CENTRO DE INMIGRACION

GEORGETOWN UNIVERSITY LAW CENTER
600 NEW JERSEY AVENUE, N.W.
WASHINGTON, D.C. 20001
202-624-8374

February 9, 1977

Dear Friends:

The Senate has scheduled hearings on the Carter Proposal and related immigration bills for the days of March 14, 16, 21, and 23, 1978. They will be held at 10:30 A.M. each day in Room 2228 of the Dirksen Senate Office Building.

Since testimony is by "invitation only," it is imperative that each one of your organizations write immeadiately to the Subcommittee to request time for testimony. The letter needs to be addressed to the following:

Sen. John Eastland
Chairman
Senate Judiciary Committee
Subcommittee on Immigration and Nationality
Senate Office Building
Washington, D.C. 20510

Your letter must include the reasons why it is important that you testify. Factors such as constituency, experience with the issue of immigration, and the ability to provide insights that otherwise would not be presented are important.

If you forward a copy of your letter here, we will follow up and seek as prompt a response from the Subcommittee to your letter. Immeadiate action on this is absolutely necessary to guarantee that demands for a just and humane solution, and opposition to the Carter Proposal, resound throughout the hearings.

Sincerely,

Jose A. Medina

Jose A. Medina
Director

URGENT URGENT URGENT URGENT

U R G E N T

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, FIRST SESSION

Vol. 123 WASHINGTON, THURSDAY, AUGUST 4, 1977 No. 134—Part II

Senate

PRESIDENT'S PROPOSAL ON UNDOCUMENTED ALIENS

Mr. KENNEDY. Mr. President, I welcome President Carter's message today regarding his recommendations to help reduce the increasing flow of undocumented aliens into the United States and to help regulate the presence of such aliens already here.

The problem of undocumented aliens has festered too long, injuring many people and our society as a whole. For too many years, it has been the subject of much controversy and debate. And the time is past due for action in this significant area of public policy and concern.

In recent weeks legislative and administrative remedies have been the subject of intense study by the President and members of his administration. There has been a good deal of public discussion, and consultations with Members of Congress and others have been held on a regular basis.

No proposal will be a panacea. Moreover, the problem before us clearly has economic and social dimensions, which not only involve undocumented aliens and our own citizens and society—but also our diplomacy in the international community, and our relations with other countries. And the foreign dimensions of the problem we cannot neglect.

But the President's initiative is an important first step—even a breakthrough—in finding new and reasonable alternatives to deal with the problem of undocumented aliens.

Although there may be some reservations about specific aspects of the President's recommendations, his efforts to sort out and remedy the complex problems of undocumented aliens deserve the support of all Americans. And I am hopeful that Congress will give full and early consideration to the bill which the administration will send to Congress within the coming weeks.

I am also gratified, Mr. President, that a comprehensive review of all aspects of our national immigration policy will be undertaken by an interagency committee appointed by the President.

REGULATION OF UNDOCUMENTED ALIENS—PM 104

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States:

To the Congress of the United States:

I am proposing to Congress today a set of actions to help markedly reduce the increasing flow of undocumented aliens in this country and to regulate the presence of the millions of undocumented aliens already here.

These proposed actions are based on the results of a thorough Cabinet-level study and on the groundwork which has been laid, since the beginning of the decade, by Congressmen Rodino and Eilberg and Senators Eastland and Kennedy. These actions will:

Make unlawful the hiring of undocumented aliens, with enforcement by the Justice Department against those employers who engage in a "pattern or practice" of such hiring. Penalties would be civil—injunctions and fines of $1000 per undocumented alien hired. Criminal penalties could be imposed by the courts against employers violating injunctions. Moreover, employers, and others, receiving compensation for knowingly assisting an undocumented alien obtain or retain a job would also be subject to criminal penalties.

Increase significantly the enforcement of the Fair Labor Standards Act and the Federal Farm Labor Contractor Registration Act, targeted to areas where heavy undocumented alien hirings occur.

Adjust the immigration status of undocumented aliens who have resided in the U.S. continuously from before January 1, 1970 to the present and who apply with the immigration and Naturalization Service (INS) for permanent resident alien status; create a new immigration category of temporary resident alien for undocumented aliens who have resided in the U.S. continuously prior to January 1, 1977; make no status change and enforce the immigration law against those undocumented aliens entering the U.S. after January 1, 1977.

Substantially increase resources available to control the southern border, and other entry points, in order to prevent illegal immigration.

Promote continued cooperation with the governments which are major sources of undocumented aliens, in an effort to improve their economies and their controls over alien smuggling rings.

Each of these actions will play a distinct, but closely related, role in helping to solve one of our most complex domestic problems: In the last several years, millions of undocumented aliens have illegally immigrated to the United States. They have breached our Nation's immigration laws, displaced many American citizens from jobs, and placed an increased financial burden on many states and local governments.

The set of actions I am proposing cannot solve this enormous problem overnight, but they will signal the beginning of an effective Federal response. My Administration is strongly committed to aggressive and comprehensive steps toward resolving this problem, and I am therefore proposing the following actions:

EMPLOYER SANCTIONS

The principal attraction of the United States for undocumented aliens is economic—the opportunity to obtain a job paying considerably more than any available in their own countries. If that opportunity is severely restricted, I am convinced that far fewer aliens will attempt illegal entry.

I am therefore proposing that Congress make unlawful the hiring by any employer of any undocumented alien. This employment bar would be implemented in the following way:

Enforcement would be sought against those employers who engage in a "pattern or practice" of hiring undocumented aliens, with the Justice Department setting priorities for enforcement.

Penalties for violation of the employment bar would be both injunctive relief and stiff civil fines—a maximum of $1,000 for each undocumented alien hired by an employer. A violation of a court injunction would subject an employer to a potential criminal contempt citation and imprisonment.

An employer would be entitled to defend any charge of hiring an undocumented alien by proving that a prospective employee's documentation of legal residence, as designated by the Attorney General in regulations, was seen prior to employment.

The Social Security card would be designated as one of the authorized identification documents; and we will accelerate the steps already being taken to make certain that such cards are issued, as the law now mandates, only to legal residents. Those steps include requiring personal interviews of card applicants and making the cards more difficult to forge. But no steps would be taken to make the Social Security card, or any other card, a national identification document.

To further restrict job opportunities, criminal sanctions would be imposed on those persons who receive compensation for knowingly assisting an undocumented alien obtain or retain employment, or who knowingly contract with such person for the employment of undocumented aliens. These sanctions are directed at the substantial number of individuals who broker jobs for undocumented aliens or act as agents for alien smugglers. It is *not* directed at those who inadvertently refer an undocumented alien to a job, such as an employment agency or a union hiring hall.

To make certain that all of these new sanctions are uniformly applied, they would pre-empt any existing state sanctions.

In addition to the creation of these new sanctions, efforts to increase enforcement of existing sanctions will be significantly increased. The Fair Labor Standards Act, which mandates payment of the minimum wage and provides other employee protections, would not only be strictly enforced, but its existing civil and criminal penalties would be sought much more frequently by the government. To date, the inability of the government to enforce fully this act, due in part to a lack of resources, has resulted in the hiring of undocumented aliens at sub-minimum wages, thereby often displacing American workers. Two hundred sixty new inspectors will be hired and targeted to areas of heavy undocumented alien employment. Similarly, the Federal Farm Labor Contractor Registration Act, which prohibits the recruiting and hiring of undocumented aliens for farm work, would be tightly enforced. The Departments of Justice and Labor will work closely in exchanging information developed in their separate enforcement activities.

While I believe that both the new and existing employer sanctions, and their strict enforcement, are required to control the employment of undocumented aliens, the possibility that these sanctions might lead employers to discriminate against Mexican-American citizens and legal residents, as well as other ethnic Americans, would be intolerable. The proposed employer sanctions have been designed, with their general reliance on civil penalties and "pattern or practice" enforcement, to minimize any cause for discrimination. However, to prevent any discriminatory hiring, the federal civil rights agencies will be charged with making much greater efforts to ensure that existing anti-discrimination laws are fully enforced.

BORDER ENFORCEMENT

The proposed employer sanctions will not, by themselves, be enough to stop the entry of undocumented aliens. Measures must also be taken to significantly increase existing border enforcement efforts. While our borders cannot realistically be made impenetrable to illegal entry, greater enforcement efforts clearly are possible, consistent with preserving both the longest "open" borders in the world and our humanitarian traditions.

I am proposing to take the following increased enforcement measures, most of which will require Congressional approval for the necessary additional resources:

Enforcement resources at the border will be increased substantially and will be reorganized to ensure greater effectiveness. The exact nature of the reorganization, as well the amount of additional enforcement personnel, will be determined after the completion in September of our ongoing border enforcement studies. It is very likely, though, that a minimum of 2000 additional enforcement personnel will be placed on the Mexican border.

INS will shift a significant number of enforcement personnel to border areas having the highest reported rates of undocumented alien entry.

An anti-smuggling Task Force will be established in order to seek ways to reduce the number and effectiveness of the

smuggling rings which, by obtaining forged documents and providing transportation, systematically smuggle a substantial percentage of the undocumented aliens entering the country. The U.S. Attorneys will be instructed to give high priority to prosecuting individuals involved in alien smuggling.

The State Department will increase its visa issuance resources abroad to ensure that foreign citizens attempting to enter this country will be doing so within the requirements of the immigration laws.

Passage will be sought of pending legislation to impose criminal sanctions on those who knowingly use false information to obtain identifiers issued by our Government, or knowingly use fraudulent Government documents to obtain legitimate Government documents.

The State Department will consult with countries which are the sources of significant numbers of undocumented aliens about cooperative border enforcement and anti-smuggling efforts.

COOPERATION WITH SOURCE COUNTRIES

The proposed employer sanctions and border enforcement will clearly discourage a significant percentage of those who would otherwise attempt to enter or remain in the United States illegally. However, as long as jobs are available here but not easily available in countries which have been the source of most undocumented aliens, many citizens of those countries will ignore whatever barriers to entry and employment we erect. An effective policy to control illegal immigration must include the development of a strong economy in each source country.

Unfortunately, this objective may be difficult to achieve within the near future. The economies of most of the source countries are still not sufficiently developed to produce, even with significant U.S. aid, enough jobs over the short-term to match their rapidly growing workforce.

Over the longer-term, however, I believe that marked improvements in source countries' economies are achievable by their own efforts with support from the United States. I welcome the economic development efforts now being made by the dynamic and competent leaders of Mexico. To further efforts such as those, the United States is committed to helping source countries obtain assistance appropriate to their own economic needs. I will explore with source countries means of providing such assistance. In some cases this will mean bilateral or multilateral economic assistance. In others, it will involve technical assistance, encouragement of private financing and enhanced trade,, or population programs.

ADJUSTMENT OF STATUS

The fact that there are millions of undocumented aliens already residing in this country presents one of the most difficult questions surrounding the aliens phenomenon. These aliens entered the U.S. illegally and have willfully remained here in violation of the immigration laws. On the other hand, many of them have been law-abiding residents who are looking for a new life and are productive members of their communities.

I have concluded that an adjustment of status is necessary to avoid having a permanent "underclass" of millions of persons who have not been and cannot practicably be deported, and who would continue living here in perpetual fear of immigration authorities, the local police, employers and neighbors. Their entire existence would continue to be predicated on staying outside the reach of government authorities and the law's protections.

I therefore recommend the following adjustments of status:

First, I propose that permanent resident alien status be granted to all undocumented aliens who have resided continuously in the United States from before January 1, 1970 to the present. These aliens would have to apply for this status and provide normal documentary proof of continuous residency. If residency is maintained, U.S. citizenship could be sought five years after the granting of permanent status, as provided in existing immigration laws.

The permanent resident alien status would be granted through an update of the registry provisions of the Immigration and Nationality Act. The registry statute has been updated three times since 1929, with the last update in 1965, when permanent resident alien status was granted to those who had resided here prior to 1948.

Second, all undocumented aliens, including those (other than exchange and student visitors) with expired visas, who were residing in the United States on or before January 1, 1977 will be eligible for a temporary resident alien status for five years.

Those eligible would be granted the temporary status only after registering with INS; registration would be permitted solely during a one-year period. Aliens granted temporary status would be entitled to reside legally in the United States for a five-year period.

The purpose of granting a temporary status is to preserve a decision on the final status of these undocumented aliens, until much more precise information about their number, location, family size and economic situation can be collected and reviewed. That information would be obtained through the registration process. A decision on their final status would be made sometime after the completion of the registration process and before the expiration of the five-year period.

Temporary resident aliens would not have the right to vote, to run for public office or to serve on juries; nor would they be entitled to bring members of their families into the U.S. But they could leave and re-enter this country, and they could seek employment, under the same rules as permanent resident aliens.

Unlike permanent resident aliens, temporary resident aliens would be ineligible to receive such Federal social services as Medicaid, Food Stamps, Aid to Families with Dependent Children, and Supplemental Security Income. However, the allocation formulas for Revenue Sharing, which are based on population, would be adjusted to reflect the presence of temporary resident aliens. The adjustment would compensate states and local communities for the fact that some of these residents—undocumented aliens—are currently not included in the Census Bureau's population counts. That undercount deprives certain states and communities of Revenue Sharing funds which, if Census figures were completely accurate, would be received and used to defray certain expenses caused by the presence of undocumented aliens. Those receiving adjustments of status through the actions I am proposing would be included in the 1980 Census, so that the allocation charges would have to be made only through 1980.

Third, for those undocumented aliens who entered the United States after January 1, 1977, there would be *no* adjustment of status. The immigration laws would still be enforced against these undocumented aliens. Similarly, those undocumented aliens, who are eligible for adjustment of status, but do not apply, would continue to have the immigration laws enforced against them.

In addition, the INS would expedite its handling of the substantial backlog of adjustment of status applications from those aliens entitled to an adjustment under existing law.

Finally, those persons who would be eligible for an adjustment of status under these proposals must not be ineligible under other provisions of the immigration laws.

TEMPORARY FOREIGN WORKERS

As part of these efforts to control the problem of undocumented aliens, I am asking the Secretary of Labor to conduct, in consultation with the Congress and other interested parties, a comprehensive review of the current temporary foreign worker (H–2) certification program. I believe it is possible to structure this program so that it responds to the legitimate needs of both employees, by protecting domestic employment opportunities, and of employers, by providing a needed workforce. However, I am not considering the reintroduction of a bracero-type program for the importation of temporary workers.

