the welfare department's Aid to Families with Dependent Children (AFDC) program has become a full-time job for Lupe Anguiano of San Antonio.

Ms. Anguiano, welfare task force chairman of the National Women's Political Caucus and executive director of the Southwest Regional Office for the Spanish Speaking, was in El Paso Monday for "Women's Week" at the University of Texas at El Paso. Before her presentation, Ms. Anguiano cited some statistics she believes points out the need for reform.

— In Texas, 90,000 families are on the welfare rolls;

— Of those families, 96 per cent are headed by women;

— 86 per cent of the household heads are minority women;

— $15,000 a year is spent per family to give them $3,600 in services.

The main point of Ms. Anguiano's proposed reform is to change the AFDC program's focus from providing services to children to assisting heads of families to become self-supporting.

In a speech to Department of Health, Education and Welfare Secretary Joseph Califano's welfare hearing last month, the San Antonio woman said, "The solution to resolving the many AFDC program problems is basically to assist women heads of families become economically self-sufficient so that she may be able to support her family with dignity and respect.

LUPE ANGUIANO

"In other words," she said, "I think it has been a mistake to focus a national program on providing services to children while ignoring the economic stability, through employment opportunities, of the family head who should be the family provider."

To do this, the welfare task force has proposed monthly income be determined by each state's current cost of living coupled with an employment and education opportunities program in non-traditional fields so that women can receive high enough wages to assure economic stability. Under this program, Ms. Anguiano foresees recipients on the program for five years at the most before leaving the welfare rolls completely.

One of the biggest points to her proposal, she says, is ensuring families adequate monthly income to live on during the interim. Presently, she says, a family of four in Texas gets $164 a month. "This traps them in a cycle of poverty," she said, "and poverty breeds poverty."

Living in poverty conditions is not something the 47-year-old San Antonio woman has read about in textbooks. She was born into a migrant worker's family who drifted between Colorado and California as the crops came into season.

To escape that life, Ms. Anguiano entered the convent and was a nun for about 15 years. She left the convent about 12 years ago because she believed she could do more for human justice outside the religious community. In 1971, she worked in Washington, D.C., as part of the Women's Action Program studying alternatives to the welfare department's AFDC program.

From there she moved into a San Antonio housing project and got first-hand information during her seven-month stay there.

"I found that substandard income traps a woman and her family in a poverty cycle, a living condition that as a general rule causes great physical, psychological and many times moral damage not only to the woman but also to her children.

"Healing this damage is very costly and sometimes impossible," she said.

As to the full-time effort it takes to stay on the welfare rolls, Ms. Anguiano recalled many times when she accompanied women to the doctor's office or the food stamp office.

"Finding transportation was the first problem," she said. "Waiting in the welfare office or the doctor's office or in a food stamp line was another problem.

"Many times it took a complete day. It's a full-time job."

Besides the waiting, Ms. Anguiano remembered the trouble of finding a babysitter for those days.

"And to top it all, the hostile attitude or treatment received from employes in these offices or agencies was exasperating."

Most of the families she knew in the San Antonio projects ran out of food in three weeks since they only had $164 a month coming in from the welfare department.

"In the summertime, the apartments were so hot the family would stay outdoors and not go to bed until 1 or 2 a.m. when it got cool.

"In the winter, we would pile blankets, coats . . . to keep warm . . . ," she recalled.

To survive these conditions, Ms. Anguiano said, "women, in order to stay sane, are forced to restrain and suppress aggressive and intelligent behavior." In the seven months she lived in the projects, Ms. Anguiano remembered six suicide attempts. Four succeeded.

TEXAS A.F.D.C. (WELFARE) EDUCATION AND EMPLOYMENT ACT

A brief history --

Ms. Lupe Anguiano, Executive Director of the Southwest Regional Office for the Spanish Speaking, has been working closely on A. F. D. C. Welfare Reform for the past four years. Her many experiences working and having lived with women heads of families on A. F. D. C. was the motivation which lead her to design H. B. 1755, Texas A. F. D. C. Education and Employment Act which was introduced by State Representative Irma Rangel, Mickey Leland, Bob Vale and others. The same Bill, S. B. 1049 was introduced in the Senate by State Senator Carlos Truan.