IMMIGRATION POLICY

Our present immigration statutes are in need of a comprehensive review. I am therefore directing the Secretary of State, the Attorney General, and the Secretary of Labor to begin a comprehensive interagency study of our existing immigration laws and policies.

In the interim, I am supporting pending legislation to increase the annual limitation on legal Mexican and Canadian immigration to a total of 50,000, allocated between them according to demand. This legislation will help provide an incentive to legal immigration.

I urge the Congress to consider promptly, and to pass, the legislation I will submit containing the proposals described in this Message.

JIMMY CARTER.

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 95th CONGRESS, SECOND SESSION

Vol. 124 WASHINGTON, TUESDAY, FEBRUARY 21, 1978 No. 21

REPORT ON INDOCHINESE REFUGEES

Mr. KENNEDY. Mr. President, as so often in the past, America's voluntary agencies are currently playing a crucial role in the resettlement of Indochinese refugees who are coming to our shores, as well as offering a helping hand to those still in refugee camps in Southeast Asia.

One of the leading voluntary agencies involved in this effort is the U.S. Catholic Conference Migration and Refugee Services. Recently its national director, John McCarthy, traveled to Southeast Asia to view firsthand the growing problems among refugees in Thailand and the "boat people" now scattered throughout the area.

Mr. McCarthy makes an eloquent plea in their behalf, and their claim upon our greater attention and concern. Mr. President, I would like to share his report with my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
February 13, 1978.

HON. EDWARD M. KENNEDY,
U.S. Senate
Washington, D.C.

MY DEAR SENATOR KENNEDY: I am taking the liberty of enclosing herewith a copy of my report on a recent trip to Southeast Asia. There is no question but that we are facing a tragedy of unprecedented proportions if more is not done to help the refugees and displaced now in Thailand and other countries bordering the South China Sea.

The almost farcical action of our government officials having to appear before Congress every few months to plead and plead for a few thousand refugees is certainly not the spirit that is the history of our land. What we need, Senator, is the action you have proposed, this is, an open-ended refugee policy to be administered by our Attorney General whose record, and the record of his predecessors in this area of service, is not only a model of constraint but also a model of efficiency.

It troubles me deeply that the local government officials in the area are implying that if more is not done, these people will have to be repatriated back to their native lands. If this takes place, the conclusions are foregone.

We should never forget that approximately 40 years ago the representatives of 32 nations met in Evian, Switzerland just twelve days after the Nazis invaded Austria. Discussion at that meeting centered on providing resettlement opportunities for 300,000 Jews and others who were opposed to the totalitarianism that was coming into force in Germany and other areas of Europe. It was implied by the German societies represented at the meeting that the pipeline for this movement was open and would remain open if acceptance and resettlement could be assured. This conference ended in the utter inability of the nations involved to take positive action, claiming they could not have an open door policy and that they had already taken enough refugees. The pipeline was closed, and six million people died in the holocaust of the concentration camps.

It is our hope and prayer that the present limited approach and restrictive policy to the refugee movement will not repeat a mistake and tragedy that will forever defame the national image of those involved.

Senator Kennedy, we are deeply appreciative of all that you have done and are doing in this broad area of humanitarian concern. You may be assured of our total and complete support in your most positive refugee proposals.

With kindest personal regards, I remain,
Most sincerely,

JOHN E. MCCARTHY,
Director.

THE REFUGEES AND DISPLACED OF THE INDOCHINA AREA

It is often said that one picture is worth a thousand words. I can add to this, by stating that personal experience is worth a thousand pictures. Having spent the first three weeks in January visiting with the refugees in a number of countries bordering the South China Sea, it is difficult for me to write or talk unemotionally about the desperate plight of these unfortunate people.

This area of the world is afflicted with seemingly never-healing sores that are dramatic testimony of man's inhumanity to man. My visit has clarified the urgent need for a more intensified assistance-and-resettlement endeavor by all the nations of the free world in order to ameliorate this suffering in an even limited way.

In discussing with the refugees their reasons for a desperate, almost suicidal flight to a hoped-for haven and a new life for themselves and their families, they described the horrors of enforced relocation, separation of families, imprisonment, and mass killing.

Their reports bring to mind once again many of the horrors of World War II and succeeding conflicts What should be done? Our experience teaches us that bureaucratic hearings, endless discussions, and political posturing are the last things this situation needs.

Shortly after Germany invaded Austria in 1938 an emergency meeting was held in Evian, France by a number of concerned and free nations of the world, including representatives from the German societies. The Evian meeting related to the possible movement and resettlement of 30,000 persons of the Jewish faith and other political opponents of the growing and oppressive totalitarian regime of Germany and its allies.

Procedures were available at that time for implementation of this movement, and continued movement was deemed feasible if only arrangements were made for the resettlement of the initial 30,000. Unfortunately, the free world did not come to a workable agreement on this. Doors were closed and millions died in concentration camps.

It is our hope now, 40 years later, that we are not facing a like situation. Still, statements that "we have taken enough refugees" and "we cannot have an open door policy" are heard in some quarters today.

In Thailand there are approximately 100,000 refugees from Vietnam, Laos, and Cambodia. These refugees have found a most temporary asylum in 13 separate refugee compounds controlled by the Government of Thailand. Approximately 5,000 new refugees are entering Thailand each month, around 1,500 by small boat from Vietnam and more than 3,000 over land from Cambodia and Laos. Despite traditional kindness founded in national history and religion, the Government of Thailand is in a most precarious position from internal and diplomatic points of view: the country is surrounded by well-

In conversation with Archibishop Michai of Bangkok, Thai government officials, United States Ambassador Whitehouse, and representatives of the United Nations and other international organizations, it was made quite clear that Thailand could not continue to accept this never-ending flow of refugees and that accelerated third-country resettlement had to be instituted. The spectre of enforced repatriation was implicit in that the Thai government has been sending all the land refugees who have arrived in their country after November 15, 1977 to separate refugee camps which are not supervised by the United Nations High Commissioner.

There is no way of knowing how many refugees have been turned back at the borders by local Thai officials. The United States press reported some months ago a group of 29 who had been returned to Cambodia and immediately executed.

During my visit I interviewed some of the 1,200 small boat refugees in Lam Sing, in Chanthaburi, Thailand. This guarded camp is a two-to-three-acre fenced enclosure on the Gulf of Siam. Limited foodstuffs are provided by the Thai Government on the basis of an allocation from the United Nations. After screening on arrival and the confiscation of any valuables, the refugees may live either on the boats in which they arrived or in huts on the shore. Living in the camp are representatives of every aspect of Vietnamese life. I spoke with Army captains, lawyers, fishermen, seminarians, and widows with children. Many have relatives in the United States, and we are making every effort to identify such persons so that assurances can be provided.

On August 11, 1977, the United States Government authorized the admission of 7,000 boat cases and 8,000 land-refugees. On January 25, 1978, the Attorney General authorized the admission of 7,000 additional boat refugees. These admissions are, of course, stopgap measures. Some type of open-ended admission procedure is needed to avoid unimaginable disaster.

The Government of France has instituted such a humane procedure and is, and has been, accepting aprpoximately 1,000 refugees each month. The Governments of Australia, Canada, and some nations of Europe have made more limited commitments.

As in all emergent refugee escape endeavors, some don't reach their goal and their is a corresponding loss of life.

In the Southeast Asian turmoil there are first-hand reports of the terrors of the overland march from Laos and Cambodia and of the loss of life of an estimated 50% in the almost suicidal small boat movement from Vietnam. For every two persons who start out, only one survives.

The Bangkok Post, January 15, reported:

"Six Vietnamese refugees drowned and three others were missing after being swept overboard by a huge wave during a storm on the South China Sea Wednesday . . . the refugee boat carrying about 30 Vietnamese sailed into Kuala Trengganu fishing village, about 310 miles northeast of here, for supplies and was returned to international waters when it was caught in the storm. Fifteen people were washed overboard and six were rescued."

The Pacific Stars and Stripes, January 20, related the following:

"Kuala Trengganu, Malaysia: 92 Vietnamese refugees were rescued from their capsized boat by workers on an Exxon Oil Co. rig in the South China Sea . . . the refugees told reporters they escaped from Vietnam January 11 and that their boat capsized. . . ."

While little mention of children is made in the presses of the major countries, the Bangkok Post of January 11 carried the following story:

"A fishing boat carrying 64 Vietnamese refugees, including 13 men, 11 women and 40 children, arrived in this southern coastal province last Sunday, according to a delayed report reaching the Police Department. The boat, which left Pha Mao in the south of Vietnam over a week ago, was denied permission to remain. One of the refugees later swam ashore and met the chief inspector, Pol Maj Phisit Chairat, and the district officer. He asked permission for the refugees to stay for three days to clean the boat."

It may seem unbelievable to us, to our secure surroundings, that after braving the terrors of the sea the refugees find that what awaits them is not really asylum. A proliferation of reports indicate that boats are driven off or towed back to the open sea. These refugees have no alternative but to seek haven in other countries bordering the South China Sea (The Philippines, Korea, Macao, Hong Kong and Taiwan) or, in desperation, to set sail in their small, unseaworthy craft for Australia, over 3,000 miles away.

One of the tragic aspects of this refugee movement is the reluctance of larger vessels plying the South China Seas to pick up those in distress. Past experience has taught the masters of these vessels that such a humanitarian endeavor encumbers them and the shipping company with untold complications. Many countries, when learning that refugees are aboard a vessel, will not permit any of the crew to disembark. No landing rights are given to refugees, and the ship must maintain them on board with the hope of reaching some port that will grant temporary asylum. There have been instances of some ships sailing nearly around the world dropping off refugees in South Africa, Kuwait, Italy, and other places too numerous to mention.

It is hoped that it will be possible to develop a free port somewhere in Southeast Asia where these refugees can find temporary asylum. Can we do less for human beings than is done for machinery, tools, and automobiles? If such a port were known to exist, possibly thousands of lives could be saved in that captains could pick up the distressed with the assurance of nearby asylum.

Despite the horror and tragedy of this refugee endeavor, there is the beauty of the compassion of the average world citizen. This seems to always emerge as a bright light out of the darkness wherever emergency situations arise.

Unfortunately, there seems to be an almost humanitarian sterility by the formalized government structures of many of the countries of Southeast Asia to the plight of these refugees, particularly the "small boat" people. This inaction, they claim, is based on political considerations and what is deemed to be lack of resources.

However, despite this governmental inaction, the local citizenry, its voluntary agencies and church structures have again arisen to the challenge. This can be well exemplified in Japan where the government has only reluctantly permitted landing of boat refugees. All care for these desperate people is being provided by a joint endeavor coordinated by the Catholic Church and involving the local Red Cross and Buddhist structures. Similar joint church humanitarian endeavors are being carried on for the thousands of refugees in Korea, Hong Kong, Taiwan and Macau.

In the Philippines, Cardinal Sin has made this entire refugee community his personal responsibility. Special housing developments have been constructed, professional staffs assembled to provide guidance and legal assistance. The introduction of self-help programs in gardening, tailoring and food preparation are the developmental tools for a new life for these refugees. The Cardinal has identified his program as the "theology of action."

Everywhere the picture etched in my mind is that of children! In each refugee camp or facility I visited, there were these little tots, sometimes hundreds of them, crying or playing with self-made toys, with wonderment of why they had moved, sometimes secretly and most speedily, from their normal environment. In talking to their parents, there was repeated the preamble to all past refugee movements: "I could possibly exist, but I wanted to provide a new and hopeful life for my children." This is in fact the saddest of all refugees endeavors I have participated in over the past 30 years. With the large family structures of these refugees, in many instances over 60 percent of the boat and camp population is made up of children.

I assure you in the name of tens of thousands of refugees of our deepest appreciation for what has been done in the past and I join you in the hope we will have a world where there will be no refugees. However, until that day comes, we must continue in this Herculean task of helping these, some of the most unfortunate victims of a very unsettled world.

Carter May Seek 4,000 More Border Patrol

(Continued from Page A-1)

plaining the status of studies that will lead to a reorganization plan seeking to improve the management of services provided by various federal agencies along U.S. borders.

No final conclusions have been reached, the officials said, particularly not a decision to create a single, suggested super border management agency, although that remains a possible option.

Nevertheless, the current thinking is that a number of options will be presented to Mr. Carter in December and, once he makes a decision, a formal reorganization plan will be submitted to Congress early next year.

It will be the fifth to be hammered out by the reorganization team working under the President's direction in the Office of Management and Budget.

Two plans are now before Congress, and two more will go up before Jan. 1.

The reorganizers have been studying the overlapping functions of up to eight federal agencies involved in border management, including the Departments of the Treasury; Health, Education and Welfare; Justice; State; Interior; Agriculture and Transportation, plus the Drug Enforcement Administration, and Coast Guard.

More specifically involved are the immigration and Naturalization Service (INS) and its subagency, the Border Patrol, both in the Justice Department; the Bureau of Customs in Treasury, and the Coast Guard in Transportation.

The officials said they have isolated a number of duplicate functions performed by these agencies and are concentrating on eliminating them in the options they are proposing.

The duplicate functions include both INS and Customs screening persons who enter the country to determine whether they can be admitted; both Customs and the Border Patrol patroling between ports of entry, and the Coast Guard and Customs both maintaining sea patrols.

To a lesser extent there is a conflict also in the fact that the State Department, through its consular services, controls the extension of visas to persons wanting to come to the United States, but it is INS that has the final say at the border whether they can enter.

The officials said there is also a feeling that better screening of those who are granted visas, at the time those visas are granted, could help eliminate the 300,000 persons INS has to track down every year because they overstay their authorized time. Many of these are students.

While the officials said they have not drawn up any new organization chart, one possible form of consolidation being considered would involve:

— Consolidating the inspection functions performed by INS and Customs into one new enlarged Customs Service and the Customs Patrol and the Border Patrol into one enlarged Border Patrol.

— Grouping these combined Customs and Border Patrol agencies under a single new agency in Treasury, or making that agency independent, or leaving the enlarged Customs Service in Treasury and allowing the enlarged Border Patrol to remain in Justice.

— Some redefinition or possible consolidation of the sea patrol functions performed by the Coast Guard and Customs.

This falls considerably short of a more precise draft plan drawn up earlier this year by the Office of Drug Abuse Policy with some help from the Office of Management and Budget.

This earlier study suggested four possible options including one super agency, a limited consolidation of Customs and Border Patrol functions, addition of the Coast Guard to the super agency or doing nothing.

However, it is the present reorganization team effort under way in OMB that will produce the plan that will go

studies going back 40 years to draw upon in their effort. The overlapping border functions have been known that long.

The officials said the Cabinet was briefed on the overall reorganization effort Wednesday, including the proposals for consolidating border functions.

Despite the main thrust of eliminating duplication of functions, the officials said they do not envisage any reduction in total personnel or in total budget outlays. But by eliminating duplication, they said, there should be greater efficiency and accountability and more personnel will be freed to do other needed tasks.

At present, of the 2,200 border patrol members, about 1,500 are customs pa and 1,450 INS inspec main border manage

Their fiscal 1977 Customs Service and the $1.4 billion outla management costs c

Political resistance agencies, the official widespread acceptan change is needed.

The United States coastal areas to polic

4,000 More Sought For Border Force

By JAMES CARY
Copley News Service

WASHINGTON — President Carter may ask Congress to authorize a total of 4,000 new Border Patrol officers during the next three months, nearly tripling the personnel available to intercept aliens entering this country illegally.

Administration officials said funds for the first 2,000 will be requested soon in a supplement to the fiscal 1978 budget and an additional 2,000 slots may be requested in the fiscal 1979 budget.

The fiscal 1979 budget will go to Congress in January.

When added to the 2,200 present Border Patrol members, the new positions would create a force of 6,200 officers.

Plans to seek the first 2,000 officers have been disclosed previously, and their authorization — which is separate from the funding — is expected to be included in illegal alien legislation Mr. Carter will send to Capitol Hill before Jan. 1.

However, the possibility of adding another 2,000 had not been revealed before. Most, presumably, will be deployed along the 1,900-mile Mexican border where the major illegal alien problem exists.

Administration officials revealed the proposal in ex-

(Continued on A-14, Col. 1)

La Prensa San Diego

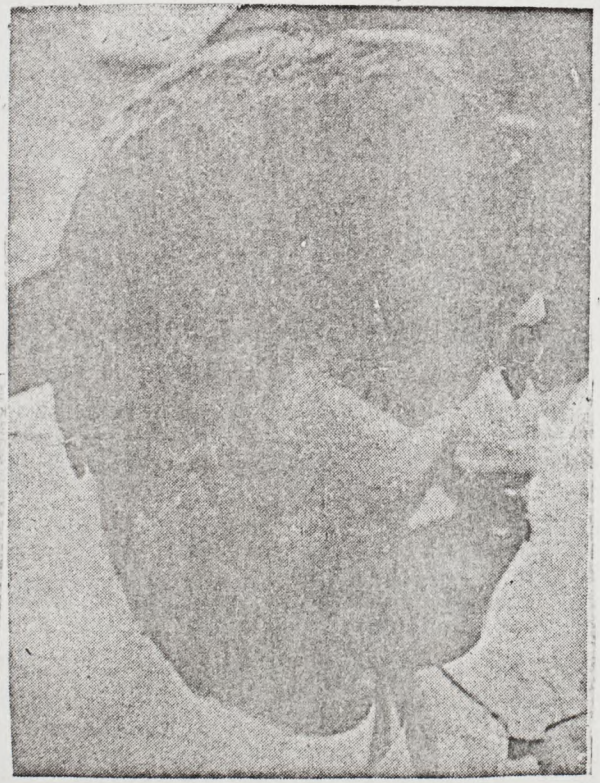
for our dignity & honor we raise our voice

por nuestra dignidad y honor alzamos nuestra voz

VOL. I No. 3 San Diego, Calif. FEB. 25, 1977

SAN DIEGO HAS BARRACK MENTALITY

In recent months there has been a steady increase in the tempo of "villification" of the Latino people. This has become more and more shrill as the social and economic problems of America have become unbearable, for some. The current "scapegoating" campign being orchestrated throughout the U. S. against the undocumented Mexican Worker, is perceived as just one more chapter in the disgusting history of racial-politics of America. Rather then seeking solutions to the basic problems confronting our society, America's leaders, divert attention away from root causes and lay the blame for all America on those powerless to defend themselves. Its' cheap politics but safe for those who practice it.



Herman Baca, Chairman of the Committee on Chicano Rights, sees the issue as a direct attack against the human, civil and constitutional rights of the 15 million persons of Latino ancestry in the United States.

"Mayor Wilson, State Attorney Younger, and Chief of Police Davies, from Los Angeles, are creating a climite of fear by using the so-called "illegal-Alian" issue as a means of advancing their political careers," sair Baca.

"Their tactics are similiar to those used in Nazi Germany against the Jewish people. Ultimately the end result will be the same if people of good conscious, do not put a stop to it. The flow of racist talk which emphasizes the most negative aspect of the entire relationships between two countries an their peoples can only lead to disaster."

"No one is speaking of the implications, for the Chicano of this country, in the current campaign against the un-documented workers. Mexican officials, American officials, jingoist politicians, and the media, discuss the solutions to the issue in what appears to be a self-serving manner. In all these discussions on proposed solutions, there has been little said or a voice raised in defense for Americas 15,000,000 Latinos who in the end are going to bear the brunt of the fall out which is going to occur from the so-called solution," said Mr. Baca.

A climite of fear has been created by Mayor Wilson, the city council, the San Diego Police Department when they involved the city police

95TH CONGRESS
1ST SESSION

H. R. 6093

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1977

Mr. ROYBAL introduced the following bill; which was referred jointly to the Committees on the Judiciary and Ways and Means

A BILL

To amend the Immigration and Nationality Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. (a) The Attorney General shall, in accordance with such regulations as he may prescribe, adjust the status of any alien described in subsection (b) of this section to that of an alien lawfully admitted for permanent residence if the alien makes application therefor within one year after the date of enactment of this title.

(b) An alien referred to in subsection (a) of this section is an alien who is physically present in the United States

on January 1, 1977, and who satisfies the requirements for admission as an immigrant under the provisions of section 212(a) of the Immigration and Nationality Act, without regard to paragraphs (14), (15), (19), (20), (21), and (26) of such section.

SEC. 102. Upon adjusting the status of any alien who makes application under section 101, the Attorney General shall record the alien's lawful admission for permanent residence as of the date on which the Attorney General makes such adjustment of status.

SEC. 103. An alien who makes an application under section 101 for adjustment of his status to that of an alien lawfully admitted for permanent residence shall be granted written authorization by the Attorney General to accept or continue employment pending the final disposition of such application.

SEC. 104. Any adjustment of status made by the Attorney General under section 101 shall be without regard to and have no effect on any numerical limitation contained in the Immigration and Nationality Act.

SEC. 105. The definitions contained in section 101 (a) and (b) of the Immigration and Nationality Act shall apply in the administration of this title.

TITLE II

SEC. 201. Section 201(a)(2) of the Immigration and

Nationality Act is amended by striking out "32,000" and "120,000" and by inserting in lieu thereof "45,000" and "170,000", respectively.

SEC. 202. Section 202 of the Immigration and Nationality Act is amended—

(1) by inserting in subsection (a) "located in the Eastern Hemisphere" immediately after "foreign state"; and

(2) by striking out so much of subsection (e) as precedes paragraph (1) and inserting in lieu thereof the following:

"(e) If in any fiscal year the maximum number of visas or conditional entries have been made available under section 202 to natives of any single foreign state (as defined in subsection (b) of this section) located in the Eastern Hemisphere, or of any dependent area (as defined in subsection (c) of this section) located in the Eastern Hemisphere, in the next following fiscal year a number of visas or conditional entries, not to exceed twenty thousand, in the case of such a foreign state, or six hundred, in the case of such a dependent area, shall be made available and allocated as follows:"

SEC. 203. The amendments made by this title shall take effect on the date provided in section 10 of the "Immigration and Nationality Act Amendments of 1976".

TITE III

SEC. 301. That portion of section 312 (l) of the Immigration and Nationality Act preceding the first proviso is amended to read as follows:

"(l) an ability to read, write, and speak words in ordinary usage in the language in which the applicant is most literate:"

TITLE IV

SEC. 401. Section 242 (b) of the Immigration and Nationality Act is amended by adding at the end thereof the following:

"Notwithstanding any other provision of this Act, no alien shall be permitted to depart voluntarily from the United States unless a finding of deportability is made in proceedings conducted before a special inquiry officer in accordance with the provisions of this subsection. In any case in which any such alien has been employed in the United States, the Attorney General shall collect from the employer concerned and pay to the alien concerned amounts due such alien from such employer for services rendered." As far as practicable, the Attorney General shall determine any Federal, State or local income taxes or FICA taxes owing by the alien and pay these before turning over the amount collected from the employer.

TITLE V

SEC. 501. Section 328 of the Immigration and Nationality Act is amended to read as follows:

"NATURALIZATION THROUGH SERVICE IN THE ARMED FORCES OF THE UNITED STATES

"SEC. 328. (a) A person who has served honorably at any time in the Armed Forces of the United States and who, if separated from such service, was never separated except under honorable conditions, may be naturalized without having resided, continuously immediately preceding the date of filing such person's petition, in the United States for at least five years, and in the State in which the petition for naturalization is filed for at least six months, and without having been physically present in the United States for any specified period.

"(b) A person filing a petition under subsection (a) of this section shall comply in all other respects with the requirements of this title, except that—

"(1) no residence within the jurisdiction of the court shall be required;

"(2) the petitioner shall not be required, under section 312, to pass an examination on the history or government of the United States;

"(3) notwithstanding section 318 insofar as it relates to deportability and section 336(c), such peti-

tioner may be naturalized immediately if, prior to the filing of the petition, the petitioner and the witnesses shall have appeared before and been examined by a representative of the Service;

"(4) the petitioner shall furnish to the Attorney General, prior to the final hearing upon his petition, a certified statement from the proper executive department for each period of his service upon which he relies for the benefits of this section, clearly showing that such service was honorable and that no discharges from service, including periods of service not relied upon by him for the benefits of this section, were other than honorable. The certificate or certificates herein provided for shall be conclusive evidence of such service and discharge.".

SEC. 502. (a) Chapter 2 of title III of the Immigration and Nationality Act is amended by striking out section 329.

(b) The table of contents of chapter 2 of title III of the Immigration and Nationality Act is amended by striking out the item relating to section 329.

SEC. 503. Section 318 of the Immigration and Nationality Act is amended by striking out "sections 328 and 329" and inserting in lieu thereof "section 328".

SEC. 504. Section 3 of the Act of October 24, 1968, entitled "An Act to amend the Immigration and Nationality

Act to provide for the naturalization of persons who have served in active-duty service in the Armed Forces of the United States during the Vietnam hostilities, or in other periods of military hostilities, and for other purposes" (8 U.S.C. 1440e) is amended by striking out "329" and inserting in lieu thereof "328".

SEC. 505. Section 340 (f) of the Immigration and Nationality Act is amended by striking out ", or under the provisions of section 329 (c) of this title".

TITLE VI

SEC. 601. Section 205 (c) (2) (B) (ii) of the Social Security Act (42 U.S.C. 405 (c) (2) (B) (ii)) is amended—

(1) by inserting "(I)" after "(ii)";

(2) by striking out "such evidence" and inserting in lieu thereof "affidavits signed by such applicants and such other evidence";

(3) by adding at the end thereof the following new sentence: "Any individual who knowingly makes a false affidavit under this subclause shall be fined not more than $2,000 or imprisoned not more than five years, or both."; and

(4) by adding after the sentence added by paragraph (3) of this section the following new subclause "(II) In carrying out his duties under subclause (I), the Secretary shall require that a thumbprint be taken of

any applicant for a social security account number. The Secretary shall establish and maintain an index of thumbprints taken under this subclause and shall before any social security account number may be issued to any applicant check such applicant's thumbprint against all other thumbprints indexed under this subclause.".

SEC. 602. No person, except those specifically authorized by law, shall require any individual to disclose his social security account number or request proof that such individual has a social security account number.

SEC. 603. The definitions contained in sections 101 (a) and (b) of the Immigration and Nationality Act shall apply in the administration of this title.

SEC. 604. (a) The amendments made by section 601 shall apply only with respect to individuals applying for social security account numbers on or after the date of the enactment of this title.

(b) The provisions of section 602 shall only apply to acts or omissions occurring on or after the date of the enactment of this title.

TITLE VII

SEC. 701. There is established a Commission to be known as the President's Commission on United States-Mexico Immigration Policy (hereinafter in this title referred to as the "Commission"), the purpose of which is to

conduct studies and develop recommendations on immigration between the United States and Mexico and its effects on domestic and international affairs respecting the United States.

SEC. 702. The Commission's studies and recommendations shall cover:

(1) prevailing and projected demographic, technological, and economic trends affecting immigration between the United States and Mexico;

(2) the interrelationships between United States-Mexico immigration and existing and contemplated government programs in the United States;

(3) the effects of United States immigration and trade policies and practices on relations with Mexico;

(4) the effectiveness of the operation of the immigration laws of the United States, with emphasis on the adequacy of such laws from the standpoint of fairness to aliens seeking admission into the United States and from the standpoint of the impact of such laws on social and economic conditions in this country;

(5) present and projected unemployment in the United States, by occupations, industries, and geographic areas and how it is affected by immigration; and

(6) any other matters which the Commission believes to be germane to the purposes for which it was established.

SEC. 703. (a) The Commission shall be composed of seventeen members as follows:

(1) The Secretary of Agriculture.

(2) The Attorney General.

(3) The Secretary of Health, Education, and Welfare.

(4) The Secretary of Labor.

(5) The Secretary of State.

(6) The Commissioner of Immigration and Naturalization.

(7) The Commissioner of Social Security.

(8) Ten members from the private sector appointed by the President, by and with the advice and consent of the Senate, from among distinguished individuals in the fields of immigration, labor, business, international relations, or education and health, of whom no less than four members shall be from community-based groups which deal with immigration problems. The President shall appoint the members described in this paragraph within ninety days after the date of the enactment of this title.

(b) The Chairman and Vice Chairman of the Commission shall be designated by the President. The term of office of the Chairman and Vice Chairman will be for the life of the Commission.

(c) The Chairman shall invite for the purpose of participating in any meeting or hearing held by the Commission, and for the purpose of contributing to the studies to be conducted and the recommendations to be developed by the Commission, such officials of the Government of Mexico as the Commission deems desirable.

SEC. 704. (a) Members shall be appointed for the life of the Commission.

(b) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(d) (1) Members of the Commission described in section 703 (a) (8) of this title shall each receive $150 for each day (including traveltime) during which they are engaged in the actual performance of duties of the Commission.