The Texas Women's Political Caucus at their 1976 Convention pledged to support welfare reform legislation in Texas as one of the Texas priority issues. Lupe Anguiano was asked to chair a TWPC Welfare Task Force. The National Women's Political Caucus also asked Lupe to chair a National Welfare Reform effort. Her testimony to Secretary of Health, Education and Welfare, Joseph Califano, was presented to the Texas legislature's record.

Bill as introduced --

Senate Bill, S. B. 1049 -- by State Senator Carlos Truan of Corpus Christi

House Bill, H. B. 1755-88 -- by State Representative Irma Rangel, Kingsville; Bob Vale, San Antonio; Mickey Leland, Houston; Wilhelmina Delco, Austin; Ernestine Glossbrenner, Alice; Ruben Torres, Brownsville; Sarah Weddington, Austin; Bill Hall, Laredo; Ben Z. Grant, Marshall; Matt Garcia, San Antonio; Tony Palumbo, Houston; Joe Wyatt, Victoria; E. Douglas McLeod, Galveston; Hugo Berlanga, Corpus Christi; Paul B. Ragsdale, Dallas; Jerry L. Benedict, Angleton; Lou Nelle Sutton, San Antonio; Paul Moreno, El Paso; Arnold Gonzales, Corphus Christi; Gonzalo Barrientos, Austin; Robert Bush, Sherman.

Bill analysis:

In February, 1977, there were 90, 355 households in Texas receiving assistance through the Aid to Families with Dependent Children program. 96% of these households are headed by women with low educational attainment and few, if any, occupational skills. The average recipient of AFDC assistance has been on welfare for 41 months.

While the Department of Public Welfare is, under present law, mandated (1) to provide for the development and administration of a program which will provide welfare and related services for each child who receives

AFDC assistance, and (2) to promote the welfare of such child and his/her family by helping such parents or relatives of the child to attain or retain their capabilities for maximum self-support and personal independence consistent with the maintenance and continued parental care and protection, the AFDC program is primarily designed to provide assistance to the child. This assistance takes the form of financial grants, food stamps, day care, medical services and administrative overhead, amounting to approximately $3,600 total annual benefits (for a household with 2 children). This predilection for relatively high cost/low yeild benefits to children is perhaps a primary cause for perpetuation of the welfare/poverty cycle.

Of the 90,355 AFDC households, less than 3 in 10 receive manpower services training or placement assistance. The remainder are simply wards of the state, trapped in a welfare system because of lack of marketable skills and/or the attractiveness of such a system. The absence of a program designed to provide these heads of households with marketable lifetime skills with an earning capacity in excess of work related expenses, such as child care and transportation, and welfare benefits otherwise available.

Purpose of this Bill

H.B. 1755 and S.B. 1049 will establish a pilot project which will provide educational opportunities and assistance in securing employment in non-traditional occupations to persons receiving public assistance under the AFDC program. The duration of the pilot project is six years and will be administered by the Department of Public Welfare. Major objective is to assist women heads of families to become self-supporting and off the welfare rolls.

The pilot project consists of two components: an education component and an employment component. It mandates the Department to design a bilevel program in coordination with existing educational and manpower training delivery institutions, agencies, labor unions and non-profit corporations. It is aimed at providing vocational education and on-the-job training in such non-traditional occupations as welding, carpentry, electronics, data processing and machinist trades. By increasing the earning capacity of the heads of these households with this type training, the purpose of the pilot project, to reduce the number of households receiving AFDC assistance, will be accomplished.

Section by Section Analysis

Section 1: Short title

Section 2: Findings and Purposes Clause. Outlines relevant facts pertaining to AFDC program in Texas and declares legislative intent.

Section 3: (a) Establishes the AFDC Education and Employment Pilot Project under the administration of the Department of Public Welfare.

(b) Mandates the department to establish an education and employment program which will assist participants in attaining economic self-sufficiency. Defines "AFDC".
(c) Authorizes state financing through legislative appropriation and authorizes the department to seek available federal funds within legal limits.
(d) Defines qualifications for participation in program.

Section 4: Education Component Clause (a) Describes the type of program to be developed under this component in coordination with existing educational institutions.
(b) Provides for reimbursement to participating institutions for services provided.
(c) Directs department to emphasize non-traditional occupational education and training.