(2) Members of the Commission described in sections 703 (a) (1) through (7) of this title shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) The Commission shall meet at the call of the Chairman or a majority of its members.

SEC. 705. (a) The Commission shall have a director who shall be appointed by and whose pay shall be fixed by the Chairman.

(b) The Chairman may appoint and fix the pay of such additional personnel as the Chairman deems desirable.

(c) The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 706. (a) The Commission may for the purpose of carrying out its duties hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems advisable.

(b) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants at a rate to be fixed by the Commission, but not in excess of $150 per diem (including traveltime). While away from his home or regular place of business in the performance of services for the Commission, any such person may

be allowed travel expenses including per diem in lieu of subsistence.

(c) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties. Upon request of the Chairman, the head of such agency or department of the United States shall furnish all information requested by the Commission which is necessary to enable it to carry out its duties.

SEC. 707. (a) The Commission shall transmit a report to the President and to each House of Congress within one year after the date of the enactment of this title, and annually thereafter. Such report shall contain the findings and recommendations of the Commission and the progress of the Commission in completing the studies being conducted under Section 701 of this title.

(b) The final report shall be transmitted to the President and each House of Congress within four years after the date of the enactment of this title.

SEC. 708. The Commission shall cease to exist on the thirtieth day beginning after the date of the transmission of the final report under section 707 (b) of this title.

TITLE VIII

SEC. 801. Except where otherwise provided in any title of this Act, this Act takes effect on the date of its enactment.

IN

RESPONSE TO THE
CARTER IMIGRATION
PLAN
PRESENTED TO
FF
GRIFFIN BELL

SOURCE: BACA, GARSIA,
RAMIREZ AND NCSAR
MAY 1977

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

INTRODUCTION

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

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

THE SO-CALLED "AMNESTY" ISSUE

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

*Prepared by Peter Schey for Alberto Garcia, United California Mexican-American Association; Herman Baca, Committee on Chicano Rights; Jesse Ramirez, Chicano Federation.

a. The Various Positions on Amnesty.

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

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

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

1. Document all Documentable Aliens.

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

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

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

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

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

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

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

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

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

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

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

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

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

RECOMMENDATION: ALL ALIENS IN THE UNITED STATES WHO ARE NOT

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

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

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

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

RODINO-TYPE LEGISLATION

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

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

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

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

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

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

RE-INTRODUCTION OF THE BRACERO PROGRAM.

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

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

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

A renewed Bracero program would not benefit the peoples of Mexico. Persons brought into the U.S. on a Bracero-type program will spend most of their income here in the United States, they will be split-up from their families, and, in effect, will become the merchandise in a legalized slave-trade.

RECOMMENDATION: THAT UNTIL THE SCOPE AND EXTENT OF THE PROBLEMS OF WORKERS ALREADY IN THE UNITED STATES, WHETHER CITIZENS, DOCUMENTED OR UNDOCUMENTED ALIENS, ARE ANALYZED AND RESOLVED, THE "TEMPORARY WORKER" PROGRAMS SUPPORTED BY INS IN COLLABERATION WITH BUSINESS INTERESTS, SHOULD BE CURTAILED AND NOT LIBERALIZED.

NATIONAL IDENTIFIER CARDS

Leaders in the Department of Labor have recommended the adoption of a "national identifier" card to be carried by all workers in the U.S. This is, in effect, a call for an "internal passport" for all workers and presents civil liberties issues that should concern all workers. The concept should be rejected for a number of reasons: (1) Even under current regulations of the Social Security Administration, only persons lawfully in the United States can obtain Social Security cards. Proof of lawful residence in the U.S. is required for all applicants for Social Security cards; (2) Much of the problem encountered does not involve counterfiet Social Security cards, but instead involves the fact that many employers, exploiting their employees, simply do not require Social Security cards from their employees. This problem will in no way be solved by the suggestions of the Department of Labor; (3) If all workers are required to possess

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

CALL FOR NATIONAL HEARINGS

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

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

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

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

95th Congress
1st Session

COMMITTEE PRINT

No. 2

Illegal Aliens: Analysis and Background

PREPARED FOR THE USE OF THE

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

BY THE

Education and Public Welfare Division
Congressional Research Service
Library of Congress

NINETY-FIFTH CONGRESS
FIRST SESSION

JUNE 1977

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
92-113 WASHINGTON : 1977

COMMITTEE ON THE JUDICIARY

PETER W. RODINO, JR., New Jersey, *Chairman*

JACK BROOKS, Texas
ROBERT W. KASTENMEIER, Wisconsin
DON EDWARDS, California
JOHN CONYERS, JR., Michigan
JOSHUA EILBERG, Pennsylvania
WALTER FLOWERS, Alabama
JAMES R. MANN, South Carolina
JOHN F. SEIBERLING, Ohio
GEORGE E. DANIELSON, California
ROBERT F. DRINAN, Massachusetts
BARBARA JORDAN, Texas
ELIZABETH HOLTZMAN, New York
ROMANO L. MAZZOLI, Kentucky
WILLIAM J. HUGHES, New Jersey
SAM B. HALL, JR., Texas
LAMAR GUDGER, North Carolina
HAROLD L. VOLKMER, Missouri
HERBERT E. HARRIS II, Virginia
JIM SANTINI, Nevada
ALLEN E. ERTEL, Pennsylvania
BILLY LEE EVANS, Georgia
ANTHONY C. BEILENSON, California

ROBERT McCLORY, Illinois
TOM RAILSBACK, Illinois
CHARLES E. WIGGINS, California
HAMILTON FISH, JR., New York
M. CALDWELL BUTLER, Virginia
WILLIAM S. COHEN, Maine
CARLOS J. MOORHEAD, California
JOHN M. ASHBROOK, Ohio
HENRY J. HYDE, Illinois
THOMAS N. KINDNESS, Ohio
HAROLD S. SAWYER, Michigan

ALAN A. PARKER, *General Counsel*
GARNER J. CLINE, *Staff Director*
FRANKLIN G. POLK, *Associate Counsel*

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW

JOSHUA EILBERG, Pennsylvania, *Chairman*

ELIZABETH HOLTZMAN, New York
SAM B. HALL, JR., Texas
HERBERT E. HARRIS II, Virginia
BILLY LEE EVANS, Georgia

HAMILTON FISH, JR., New York
HAROLD S. SAWYER, Michigan

GARNER J. CLINE, *Counsel*
ARTHUR P. ENDRES, JR., *Counsel*
ALEXANDER B. COOK, *Associate Counsel*

FOREWORD

This report deals with the complex and emotionally charged subject of aliens who have entered this country in violation of the Immigration and Nationality Act or who have accepted employment in violation of their nonimmigrant status.

The issue of illegal aliens has received the close scrutiny of the Judiciary Committee, particularly the Subcommittee on Immigration, Citizenship, and International Law since 1971, and during the 92nd and 93rd Congresses the Committee produced legislation which was overwhelmingly approved by the House of Representatives.

The difficult task of drafting remedial legislation in this sensitive area has been compounded by the fact that a variety of diverse public policy issues must be addressed such as: the identification of illegal aliens by employers and government officials, the adjustment of status of illegal aliens who have developed equities in the United States, the use of social services by legal and illegal aliens, the effect of illegal Mexican immigration on our relations with that government, and employment discrimination against ethnic and minority groups.

This Library of Congress study, prepared in February of this year, presents a comprehensive and objective analysis of this pervasive problem and provides an excellent overview of Congressional activities in this area. The study describes the nature and scope of the problem with particular emphasis on the social and economic impacts caused by illegal aliens. It also provides background information on our general immigration law and traces the development of federal legislation establishing employer sanctions. More importantly, it analyzes the vexing issues which currently confront policymakers in both the Executive and Legislative Branches of the Government as they attempt to devise an appropriate solution to this serious problem.

It is the hope of the Committee that this report will assist the Members of Congress in achieving a thorough understanding of this multi-faceted problem.

The author of this study is Joyce C. Vialet, an analyst in social legislation in the Education and Public Welfare Division, Congressional Research Service, Library of Congress. Mrs. Vialet has worked closely with the Judiciary Committee over the years on this matter and has conducted extensive research on the subject of illegal aliens as well as on a variety of other immigration-related issues.

CONTENTS

Illegal Aliens: Analysis and Background

INTRODUCTION

Illegal aliens are persons of foreign nationality who have entered the United States unlawfully; or who, after legal entry, have violated the terms of their admission, generally by overstaying and/or accepting unauthorized employment. No reliable estimates are available on the total illegal alien population, although it is thought to number into the millions. The Immigration and Naturalization Service (INS), within the U.S. Department of Justice, maintains statistics on the number of deportable aliens apprehended each year. Recently apprehensions have been approximately double the number of legally admitted immigrants.

The primary impact of illegal aliens in the United States is believed to be on the labor market. Information on the nature of this and other impacts is inadequate, reflecting the observation of the U.S. Domestic Council Committee on Illegal Aliens that, "Research into the characteristics and impact of a clandestine population presents extraordinary difficulties." [1]

It is generally agreed that, in the words of the House Judiciary Committee, "the primary reason for the illegal alien problem is the economic imbalance between the United States and the countries from which the aliens come, coupled with the chance of employment in the United States." [2] However, there is disagreement about the appropriate U.S. policy toward illegal aliens, as reflected in the five-year debate in Congress over legislation establishing penalties for U.S. employers who hire illegal aliens.[3]

Increasingly, it is argued that long-term solutions to the illegal alien problem, particularly as it involves Mexico, must also be international in scope if they are to have any chance of success. Quoting from the report of the Department of Justice's Special Study Group on Illegal Immigrants from Mexico, "Because illegal immigration from Mexico is fundamentally an economic problem, it will persist as long as the great disparities between the United States and Mexico in employment opportunities and standard of living continue." [4]

As measured by the number of bills introduced, illegal aliens were the aspect of immigration of greatest general legislative interest during the 94th Congress. More than 50 bills, some identical, were devoted in whole or in part to this subject. Legislation aimed at controlling the illegal alien problem passed the House during the 92nd

---

[1] U.S. Domestic Council Committee on Illegal Aliens. Preliminary Report, December 1976, p. 221. (Henceforth cited as the Domestic Council Committee on Illegal Aliens report (December 1976).)

[2] U.S. Congress. House. Committee on the Judiciary. Amending the Immigration and Nationality Act, and for other purposes; Report to accompany H.R. 8713. Washington, U.S. Government Printing Office, 1975. (94th Congress, 1st session. House. Report No. 94-506) p. 6. (Henceforth cited as H. Rept. No. 94-506 (1975).)

[3] For a review of the positions of some of the major interest groups on legislation pending before the 94th Congress, see "Illegal Alien Curbs: House Action Stalled," Congressional Quarterly, March 20, 1976, pp. 637-641.

[4] U.S. Special Study Group on Illegal Immigrants from Mexico. Final Report, A Program for Effective and Humane Action on Illegal Mexican Immigrants, Jan. 15, 1973, p. 40. (Popularly referred to as the Cramton Commission report, after its chairman, Roger C. Cramton, U.S. Department of Justice; henceforth cited as the Cramton report (January 1973).)

and 93rd Congresses. Similar legislation was reported, but not passed during the 94th Congress; and, for the first time during the past three Congresses, a related bill was given serious attention by the Senate Judiciary Committee. This paper is intended as a review and analysis of a number of issues relating to the illegal alien problem, as background for the legislative debate which may be expected to continue during the 95th Congress.

I. Numbers, Origins, and Characteristics of Illegal Aliens

NUMBERS

In fiscal year 1975, the Immigration and Naturalization Service (INS) located 766,600 aliens who were deportable under the Immigration and Nationality Act, either because of illegal entry (87 percent) or violation of the terms of their entry.[1] This figure represents a slight decrease from the 788,145 deportable aliens located in fiscal year 1974, the first decrease since fiscal year 1964 (see Table 1).

The statistics on apprehensions of illegal aliens have been dwarfed by the current estimates from various sources of the numbers of illegal aliens in the United States. Nonetheless, the apprehension figures are exceedingly high, both in terms of apprehensions in the recent past, and in terms of the number of immigrants legally admitted each year. Over the ten-year period 1966–1975, the number of deportable, or "illegal", aliens apprehended has increased by 453 percent; going back 15 years, to 1961, the increase is 762 percent.

TABLE 1.—ALIENS APPREHENDED, ALIENS DEPORTED, AND ALIENS REQUIRED TO DEPART, YEARS ENDED JUNE 30, 1892–1975

Period	Aliens apprehended [1]	Aliens expelled		
		Total	Aliens deported	Aliens required to depart [2]
1892–1975	9,982,524	10,300,195	681,959	9,618,236
1892–1900		3,127	3,127	
1901–10		11,558	11,558	
1911–20		27,912	27,912	
1921–30	128,484	164,390	92,157	72,233
1931–40	147,457	210,416	117,086	93,330
1931	22,276	29,861	18,142	11,719
1932	22,735	30,201	19,426	10,775
1933	20,949	30,212	19,865	10,347
1934	10,319	16,889	8,879	8,010
1935	11,016	16,297	8,319	7,978
1936	11,728	17,446	9,195	8,251
1937	13,054	17,617	8,829	8,788
1938	12,851	18,553	9,275	9,278
1939	12,037	17,792	8,202	9,590
1940	10,492	15,548	6,954	8,594
1941–50	1,377,210	1,581,774	110,849	1,470,925
1941	11,294	10,938	4,407	6,531
1942	11,784	10,613	3,709	6,904
1943	11,175	16,154	4,207	11,947
1944	31,174	39,449	7,179	32,270
1945	69,164	80,760	11,270	69,490
1946	99,591	116,320	14,375	101,945
1947	193,657	214,543	18,663	195,880
1948	192,779	217,555	20,371	197,184
1949	288,253	296,337	20,040	276,297
1950	468,339	579,105	6,628	572,477

See footnotes at end of table.

[1] U.S. Department of Justice. Immigration and Naturalization Service. 1975 Annual Report, 1976, p. 13. (Henceforth cited as 1975 INS annual report.)

TABLE 1.—ALIENS APPREHENDED, ALIENS DEPORTED, AND ALIENS REQUIRED TO DEPART, YEARS ENDED JUNE 30, 1892–1975

Period	Aliens apprehended [1]	Aliens expelled		
		Total	Aliens deported	Aliens required to depart [2]
1951–60	3,584,229	4,013,547	129,887	3,883,660
1951	509,040	686,713	13,544	673,169
1952	528,815	723,959	20,181	703,778
1953	885,587	905,236	19,845	885,391
1954	1,089,583	1,101,228	26,951	1,074,277
1955	254,096	247,797	15,028	232,769
1956	87,696	88,188	7,297	80,891
1957	59,918	68,461	5,082	63,379
1958	53,474	67,742	7,142	6,600
1959	45,336	64,598	7,988	56,610
1960	70,684	59,625	6,829	52,796
1961–70	1,608,356	1,430,902	96,374	1,334,528
1961	88,823	59,821	7,438	52,383
1962	92,758	61,801	7,637	54,164
1963	88,712	76,846	7,454	69,392
1964	86,597	81,788	8,746	73,042
1965	110,371	105,406	10,143	95,263
1966	138,520	132,851	9,168	123,683
1967	161,608	151,603	9,260	142,343
1968	212,057	189,082	9,130	179,952
1969	283,557	251,463	10,505	240,958
1970	345,353	320,241	16,893	303,348
1971	420,126	387,713	17,639	370,074
1972	505,949	467,193	16,266	450,927
1973	655,968	584,847	16,842	568,005
1974	788,145	737,564	18,824	718,740
1975	766,600	679,252	23,438	655,814

[1] Aliens apprehended first recorded in 1925. Prior to 1960, represents total aliens actually apprehended. Since 1960, figures are for total deportable aliens located, including nonwillful crewman violators.
[2] Aliens required to depart first recorded in 1927.

Source: 1975 INS Annual Report, table 23, p. 90.

In the words of the House Judiciary Committee, "This wholesale violation of the law disrupts that legal and orderly flow of aliens into the United States, and threatens the integrity of our system of immigration." [2] The 766,600 aliens apprehended in fiscal year 1975 is almost double the 386,194 immigrants admitted legally during the same year. Quoting from a report prepared recently for the U.S. Department of Labor, "In essence, escalating apprehension rates of illegals are a sign that there is a serious discrepancy between de jure and de facto immigration policy, and that this gap is widening." [3]

It is generally agreed that there is no reliable estimate of the total illegal alien population in the United States. Since 1973, the estimates of the Immigration and Naturalization Service have varied from just over 1 million to as high as 12 million, a range which has cast some doubt on their credibility. In late 1976, the INS estimate of the illegal alien population was 6–8 million.[4] INS is the first to acknowledge that its estimates are only educated guesses, based largely on the experience of INS officials in the field.

---

[2] House Report No. 94-506 (1975), p. 5.
[3] David S. North and Marion F. Houstoun, "The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study," March 1976, p. 30. (Henceforth cited as North/Houstoun study (March 1976).)
[4] INS Commissioner Leonard F. Chapman, Statement before the Select Committee on Small Business, November 23, 1976, p. 2.

Ray Marshall, now Secretary of Labor and formerly an economist with the University of Texas, wrote in 1976:

> Leonard F. Chapman, Jr., director of the Immigration and Naturalization Service, said in 1975 that an estimated 12 million illegal aliens were displacing American workers, and were costing American tax payers millions of dollars each year; . . . While experts consider General Chapman's estimates to be exaggerations, they nevertheless agree that there are several million illegals in the country and that they constitute a serious national problem.[5]

In its December 1976 report, the Cabinet-level Domestic Council Committee on Illegal Aliens did not attempt to estimate the "significant and growing" illegal alien population. Instead, they concluded that "hard data on illegal aliens is virtually non-existent," [6] and that "current estimates of the stock and flow of illegal aliens are educated guesses at best." [7]

To date INS apprehension statistics remain the most reliable information available on illegal aliens. However, they are limited in usefulness as a basis for projecting the total illegal alien population for several reasons. First, they record offenses rather than offenders, and thus include repeaters, of whom there are many. Second, as the House Judiciary Committee has observed, they appear to be "primarily a function of the manpower and funds which are available to INS." [8] Third, since these resources are limited, the apprehension statistics are more reflective of INS's enforcement priorities than of the actual distribution of apprehended illegal aliens. As the Domestic Council Committee on Illegal Aliens observed, "the apprehension rate is biased by the emphasis of the INS enforcement activity," [9] specifically on the Southwest border. Thus, Charles Gordon, former General Counsel for INS, told the Senate Judiciary Subcommittee on Immigration and Naturalization at recent hearings:

> In other words, I do not believe the fact that 700,000 illegals from Mexico have been apprehended is a reliable index of the number of illegals actually in the United States. The published estimates are just guesses without any factual basis.[10]

In recognition of the absence of adequate data, INS is currently sponsoring a comprehensive study of the illegal alien problem, funded at $1 million and expected to be completed in about a year.[11] The study will include a residential survey to be conducted in the twelve most populous states, described by the Domestic Council Committee as "the first attempt to collect data on the number, characteristics, and impacts of illegal immigrants on a national scale." [12]

The first part of this projected seven part study is the "Fraudulent Entrants Study," released September 1976. Between September 1975

---

[5] Ray Marshall, "Employment Implications of the International Migration of Workers," Illegal Aliens: An Assessment of the Issues, National Council on Employment Policy, October 1976, pp. 52–53. (Henceforth cited as Marshall (1976).)

[6] Domestic Council Committee on Illegal Aliens report (December 1976), p. 221.

[7] Ibid., p. 236.

[8] H. Rept. No. 94-506 (1975), p. 5.

[9] Domestic Council Committee on Illegal Aliens report (December 1976), p. 133.

[10] U.S. Congress. Senate. Committee on the Judiciary. Immigration 1976, Hearings, 94th Congress, 2d session on S. 3074. Washington, U.S. Government Printing Office, 1976, p. 219. (Henceforth cited as Senate Judiciary hearings, 1976.)

[11] Domestic Council Committee on Illegal Aliens report (December 1976), p. 229.

[12] Ibid., p. 131. Preliminary estimates of 5,222,000 Mexican illegal aliens and a total illegal alien population of 8,180,000 were arrived at by Lesko Associates in a report prepared under contract to INS ("Final Report: Basic Data and Guidance Required to Implement a Major Illegal Alien Study during fiscal year 1976," Oct. 15, 1976). However, the methodology used in the Lesko study came under heavy criticism by, among others, the U.S. Bureau of the Census (Congressional Record, Feb. 26, 1976, pp. E884–5) and the Congressional Research Service (Memo to Honorable Herman Badillo, Jan. 23, 1976). See also North/Houstoun study, pp. 153–154.

and February 1976, two teams of four INS inspectors, relieved of the customary time limits on individual inspections, throughly inspected random samples of entering aliens at the selected land ports and airports, The purpose of the study was "to provide a statistically valid estimate of the flow of illegal aliens through the international airports and Southern land border ports of entry"; the particular group of illegal aliens under study were "those attempting entry with counterfeit or altered documents, as impostors, by false verbal or documented claims to U.S. citizenship, or with valid documents, the terms of which the bearer had in the past or clearly intends to violate after entry, usually to work."[13]

The number of such malafide applicants denied admission because of more thorough inspections was "twelve to fourteen times those experienced during the routine operations of these ports."[14] Based on the results of the two teams, it was concluded that,

> * * * In excess of 500,000 malafide entries were projected to have successfully entered through the studied ports during fiscal year 1975, roughly 450,000 at the land ports and 50,000 at the international airports. This projection reflects *entries* rather than necessarily individual *entrants*, and is therefore not an estimate of a population.[15]

COUNTRIES OF ORIGIN AND STATUS AT ENTRY

A. INS apprehension data

Of the 766,600 illegal aliens apprehended in fiscal year 1975, approximately 89 percent (680,392) were Mexican nationals, the majority of whom entered the country without inspection. The number of Mexican nationals apprehended in fiscal year 1975 represents a 4 percent decrease compared to fiscal year 1974 which, in turn, accounts for the overall decrease in apprehension statistics. However, while apprehensions of aliens from other countries—"virtually every country of the world," according to the INS annual report[16]—have increased 10 percent, apprehended illegal entries continue to be predominantly Mexican. Mexicans as a percentage of the total illegals apprehended over the ten year period 1966–1975 are shown in Table 2.

TABLE 2.—DEPORTABLE ALIENS LOCATED, FISCAL YEARS 1966–75

	Total	Mexican	Mexican as percent of total
1966	138,520	89,751	65
1967	161,608	108,327	67
1968	212,057	151,705	72
1969	283,557	201,636	71
1970	345,353	277,377	80
1971	420,126	348,178	83
1972	505,949	430,213	85
1973	655,968	576,823	88
1974	788,145	709,959	90
1975	766,600	680,392	89

Source: U.S. Immigration and Naturalization Service, Annual Reports, fiscal years 1966–75.

[13] U.S. Department of Justice, Immigration and Naturalization Service, Illegal Alien Study, Part 1. Fraudulent Entrants Study, September 1976, p. vii. (Henceforth cited as INS Fraudulent Entrants Study (September 1976).)

[14] Ibid., p. 18.

[15] Ibid., p. viii.

[16] 1975 INS annual report, p. 13.

TABLE 3.—DEPORTABLE ALIENS LOCATED BY STATUS AT ENTRY AND NATIONALITY YEAR ENDED JUNE 30, 1975

Nationality	Number located	Status at entry										
		Agricultural worker	Visitor	Student	D–1 [1] crewmen		D–2 [1] crewmen		Immigrant	Stowaway	Entry without inspection	Other
					Nonwillful violator	Willful violator	Nonwillful violator	Willful violator				
All countries	766,600	814	55,294	8,869	10,692	4,144	168	123	3,502	385	667,689	14,920
Europe	17,766	62	8,239	758	4,448	2,225	66	48	150	35	367	1,368
Greece	5,300	7	846	113	2,155	1,659	32	30	21	9	90	338
Italy	1,941	2	1,042	43	475	87	6	5	16	6	55	204
Scandinavia [2]	787		194	33	459	22	7	3	3	1	1	64
Spain	982	41	323	25	267	185	7	4		1	15	114
United Kingdom	2,664	6	1,366	197	598	87	9	1	36	2	74	288
Yugoslavia	653	1	477	20	61	51		1	3	1	7	31
Other Europe	5,439	5	3,991	327	433	134	5	4	71	15	125	329
Asia	17,287	21	5,264	4,211	3,640	1,311	39	28	209	9	112	2,443
China	4,263	2	859	630	1,252	927	25	16	24	5	52	471
Philippines	3,164	8	1,314	207	539	117	3	3	102		13	858
Other Asia	9,860	11	3,091	3,374	1,849	267	11	9	83	4	47	1,114
North America	700,183	228	26,509	895	561	140	20	15	2,781	128	659,558	9,348
Canada	9,048	7		107	39	4			68		3,960	788
Mexico	680,392	18	16,124	294	65	9	4		2,591	4	654,836	6,447
Cuba	416		246	12		3			26	1	77	51
Dominican Republic	3,233	19	2,352	138	31	50		4	50	78	283	228
British West Indies and Belize	7,094	184	3,712	344	426	74	16	11	46	45	402	1,834
Other Western Hemisphere	26,270	494	13,069	1,483	1,271	338	41	29	336	198	7,604	1,407
Other nationalities	5,094	9	2,213	1,522	772	130	2	3	26	15	48	354

[1] D–1 crewmen have shore leave during the time their vessel or aircraft is in port, not to exceed 29 days; D–2 crewmen have shore leave allowing them to depart on another vessel or aircraft within 29 days.

[2] Denmark, Norway, Sweden, and Iceland.

Source: 1975 INS Annual Report, table 27B, p. 100.

The available information on the country of origin and status at entry of deportable aliens located in 1975 is summarized in Table 3, also reproduced from the INS 1975 annual report. A more precise breakdown of the second largest source, "other Western Hemisphere," is not available from INS. As an indication of the broad range of countries from which illegal aliens come, Commissioner Chapman told the Senate Judiciary Subcommittee on Immigration and Naturalization that in December 1975 in Dallas, Texas, the INS "apprehended illegal aliens working from 59 countries of the world, . . . that is just about half the countries in the world who were represented in Dallas, Tex., illegally working." [17]

Of the deportable aliens apprehended in fiscal year 1975, 87 percent had entered the country surreptitiously, and 99 percent of these entries were across the Mexican border. Of the 13 percent who violated the terms of their admission, more than half were temporary visitors, or tourists, followed by foreign students, immigrants, and alien crewmen.[18]

The predominance in the apprehension statistics of Mexican nationals entering without inspection undoubtedly reflects the extent to which the illegal alien problem continues to be a Mexican border problem. As noted above in the discussion of apprehension statistics, it also reflects the extent to which INS continues to concentrate its forces on the Southwest border. The relation between the deployment of INS forces and the characteristics of the illegal aliens it apprehends is addressed in the following recent statement by INS:

> The Southwest Region, for example, has the greatest concentration of Border Patrol Agents because the enforcement strategy of the Service is to prevent entry, where possible, and to apprehend illegal entrants as quickly as possible after entry. There were 690,000 aliens apprehended in that region in FY 1974, most of whom were stopped at the line or within 72 hours of entry. . . .
>
> The three other regions present an entirely different enforcement problem. In these three, there is no great push of entrants over the land border and illegal aliens tend, in the main, to concentrate in cities where job opportunities are available. The illegal alien population also differs in most respects from the Southwest profile which is preponderantly made up of Mexican males. In the northern and eastern cities, the illegal alien is typically a former temporary visitor who has overstayed his time, or who has violated his visitor status by taking a job. He also assimilates much more easily into the population at large, and is more difficult to detect and more expensive to detain and expel.
>
> The investigative forces are also spread thinly through these regions, as a consequence of the assignment of a limited number of enforcement personnel to tasks that obviously require a greater number.[19]

Regarding the origins of the non-Mexican contingent of apprehended illegal aliens, David North and Marion Houstoun point out, "the number of apprehensions of illegals from the Eastern Hemisphere and from Canada has remained virtually constant, while the number of illegals from other nations in the Western Hemisphere has progressively increased, and more than doubled, between the years 1968 and 1974." [20] This is documented by a statistical table reproduced here as Table 4.

---

[17] Senate Judiciary hearings, 1976, p. 29.

[18] 1975 INS annual report, p. 13. See also Domestic Council Committee on Illegal Aliens report, pp. 142–143.

[19] U.S. Congress. House. Committee on the Judiciary. Illegal aliens. Hearings, 94th Congress, 1st session on H.R. 982 and related bills. Serial No. 8. Washington, U.S. Government Printing Office, 1975, p. 111. (Henceforth cited as House Judiciary hearings, 1975.)