Section 5: Employment Component Clause (a) Describes the type of program to be developed under this component.
(b) Establishes local site offices to administer project.
(c) (d) Specifies with whom department, through site offices, may contract for participant training in non-traditional occupations.
(e) Encourages site office employment of AFDC recipients where practicable.

Section 6: Welfare Services Continued Clause Authorizes department to continue welfare services for which participant was eligible at the time entered program as participant. This will be determined according to standards to be established by department rule and within limits imposed by federal law.

Section 7: Creates State Advisory Committee to be appointed by the Commissioner of Public Welfare, subject to Board approval, to monitor and evaluate project and to report to department in manner prescribed by department rule. Permits reimbursement for actual and necessary travel and lodging expenses incurred by committee in attending meetings. Directs department to provide technical and administrative assistance.

Section 8: Annual Report Clause.

Section 9: Expiration Date Clause.

Section 10: Emergency Clause.

Farmworkers meet governor and wife

AUSTIN (AP) — Gov. Dolph Briscoe, one of South Texas' richest landowners, met privately Monday in the Executive Mansion with with a bedraggled band of Mexican-American farm workers seeking the right to unionize.

The school busload of about 50 workers, 16 of whom marched more than 400 miles to the state capital from the Rio Grande Valley, presented Briscoe with a petition asking for laws that would enable them to elect a legally-recognized union with collective bargaining rights.

"They were very polite. We had a very polite meeting," Briscoe said of the 30-minute session behind closed doors at the mansion.

Antonio Orendain, one of the leaders of the Texas Farm Workers Union said the workers simply presented Briscoe with the petition, but didn't ask him for any firm committments of support.

"I think their petition deserves serious consideration," Briscoe said. "I'll study it."

Briscoe and his wife greeted the farm workers, who were waving union banners and wearing La Raza Unida Party buttons, at the front door of the mansion before inviting them inside for the meeting.

The workers chanted "huelga" — strike — as they left the mansion.

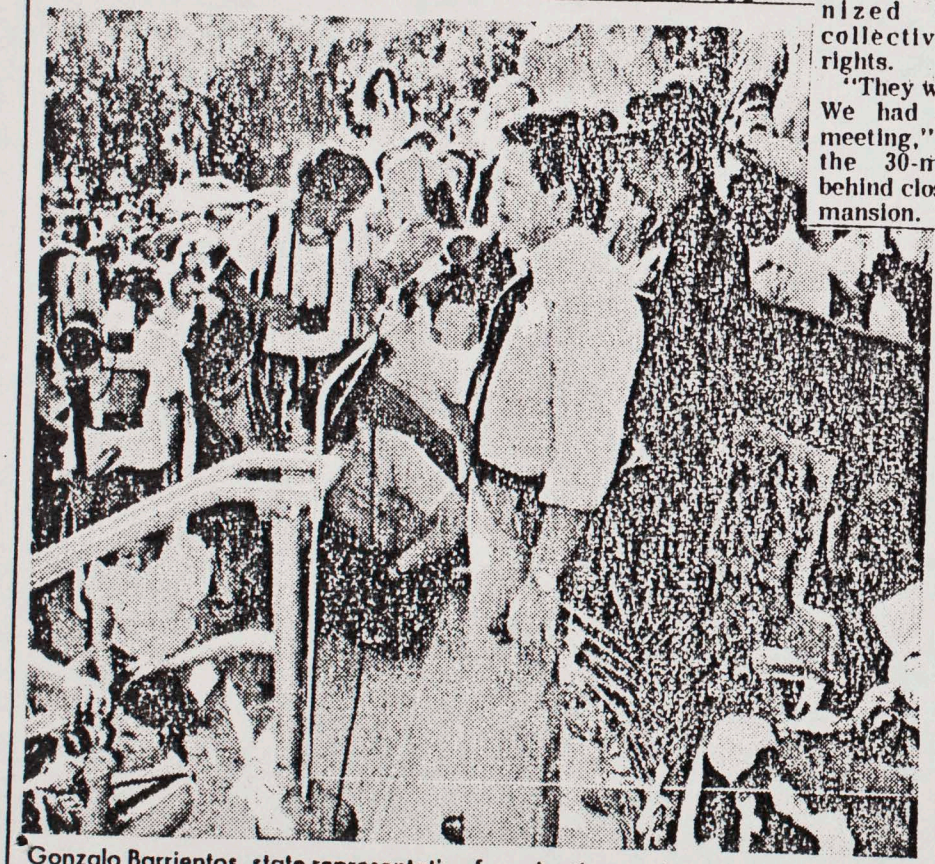
The marchers rallied on the Capitol grounds Sunday after arriving in Austin Friday. Their journey began Feb. 26 in San Juan.

Some of the workers had participated in a similar 1966 march for a higher minimum wage. At that time, Gov. John Connally refused to meet with the workers in Austin, choosing instead to talk to them alongside the highway near New Braunfels.

He flatly refused their request for a special legislative session to hike the minimum wage.

GOV. AND MRS. BRISCOE greet one of farmworkers who marched from San Juan to Austin

AN ANTONIO EXPRESS—Monday April 4 1977 H Pa



Gonzalo Barrientos, state representative from Austin, speaks to a group of South Texas farmworkers on the steps of the State Capitol Sunday. The farmworkers arrived in Austin Friday after a 34-day march which began in San Juan on Feb. 26. — AP Wirephoto

Fourteen to be ordained June 4

Ordination set for Spanish deacon class

DALLAS -- The ordination of 14 Spanish-speaking men to the permanent diaconate on June 4 has been announced by Monsignor Robert Rehkemper, V.G., director of the Permanent Diaconate Program for the Diocese of Dallas.

Ordinands are: Pastor Arredondo, 72, St. Mary of Carmel Parish; Jesus G. Cerrato Jr., 43, St. Augustine Parish; William Flores, 36, St. Ann Parish, Kaufman; Juan G. Gonzales, 51, St. Pius X Parish; Joseph D. Guerrero, 34, St. Mark Parish, Plano; Juan G. Martinez, 64, St. Mary of Carmel Parish; Alberto Montes, 44, Our Lady of Perpetual Help Parish; Hector B. Peña, 37, Holy Spirit Parish, Duncanville; Theodore Perez Jr., 40, St. Elizabeth Seton Parish, Plano; Jose R. Robles, 40, St. James Parish; Jesse J. Rojas, 50, Our Lady of Perpetual Help Parish; Robert Sanchez, 42, St. Cecelia Parish; Alfonso Valdes, 55, St. Pius X Parish, Rudolph R. Vara, 55, Our Lady of Perpetual Help Parish.

Bishop Thomas Tschoepe will ordain the 14 candidates at Guadalupe Cathedral at 10 a.m., June 4. The entire Mass and ordination ceremony will be in Spanish.

The candidates are among a class of Mexican-American men who began their formation in January, 1975. An additional eight members of the class will be ordained later in the year.

As permanent deacons, the men will share the Sacrament of Holy Orders with priests and bishops. They will be members of the clergy, but will have a

[See DEACONS on p. 3]

Deacons...

[Continued from p. 1]

part-time ministry and a lay lifestyle.

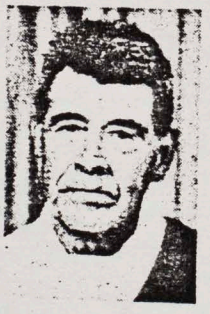
Deacons may preach, solemnly administer Baptism, perform marriages, preside at funerals, and serve as ordinary ministers of the Eucharist. Deacons may not celebrate Mass, administer the Sacrament of the Sick or hear confessions, but they assist the priest at the altar during Mass and perform a variety of pastoral ministries including ministry to the sick and aged, youth ministry, adult education, hospital ministry, jail ministry and others.


Rudolph R. Vara

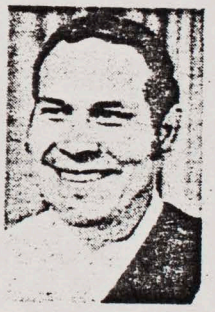

Juan G. Gonzales


Jose R. Robles


William Flores


Pastor Arredondo


Joseph D. Guerrero


Robert Sanchez


Juan G. Martinez


Alfonso Valdes


Jesus G. Cerrato Jr.


Jesse J. Rojas


Theodore Perez Jr.


Hector B. Pena


Alberto Montes