[20] North/Houstoun study (March 1976), p. 46.

TABLE 4.—DISTRIBUTION OF REGION OF ORIGIN OF APPREHENDED ILLEGAL ALIENS, FOR SELECTED YEARS, FISCAL YEARS 1968–74

Region of origin	Fiscal year 1968		Fiscal year 1970		Fiscal year 1972		Fiscal year 1974	
	Number of apprehended illegals	Percent of total number	Number of apprehended illegals	Percent of total number	Number of apprehended illegals	Percent of total number	Number of apprehended illegals	Percent of total number
Western Hemisphere:								
Mexico	151,705	71.5	277,377	80.3	430,213	85.0	709,959	90.0
Canada	11,056	5.2	11,323	3.3	11,012	2.2	9,362	1.2
Other Western Hemisphere	16,186	7.6	23,320	6.8	28,119	5.6	34,948	4.5
Total	178,947	84.3	312,020	90.4	469,344	92.8	754,269	95.7
Eastern Hemisphere:								
Europe	15,520	7.3	16,111	4.7	15,462	3.1	15,031	1.9
Asia	15,488	7.3	14,613	4.2	18,733	3.7	14,633	1.9
Other nations	2,102	1.0	2,609	.8	2,370	.5	4,212	.5
Total	33,109	15.6	33,333	9.7	36,605	7.3	33,876	4.3
Total[1]	212,057	99.9	345,353	100.1	505,949	100.1	788,145	100.0

[1] Percentages may not add to 100 due to roundoff.

Sources: INS Annual Report, table 27B, for the years cited. North/Houstoun study (March 1976), table III–1, p. 47.

North and Houstoun also observe that, not surprisingly in view of its manpower allocation, INS statistics "do not substantiate the claim that a phenomenal increase in visa abusers [i.e., nonimmigrants who have failed to comply with the terms of their admission] now reside in the nation." However, it is noted further that the statistics do suggest "the nation of origin distribution of illegals in the United States is widening, to include increasing numbers of illegals from the Caribbean and from Central and South America," and that these countries are responsible for increasing numbers of tourist visa abusers.[21]

B. Mexico and other sending countries: other sources of data

The illegal alien problem appears increasingly to consist of two separate components: Mexicans, predominantly entering without inspection over the Southwest border; and non-Mexicans, predominantly entering with valid documents, who disappear into the job markets of our larger cities. The two groups present different enforcement problems, as indicated in the INS statement quoted above and, as will be discussed below, appear to differ in their characteristics and impact. However, very little information is available on the dimensions and sources of the non-Mexican illegal entries.

In a very limited study of national origins, a breakdown by nationality of the 185 malafide applicants denied entry at U.S. international airports by INS during the course of its study of fraudulent entrants indicates the Dominican Republic as the largest source (27), followed closely by Mexico (25), Haiti (21), and Jamaica (20).[22] Only 17 percent of the total number were from Europe. Quoting from the study,

> The majority carried *valid* nonimmigrant visas but intended to violate the terms of these admissions. A common violation of this kind involved unauthorized employment.[23]

[21] Ibid., p. 49.
[22] INS Fraudulent Entrants Study (September 1976), p. 30.
[23] Ibid., p. ix.

Commenting on the INS apprehension statistics as a reflection of total population, the Domestic Council Committee on Illegal Aliens observed, "While it is reasonable to assume that Mexican nationals form the largest element within the the illegal alien population, it is probable that they constitute far less than ninety percent." The Committee noted that some researchers suggest that Mexicans make up about 60 percent, "but this appears to be no better than an educated guess." [24]

As a supplement to INS apprehension data, the Foreign Relations task force of the Domestic Council Committee on Illegal Aliens drew up a list of the 15 major illegal alien sending countries, "based on data from the refusal/deportation/visa issuance statistics of the Department of State and the Immigration and Naturalization Service." [25] The listed countries are Mexico, the Dominican Republic, Haiti, Jamaica, Guatemala, Colombia, Peru, Ecuador, the Philippines, Korea, Thailand, Greece, India, Iran and Nigeria (see Table 5). Quoting from the report:

> With few exceptions, the countries from which the majority of legal immigrants today come and which exhibit the greatest documented demand for legal immigration are also the countries from which the majority of illegal entrants come. While our knowledge of the illegal entrant is largely limited to information which can be developed about apprehended illegal aliens, it is safe to conclude that those countries which have a large documented demand for immigration also have a great hidden demand which is producing illegal entry to the U.S.[26]

It will be noted that the Domestic Council Committee's list omits three of the major illegal alien sending countries as measured by the INS apprehension statistics. These are Canada (the second highest country), China,[27] and the United Kingdom (see Table 3). No explanation is given for their omission.

TABLE 5.—MAJOR ILLEGAL ALIEN SOURCE COUNTRIES

Country	Population estimate mid-1976 (millions)	Rate of Population growth (annual, percent)	Number of years to double population	Population projection to 2000 (millions)	Population under 15 yr (percent)	Urban population (percent)	Per capita gross national product
USA (reference)	215.3	0.8	87	262.5	27	74	$6,640
Mexico	62.3	3.5	20	134.4	46	61	1,000
Dominican Republic	4.8	3.0	23	10.8	48	40	590
Haiti	4.6	1.6	43	7.1	41	20	140
Jamaica	2.1	1.9	36	2.8	46	37	1,140
Guatemala	5.7	2.8	25	11.1	44	34	570
Colombia	23.0	3.2	22	44.3	46	64	510
Peru	16.0	2.9	24	30.9	44	60	710
Ecuador	6.9	3.2	22	14.0	47	39	460
Philippines	44.0	3.0	23	86.3	43	32	310
Korea	34.8	2.0	35	52.3	40	41	470
Thailand	43.3	2.5	28	86.0	45	13	300
Greece	9.0	.4	173	9.7	25	53	1,970
India	620.7	2.0	35	1,051.4	40	20	130
Iran	34.1	3.0	23	67.0	47	43	1,060
Nigeria	64.7	2.7	26	135.1	45	16	240

Source: Domestic Council Committee on Illegal Aliens Report (December 1976), p. 46. Population data: Population Reference Bureau, Washington, D.C.

[24] Domestic Council Committee on Illegal Aliens report (December 1976), p. 133.
[25] Ibid., p. 39.
[26] Ibid.
[27] China is included among the principal sources of immigration in the executive summary (p. vii), although not in the list or chart (reproduced here as Table 5) in the body of the text.

C. International causes of illegal migration

International migration, be it legal or illegal, is the result of a complex combination of economic, demographic, and other factors. Quoting from the Domestic Council Committee, "Illegal migration is a result of international push-pull forces which are stronger than the law and systems currently in place to control it." [28]

Based on extensive hearings during the 92nd Congress, the House Judiciary Committee concluded, "The economic imbalance between the United States and the countries from which illegal aliens come, coupled with the easy availability of employment here, accounts, in large part, for the current illegal alien problem." [29] Quoting further:

> During the course of the hearings in El Paso, Texas, dozens of Mexicans being held in detention camps waiting to be deported were asked whether they would come to the United States if they had a job, and, to a man, they said "no." The only reason they came was because they could find no work in Mexico. Under currently existing conditions, their entry will not be easily controlled unless the incentive to come to this country is removed. The reasons for leaving Mexico are very clearly poverty and unemployment. Since many aliens are driven to the United States by a desire to satisfy basic human needs, as long as there is a great disparity between wealth of the United States and the poverty of Mexico, and as long as employment is available here, the problem of the illegal entrant will continue to exist. . . .
>
> A second and related reason for the increasing number of illegal aliens is the willingness of U.S. employers to hire them, with or without knowledge of their illegal status. The vast majority of aliens enter this country illegally for the purpose of finding employment, and they would not come unless they were fairly certain of finding jobs.[30]

Viewing migration in a global context, Kingsley Davis wrote:

> Four New World countries—Australia, Canada, New Zealand and the U.S.—received a net total of 13.9 million migrants between World War II and 1972. The U.S. alone, still admitting more foreigners than any other nation in the world, received 9.2 million during that period. More surprising is the tide of migrants into industrial Europe; for example, Sweden, for centuries a country of emigration, became a country of immigration after 1930. Other advanced countries in Europe have shown a similar reversal, some more sharply than Sweden.[31]

Questioning the reasons for "the reversed migration into industrial Europe and the continued migration into New World industrial nations," Davis concluded "the driving force is the widening technological and demographic gap between the developed nations and the underdeveloped three-fourths of the world." [32] Davis continues:

> As a consequence of the gap as it is now constituted the advanced countries have on the average more resources per person, more workers in relation to dependents, more capital generated from savings and more investment and trade. They therefore have more jobs, and offer higher wages. Their native populations have become so educated, comfortable and upwardly mobile that in times of labor shortage they refuse to fill low-paying, low-status or disagreeable jobs. Millions of workers in the bulging underdeveloped countries are eager to take those jobs, and employers are anxious to hire them. Hence legally or illegally the migrants come, their transit facilitated by modern means of travel and communication and even by government and international assistance.[33]

The current illegal alien problem is examined by the Domestic Council Committee on Illegal Aliens in the context of international

---

[28] Ibid., p. 51.
[29] U.S. Congress. House. Committee on the Judiciary. Illegal Aliens. (Committee print) Washington, U.S. Government Printing Office, 1973. p. 4. (Henceforth cited as Illegal Aliens, House Judiciary Committee print (1973).)
[30] Ibid., p. 5.
[31] Kingsley Davis, "The Migrations of Human Population," The Human Population, A Scientific American Book, 1974, p. 62.
[32] Ibid., pp. 62–63.
[33] Ibid., p. 63.

push-pull factors at some length. They note that the major illegal alien sending countries "exhibit striking similarities in the areas of economic expansion, population growth, and links with the United States". [34] (see Table 5).

A high level of out-migration is seen as an almost inevitable result of this particular combination of characteristics:

> These characteristics operate in concert to produce migration which functions as a safety valve for the sending country and contributes to postponement of necessary change. Under current conditions in the United States and abroad the potential number of aliens involved is staggering. If pressure to emigrate to the United States is indeed a function of certain patterns of development, we can expect to add other countries to the source list in the future.[35]

Quoting further:

> The economic push due to a lack of jobs and economic opportunity in source countries is met by strong pull forces in the United States. The major attraction for illegal immigration is available work. The illegal entrant risks detection but the risk is not great enough to prevent significant numbers from coming. This combination of international push and pull forces is the basic cause of illegal immigration.[36]

In the context of the above discussion of the forces underlying international migrations, it should be noted that the restriction or elimination of illegal immigration, particularly without a trade-off in increased legal immigration, may have a severe impact on the economies of the major sending countries, especially Mexico. The following conjecture by Ray Marshall is of interest here: "In 1976, . . . the Mexican government apparently cooled to the idea of a renewed bracero program, probably because it would result in fewer Mexican nationals finding work in the United States than is currently possible with the large flows of illegals into the country." [37]

Specifically, severely restricting or cutting off Mexican illegal immigration would cut off a major source of employment and indirect aid, in the form of remittances, for our economically-troubled Southern neighbor. Any assessment of the illegal alien problem must take into account the extent to which it impinges on our own foreign policy interests regarding political stability in this hemisphere.

PERSONAL CHARACTERISTICS OF ILLEGAL ALIENS

The economic impact of illegal aliens in the United States—the subject of the following section—depends both on their total numbers and on such personal characteristics as their age, education, and number of dependents here and abroad. As David North and Marion Houstoun note, "Fortunately, studies on the characteristics of illegals have been more extensive than those dealing with numbers." [38]

Recent studies of the existing characteristics of illegal aliens are reviewed and summarized in a paper by North and Houstoun. They note that a series of independent and internally consistent studies

---

[34] Domestic Council Committee on Illegal Aliens report (December 1976), p. 62.
[35] Ibid., pp. 62–63.
[36] Ibid., p. 62.
[37] Marshall (1976), p. 54.
[38] David North and Marion Houstoun, "A Summary of Recent Data on and Some of the Public Policy Implications of Illegal Immigration," Illegal Aliens: An Assessment of the Issues, National Council on Employment Policy, October 1976, p. 38. (Henceforth cited as North/Houstoun "Summary" (October 1976), as opposed to the report prepared by North and Houstoun for the Labor Department, which is cited as North/Houstoun study (March 1976).)

are creating a body of reliable information on the characteristics of illegal aliens. However, "more is known about the motivation, characteristics and activities of illegals than is known about their numbers and distribution." [39] This knowledge is limited almost entirely to illegal aliens from Mexico. "Little is known about the non-Mexican illegal aliens, though they are an interesting and apparently distinct group." [40]

David North and Marion Houstoun are also the authors of a major study of illegal aliens, the Labor Department-financed report of March 1976 entitled, "The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study." This study was based largely on interviews with 793 apprehended illegal aliens who had been employed for at least two weeks in the United States prior to their apprehension. This discussion and the following section on the economic impact of illegal aliens make considerable use of the Labor Department-financed study, referred to throughout this paper as the North/Houstoun study.[41]

In addition to their own study prepared for the Labor Department, the sources of information considered by North and Houstoun in their summary of recent data available on the characteristics of both Mexican and non-Mexican illegal aliens are the INS Fraudulent Entrants Study as well as unpublished INS wage data.[42] Other sources of data, limited to illegal Mexican aliens, considered by North and Houstoun include Julian Samora's Los Mojados: the Wetback Story;[43] published results of a survey by the Mexican Government in 1972 of 2,794 returning illegals;[44] and a study by Wayne Cornelius of migration to the United States from a sample of Mexican villages.[45]

Internally consistent data from these independent studies suggest that Mexican illegal aliens are:

1. young adults, predominantly but not exclusively male;
2. badly educated;
3. primarily but by no means entirely farmworkers from rural areas in Mexico;
4. economically motivated;
5. employed at or near the bottom of the U.S. labor market, i.e, generally low-pay, low-status, and low-skilled workers; and
6. likely to send a significant proportion of their U.S. earned income to dependents in their homeland.[46]

The average age recorded for the different study groups was 27–28. Men were heavily predominant in all but the fraudulent entry study, which showed more than half of the 716 fraudulent entrants at the

[39] Ibid., p. 37.
[40] Ibid., p. 39.
[41] The Labor Department study was prepared for the Employment and Training Administration, U.S. Department of Justice, under research and development contract No. 20-11-74-21, with Linton & Co., Inc., Washington, D.C., a private consulting firm. This study is separate and distinct from the paper by North and Houstoun summarizing existing sources of data on the characteristics of illegal aliens, under general discussion above, and cited as North/Houstoun "Summary." This paper was included in the background papers published by the National Council on Employment Policy in their October 1976 publication, Illegal Aliens: An Assessment of the Issues, subtitled "A Policy Statement and Conference Report with Background Papers."
[42] For a discussion of the wage data collected by INS, see North/Houstoun study (March 1976), pp. 118–124.
[43] Notre Dame, University of Notre Dame, 1971.
[44] Resultados de la Encuesta Realizada por la Comision Intersecretarial para el Estudio del Problema de la Emigracion Subrepticia de Trabajadores Mexicanos a Estados Unidos de America.
[45] Wayne A. Cornelius, "Mexican Migration to the United States: The View from Rural Sending Communities" (April 1976).
[46] North/Houstoun "Summary" (October 1976), p. 39.

Mexican border to be women.[47] The great majority of the illegal Mexican aliens in all study groups had less than six years of schooling.[48]

In their study for the Labor Department, North and Houstoun observe that the illegal workers in their sample, and in particular those from Mexico, "were more like immigrants who entered the nation and its workforce in 1910 than they were like U.S. workers or immigrants today." [49] Few of the apprehended illegals would have been eligible for legal entry as immigrants on the basis of their occupational qualifications; the occupations of three-quarters of the sample would have resulted in automatic denials of labor certification under the administrative interpretation of that provision by the Labor Department.[50]

Another significant finding of the Labor Department-financed study was that the Mexicans in the sample were "consistently very different from the respondents from elsewhere in the world." This difference was found to be particularly pronounced in the case of those Mexicans living in the Southwest, paticularly in the counties bordering Mexico.[51]

The study group examined by North and Houstoun included 793 aliens from 53 countries, divided into three categories: Mexican (481), other nations in the Western Hemisphere (WH, 237), and Eastern Hemisphere (EH, 75). While similar in age to the Mexican group, the WH and EH aliens differed sharply from the Mexicans in terms of their educational attainment and ability to speak English. In contrast to the average of 4.9 years of school for Mexicans, WH aliens had an average of 8.7 years, and EH aliens had an average of 11.9 years, close to the U.S. labor market norm. Of the Mexican group, 76.4 percent did not speak English, compared to 53.2 percent of the WH group and 16.2 percent of the EH group.[52]

The non-Mexican sample had more dependents in this country and fewer back home than the Mexicans. They had also been here slightly longer than the Mexicans, but reported only one-eighth as many previous INS apprehensions, indicating that they were more successful than the Mexican group in assimilating into the U.S. population. This is clearly also due to INS's concentration of its law enforcement efforts on the Southwest border.

II. Impact of Illegal Aliens

This section is concerned with the effects, predominantly economic, of illegal aliens on: (1) the U.S. labor market, (2) public service and benefit programs and (3) money sent outside the United States. While there are many questions about the specific effects of illegal aliens in these three areas, there is no question that the overall economic impact of their presence here is significant, with deep-rooted causes and consequences. This is particularly true of their labor market impact, which is clearly considerable; and with regard to the money they send home to Mexico which, while adversely affecting

---

[47] According to the Domestic Council Committee on Illegal Aliens, any studies based on illegal aliens apprehended by INS will necessarily be biased by INS's reluctance to apprehend women. "INS maintains no overnight detention facilities for women and consequently concentrates its efforts on the apprehension of males (except for individuals apprehended or turned back in the border zone)" (p. 137).

[48] North/Houstoun "Summary" (October 1976), pp. 39–40.

[49] North/Houstoun study (March 1976), p. 109.

[50] Ibid., p. 111.

[51] Ibid., p. 95.

[52] Ibid., p. 96.

our balance of payments, also constitutes a kind of underground foreign aid program.

IMPACT ON THE U.S. LABOR MARKET

The great majority of illegal aliens either enter the United States surreptitiously in search of jobs or violate the terms of their entry visas by accepting unauthorized employment. The economic motivation of illegal aliens is one of the few aspects about the problem about which there is universal agreement. There is less agreement about the number and nature of the jobs they hold, and their impact on the U.S. labor market.

The available evidence suggests that illegal aliens compete successfully with U.S. workers in the secondary labor market and that they tend to adversely affect the wages and working conditions in occupations where they are present in considerable numbers, most notably in the Southwest. Of considerable interest is the difference in impact between Mexican and non-Mexican illegal aliens. Vernon Briggs has observed, "It is probable that Mexican and non-Mexican [illegal] aliens present two situations that should be separately analyzed because their labor market significance is likely to be quite different." [1] However, as noted in the previous section, analysis of the impact of non-Mexican illegal aliens is particularly difficult because of the limited information available on them.

The most systematic examination to date of illegal aliens in the U.S. labor market is the March 1976 study conducted for the U.S. Labor Department by David North and Marion Houstoun of Linton & Co., Inc. entitled, "The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: an Exploratory Study" (see p. 12 above). The authors do not assert that their study is representative of the impact of illegal aliens on the U.S. labor market as a whole. On the other hand, they attempted to make their study group as representative as possible, and chose their interview sites in an attempt "to compensate for the bias introduced by the allocation of most of INS resources to the Southwest Region." [2]

Based largely on the results of a survey of 793 apprehended illegal aliens, North and Houstoun concluded generally that illegal aliens probably cluster both geographically and in the secondary labor market, and that they "appear to increase the supply of low-wage labor and compete with disadvantaged U.S. workers." [3] Data on the wages and occupations of the North/Houstoun sample, and on their investigation of the question of exploitation is summarized briefly below.

A. North/Houstoun study: wages and occupations

The North/Houstoun sample consisted of 793 apprehended illegal aliens, all of whom had been employed in the United States for at least two weeks prior to their apprehension by INS. As a group, they earned substantially less than their U.S. counterparts. Their average hourly wages in occupations for which comparable data was available was $2.66, compared to $4.47 for the U.S. workers (see Table 6).

---

[1] Vernon M. Briggs, Jr., "Illegal Immigration and the American Labor Force: The Use of 'Soft' Data for Analysis," American Behavioral Scientist, vol. 19. January/February 1976, p. 358.
[2] North/Houstoun study (March 1976), p. 123.
[3] Ibid., p. 153.

TABLE 6.—AVERAGE GROSS HOURLY AND WEEKLY WAGE, AND WEEKLY HOURS, OF APPREHENDED ILLEGAL ALIEN RESPONDENTS IN THEIR MOST RECENT U.S. JOB AND OF U.S. PRODUCTION OR NONSUPERVISORY WORKERS (PNW), BY INDUSTRY IN 1975

Industry division	Average hourly wage		Average weekly wage		Average weekly hours		Number of illegals [1]
	Illegals	U.S. PNW	Illegals	U.S. PNW	Illegals	U.S. PNW	
Agriculture, forestry, and fisheries	$2.07	(2)	$110.57	(2)	53.6	(2)	134
Mining	2.00	$5.79	120.00	$244.92	60.0	42.3	1
Contract construction	2.98	7.15	126.39	265.27	42.8	37.1	124
Manufacturing	2.92	4.73	121.22	184.47	41.2	39.0	259
Transportation and public utilities	2.77	5.75	134.00	228.28	48.6	39.7	10
Trade: wholesale and retail	2.57	3.71	112.69	124.66	43.4	33.6	152
Finance, real estate, and insurance	3.32	4.08	117.00	148.10	36.0	36.3	6
Services, except private household	2.79	3.98	121.75	134.13	45.0	33.7	57
Private household services	1.63	(2)	66.30	(2)	42.4	(2)	23
All industries (excluding agriculture and private household)	2.66	4.47	117.03	160.47	44.5	35.9	609

[1] Data for 27 of the 793 respondents who were self-employed or omitted industry, wage, or hours are excluded. For comparative purposes, the total number of illegals excludes 134 respondents in agriculture and 23 in private households

[2] Not available.

Note: Note that average hourly wage times average weekly hours may not equal average weekly wage. In fact, for these data, that product is consistently greater than the average weekly wage, indicating a tendency for respondents with ower wages to work longer hours.

Sources: Column 1, 3, 5, and 7, Linton & Co. Illegal Alien Study; columns 2, 4, and 6, U.S. Department of Labor, Employment and Earnings, vol. 21, No. 12 (June 1975), tables C–1, C–2. North/Houstoun study (March 1976), table V–14, p. 125.

Average hourly wages differed significantly according to both the alien's region of origin and region of U.S. employment. Specifically, Mexican illegals reported the lowest hourly wage at $2.34, followed by $3.05 for other Western Hemisphere (WH) respondents, and $4.08 for Eastern Hemisphere (EH) respondents. The lowest average hourly wages were earned in the Southwest—$1.98 (223 respondents), compared to $2.60 in California (231), $3.18 in the Mid- and Northwest (104), and $3.29 on the East Coast (235). In terms of specific industry classification, the lowest hourly wage was $1.63 in private household services, earned by 23 of the sample.[4]

A direct correlation was found to exist between wage level and education. These factors, in turn, were associated with region of origin—the Eastern Hemisphere, and region of employment—the East Coast.[5] Other correlations of region of origin, region of employment, and wages are summarized in Table 7.

[4] Ibid., p. 125. (See Table 6.)
[5] Ibid., p. 117.

TABLE 7.—DISTRIBUTIONS OF GROSS HOURLY WAGE OF APPREHENDED ILLEGAL ALIEN RESPONDENTS IN THEIR MOST RECENT U.S. JOB, BY REGION OF ORIGIN, ENTRY TECHNIQUE, LOCATION OF U.S. JOB, YEARS IN U.S., AND TYPE OF U.S. EMPLOYMENT

[As percents of group responding]

Hourly wage	Total	Region of origin			Entry technique		Location of U.S. job				Years in U.S.		Type of U.S. employment	
		Eastern Hemisphere	Western Hemisphere excluding Mexico	Mexico	Entered without inspection [1]	Visa abuser	East coast	Mid/ Northwest	Southwest	California	Less than 2	2 or more	Agriculture	Other
$0 to $1.79	14.0	1.4	5.2	20.1	17.7	5.2	3.9	4.9	33.2	9.7	19.2	9.4	33.1	10.0
$1.80 to $1.99	4.2	4.2	3.0	4.8	4.7	3.0	4.3	4.9	4.1	4.0	5.2	3.4	6.6	3.7
$2.00 to $2.09	13.0	5.6	8.3	16.3	15.3	7.4	10.4	6.9	17.3	14.2	17.9	8.7	15.4	12.4
$2.10 to $2.49	20.0	5.6	19.6	22.4	22.8	13.5	16.9	16.7	22.7	22.1	23.6	16.9	19.9	20.1
$2.50 to $2.99	18.9	16.9	22.2	17.6	19.1	18.3	19.0	14.7	16.8	22.6	17.6	20.0	13.2	20.1
$3.00 to $3.99	17.7	32.4	25.2	11.9	13.3	28.3	24.2	31.4	4.1	18.1	10.7	23.9	6.6	20.1
$4.00 to $4.99	8.9	12.7	8.7	5.2	4.7	12.2	9.5	13.7	1.4	6.6	3.0	10.4	2.2	7.9
$5.00 plus	5.3	21.1	7.8	1.7	2.4	12.2	11.7	6.9	.5	2.7	2.7	7.5	2.9	5.8
Subtotal [2]	100.0	99.9	100.0	100.0	100.0	100.1	99.9	100.1	100.1	100.0	99.9	100.2	99.9	100.1
Number of respondents	779	71	230	478	549	230	231	102	220	226	364	415	136	643
Don't know/refuse to answer	1.8	5.3	3.0	0.6	1.1	3.4	1.7	1.9	1.3	2.2	1.6	1.9	0	2.1
Total number of respondents	793	75	237	481	555	238	235	104	223	231	370	423	136	657
Average hourly wage	$2.71	$4.08	$3.05	$2.34	$2.42	$3.40	$3.29	$3.18	$1.98	$2.60	$2.40	$2.97	$2.11	$2.83
Standard deviation	$1.54	$3.05	$1.54	$.93	$1.03	$2.19	$2.19	$1.42	$.72	$.95	$1.60	$1.44	$1.07	$1.59

[1] INS term for aliens who enter the U.S. without authorization.
[2] Percentages may not add to 100 due to roundoff.

Sources: Linton & Co. Illegal Alien Study, 1975. North/Houstoun study (March 1976) table V-8, p.116.

Regardless of region of origin or previous employment experience, most of the illegal aliens interviewed "were employed in the secondary sector of the U.S. labor market; i.e, most were employed in low-wage, low-skill, low-status jobs." [6] Fewer than one-quarter were employed in skilled jobs, and the majority of these (16 percent) were craft workers. More than three-quarters of the study group were in unskilled and semiskilled jobs, regardless of their educational and occupational attainments in their native countries. A significant number worked longer hours and were paid lower average hourly wages than U.S. workers similarly employed.[7] The possibility that unapprehended illegals may be significantly more successful was considered, but it was noted that "the apprehended illegal respondents who had been in the nation two or more years did not earn substantially higher wages than those who had been here less than two years, and the few unapprehended respondents reported earnings similar to those reported by apprehended respondents." [8]

B. North/Houstoun study: evidence of exploitation

It is commonly assumed that illegal aliens are attractive to some employers, and have a competitive advantage over U.S. workers, because of their vulnerability to exploitation. The question of actual exploitation of illegals was explored by North and Houstoun from several perspectives, and is of particular interest in view of the fact that their sample was generally low-paid, As indices of possible exploitation, they examined (a) minimum wage violations; (b) respondents' perceptions of substandard working conditions; (c) reports of the presence of other illegals; and (d) cash wage payments. Based on a fairly detailed analysis, summarized below, they found exploitation of illegals to be common only in the Southwest.[9]

Regarding minimum wage violations, it was concluded that less than one-quarter of those to whom the question applied appeared to have been paid less than the minimum wage. Respondents employed as domestics or farmworkers were more likely to have been paid illegal wages. Respondents employed in the Southwest, particularly in the 23 counties bordering Mexico, were significantly more likely to receive less than the minimum wage than those employed in other parts of the United States.[10]

Regarding the other indicators of possible exploitation examined, only 18 percent of the study group reported that they had been hired because they were illegal; this was two to three times more frequent in the Southwest. Of the total, only 3.5 percent reported that they had been "badly treated." [11] However, North and Houstoun note that "more exploitation may have occurred than our respondents reported—and perhaps more occurred than they ever perceived." [12]

Mexicans were three times more likely to have worked with other illegals than were EH or WH aliens. Those who had been employed on the East Coast were half as likely to have had illegal coworkers as those employed in other parts of the country.[13]

---

[6] Ibid., p. 152.
[7] Ibid., p. 152–153.
[8] Ibid., p. 123.
[9] Ibid., p. 127–137.
[10] Ibid., p. S–12.
[11] Ibid., pp. S–12 through S–13.
[12] Ibid., p. 134.
[13] Ibid., p. S–13.

Cash wage payments are another possible indication of exploitation because of the opportunity provided for concealment of wage and other violations. More than one-fifth of the sample were usually paid in cash. Cash payments were most common in the counties bordering Mexico (63 percent), followed by the Southwest (36 percent), and the East (21 percent).[14]

In short, the North/Houstoun study found some correlation between employment of illegal aliens and exploitative wages and working conditions in the Southwest, particularly the counties bordering Mexico, and in certain occupations—domestic service and agriculture, but did not find substantial evidence of exploitation among most of the study group. Quoting the authors: "Thus, if we define an underground labor market as one in which illegal workers and illegal wages coincide, the findings of this study suggest that it is more likely to exist in the counties that border Mexico, in the Southwest itself, and in nonagricultural as well as agricultural employment." [15]

A higher degree of exploitation appears to be indicated by a Mexican government study in 1972. As reported by the Domestic Council Committee on Illegal Aliens, 67 percent of those interviewed by the Mexican officials said they were not paid regularly and/or were owed wages when apprehended. However, 80 percent said they were willing to go back to the United States.[16]

C. Competition in the secondary labor market

Other studies have generally corroborated North and Houstoun's findings regarding the low wages and occupational status of illegal aliens in this country.[17] For example, wage data collected by INS on 48,000 illegals apprehended during January through March, 1975 indicated that two-thirds of them were earning under $2.50 an hour, and less than 5 percent earned $4.50 or more.[18]

The principal labor market impact of the illegal aliens appears to be on the lower-paid, lower status jobs—the so-called secondary labor market, which can least afford such competition. Illegal aliens appear to be in direct competition with the young, the blacks, and members of other minority groups who are currently experiencing the highest unemployment rates.

The political implications of this situation have been commented on as follows:

> The native poor—those in marginal menial services and unskilled occupations—must, in contrast, compete directly with illegal labor. Since wetbacks are willing to work more hours for lower pay and no fringe benefits, the native worker finds himself at a disadvantage and is often completely displaced from his job. Only the poor pay the costs of illegal immigration; the sectors most seriously affected by the wetback flow are precisely the ones least able to wield effective political power in defense of their interests.[19]

A related point was made by Ray Marshall in a general discussion of the international movement of workers:

> . . . Those native workers threatened by competition from foreigners are not likely initially to have much political and economic power. Skilled and more highly educated workers are likely to feel that they benefit from the employment

[14] Ibid.
[15] Ibid., p. 137.
[16] Domestic Council Committee on Illegal Aliens report (December 1976) p. 149.
[17] North/Houstoun "Summary" (October 1976), pp. 40-41.
[18] North/Houstoun study (March 1976), pp. 118-119.
[19] Alejandro Portes, "Return of the Wetback," Society, March/April 1974, p. 45. (Henceforth cited as Portes (1974).)

of foreign workers because the lower wages paid these workers (relative to wages natives of comparable productivity could have required for the same jobs) promotes faster economic growth and occupational upgrading of native workers.[20]

It is generally agreed that illegal aliens are able to compete very successfully in the secondary labor market:

> On the one hand, current immigration legislation, which makes it illegal for most nonimmigrant aliens to work in the U.S. but specifically exempts employers from any violation of those laws, makes illegals attractive to employers of cheap labor. On the other hand, apart from any consideration of their illegal status, illegal workers appear to be like immigrant workers: highly motivated and hard-working employees, whom U.S. employers generally regard as exceptionally productive workers, despite the fact that few speak English.[21]

Furthermore, because they are prohibited by either Federal law or regulation from participation in most public assistance programs, illegal aliens do not generally have the option available to U.S. citizens and permanent resident aliens of not working, rather than accepting low-paid, low status employment.

In short, the available evidence indicates that illegal aliens take jobs in the lower-wage, secondary labor market. While the numbers involved are unknown, they would appear to be significant. Illegal aliens do not appear to be displacing U.S. workers from high-paying jobs in large numbers, although such displacements certainly are occurring in some instances, and may be increasing in frequency. Significantly, North and Houstoun's study bears out the belief that illegal aliens are increasingly moving out of agriculture—one of the lowest-paying occupations—and away from the Mexican border, the Southwest, and California. This was a conclusion of the House Judiciary Committee, on the basis of its extensive hearings during the 92nd Congress on the illegal alien problem:

> The illegal alien problem is not limited to the Southwest border as had originally been anticipated, but extends to most of our major metropolitan areas. Related to this is the finding that the problem is no longer limited primarily to agriculture; considerable numbers of illegal aliens are now found in industry.[22]

Five years ago, Representative Peter W. Rodino, Jr. observed during the course of a hearing held in New York City:

> When we first commenced these hearings it seemed that the problem was focused on the Mexicans and the illegal alien was the Mexican.
>
> It was the judgment of this member, as the chairman of this committee, that as we went on it wasn't just the Mexican; that illegal aliens come from every area. We must remember that the visitor who overstays is also an illegal alien.[23]

The illegal alien of the East Coast and, to a lesser extent, many other metropolitan areas, appears to be predominantly the non-Mexican visa violator, generally better educated and more likely to have family ties than the Mexican who crosses the border illegally. Non-Mexican illegals apparently are present, and certainly are apprehended, in fewer numbers than the Mexican illegals; they also appear more likely to be holding higher paid, more attractive jobs. The limited information available specifically on non-Mexican illegal aliens indicates that they are somewhat more successful than Mexican

---

[20] Marshall (1976), p. 58.
[21] North/Houstoun study (March 1976), p. 123.
[22] Illegal Aliens, House Judiciary Committee print (1973), p. 7.
[23] Ibid., p. 7.

illegals in terms of wages and job status, and considerably more successful in avoiding apprehension by the INS.[24]

D. Depression of wages and working conditions

A second impact of illegal aliens appears to be the depression of the wages and working conditions in areas and/or occupations where they are present in large numbers. Thus, the House Judiciary Committee quotes Andrew J. Biemiller, testifying on behalf of the AFL–CIO, as follows:

> The net effect of the illegal's presence in the job market has been to depress and maintain low wage levels and substandard living conditions for American citizens, permanent residents, and illegal aliens alike, in areas where they are employed in large numbers. . . . Obviously too, the effectiveness of the rights of union organization and collective bargaining are seriously undermined.[25]

It has been argued that their adverse impact on limited labor markets is in fact the single most serious consequence of the illegal aliens' presence in this country. The Executive Secretary-Treasurer of the Los Angeles County Federation of Labor, AFL–CIO, testified before a House Judiciary Subcommittee that while the illegal alien's adverse effect on unemployment was very serious—

> . . . his real effect, the real impact, is on the lowering of wage standards. He works for less, he is in hiding, he doesn't complain. He doesn't demand what other workers get, because he is afraid that if he does, he will be deported. So he is here as a fearful person in hiding, and as such, most easily victimized.[26]

North and Houstoun suggest "that the most significant impact of the illegals is on the local labor standards in the areas where they congregate." [27]

The generally depressed economy of the Texas border area is cited as an example of the result of years of dependence on a low-wage, freely available labor force which includes, along with alien commuters, illegal aliens. Thus, South Texas has an unemployment rate which is consistently much higher than that of the State or the nation, the two poorest SMSAs in the nation, the poorest counties in Texas, and a very low level of union membership.[28]

Similarly, the long-time association of illegal aliens with agricultural employment is commonly believed to have contributed to its many ills. Quoting from a lengthy review of this subject in the New York University Law Review:

> There is substantial evidence . . . that the most serious difficulties of domestic farmworkers, especially those in the West and Southwest, are inextricably intertwined with the presence in the United States of large numbers of alien farmworkers willing to work for low wages under poor working conditions.[29]

Mexican Braceros have been both accompanied and followed in farm work by alien commuters and, in far larger numbers, illegal aliens. It is arguable that the ready supply of low-wage labor they have provided is a significant factor in farm workers' partial or complete

---

[24] For an excellent anecdotal discussion, see Orde Coombs, "Illegal immigrants in New York: the invisible subculture," New York, v. 9, Mar. 15, 1976, pp. 31–41.
[25] H. Rept. No. 94–506 (1975), p. 8.
[26] Illegal Aliens, House Judiciary Committee Print (1973), p. 12.
[27] North/Houstoun study (March 1976), p. 159.
[28] Vernon M. Briggs, Jr., "Illegal Immigration and the American Labor Force: the Use of 'Soft' Data for Analysis," American Behavioral Scientist, Vol. 19, January/February 1976, p. 360.
[29] Notes, "Commuters, illegals, and American farmworkers: the need for a broader approach to domestic farm labor problems," New York University Law Review, v. 48, June, 1973, pp. 486–7.

exclusion from labor laws relating to minimum wages, collective bargaining, unemployment insurance, and workmen's compensation.[30]

On the other hand, from the point of view of the consumer, the downward pressure on wages and working conditions by illegal aliens is also a factor in the continuing comparatively low prices and ready availability of farm produce, as well as other goods and services with which illegal aliens are associated in significant numbers (e.g., domestic help, restaurants). It should be recognized that illegal immigration is not without economic benefits to some groups in the United States, including consumers and employers, at least on a short-term basis. Quoting from the Domestic Council Committee on Illegal Aliens:

> As relative wages for illegal aliens decline in response to an increase in their labor supply, the owners of firms employing illegal aliens and the consumers of the goods produced by illegal aliens tend to gain through higher profits and lower prices, respectively. On the other hand, the relative wages of legal resident workers who are close substitutes in employment for the illegal aliens also decline.[31]

MIT economist Michael J. Piore argues that, in fact, the impact of illegal aliens on those lower-skilled U.S. workers with whom they are in direct competition is not necessarily all bad.

> Instances where native workers share jobs with aliens and appear to suffer from the dampening effect upon working conditions are not uncommon, but in many of these cases higher wages would either drive the industry out of existence or force major changes in technology, either of which would leave the native jobless. In this sense, the presence of aliens serves to preserve native jobs, and the proper way to deal with the problems of the native workers trapped in such jobs would thus seem to be through equal employment opportunity, training and other programs which foster their upward mobility.[32]

In short, without attempting to argue the case for allowing illegal immigration to continue, it must be emphasized that stopping illegal immigration is not a cost-free decision, as was indicated earlier with reference to the potential foreign policy implications of the issue. If it were, it would not have proved to be as difficult to accomplish as it has.

IMPACT ON TAX-SUPPORTED SERVICE AND BENEFIT PROGRAMS

Even less information, and more difference of opinion, exists about the impact of illegal aliens on tax-supported service and benefit programs than about their impact on the labor market. Based on testimony received by the Subcommittee on Immigration, Citizenship, and International Law, the House Judiciary Committee concluded in September 1975:

> While the State of California, particularly the County of Los Angeles, has made diligent efforts to determine the fiscal impact of illegal aliens, the Committee is disturbed by the fact that federal, state, and local governments, in general, have little information on the participation of illegal aliens in public assistance programs. This lack of precise data has made it impossible to accurately estimate the effect of illegal aliens on either a regional or national basis. It is evident, however, that the impact is substantial and increasingly state and local governments are turning to the federal government for reimbursement for services provided to illegal aliens.[33]

---

[30] See Ronald Goldfarb, "A Farm Workers' Bill of Rights." Washington Post, Dec. 20, 1976, p. A19.
[31] Domestic Council Committee on Illegal Aliens report (December 1976), pp. 155–156.
[32] Michael J. Piore, "Illegal Immigration in the United States: Some Observations and Policy Suggestions," Illegal Aliens: An Assessment of the Issuses, National Council on Employment Policy, October 1976, p. 28. (Henceforth cited as Piore (1976).)
[33] H. Rept. No. 94–506 (1975), p. 8.

Similarly, the U.S. General Accounting Office concluded in 1973 that illegal aliens were receiving welfare payments under government-funded programs, and that "providing welfare could attract illegal aliens and prolong their stay." However, they also noted, "No estimates of the number of illegal aliens on welfare are available." [34]

More recently, the Domestic Council Committee on Illegal Aliens observed:

> Allegations of heavy illegal alien use of tax-supported income transfer programs are common. An examination of these programs shows that the majority depend on characteristics such as old age, female head of households, or disabled for eligibility. Present information shows that illegal aliens are unlikely to be making heavy use of such programs due to very different personal characteristics. Our tentative conclusion is that the welfare use issue is overdrawn. However, final judgment is dependent on better information delineating the characteristics of the illegal population.[35]

In direct contradiction to the common assumption that illegal aliens constitute a drain on tax-supported services and programs, David North and Marion Houstoun found that the illegal aliens they interviewed were far more likely to have participated in programs that that involved the payment of taxes than they were to have been consumers of such programs or services.[36]

A. Responsibility for emergency medical treatment

The responsibility for the cost of emergency care of illegal aliens has been a matter of particular concern in recent years, highlighted by events in California. The Los Angeles County Board of Supervisors estimated the cost of illegal aliens to its hospitals in fiscal year 1974 at more than $8 million, and sent a bill for most of the cost to INS, on the grounds that INS was responsible for keeping the aliens out of the country. The accuracy of the Board's estimate is open to question; L.A. County Health Services Director Liston A. Witherill was quoted as saying, "Since proof of citizenship is not a routine requirement for medical care, it is not possible to accurately identify the number of illegal aliens receiving medical care." [37]

INS refused to reimburse L.A. County, indicating that while it sympathized with the request, "this service is responsible only for the medical expenses of aliens in actual custody of this service and no others." The letter from Leonard W. Gilman, Southwest regional commissioner of INS at the time, also said that, "one method of relieving this situation would be for health officers, hospitals and public health doctors to identify illegal aliens to this service so that their repatriation can be effected and their cost to county agencies thereby terminated." [38]

INS policy regarding illegal aliens undergoing emergency medical care has been the subject of criticism, and bills aimed at changing the policy have been introduced in the past several Congresses.[39] Briefly, the Public Health Service Act provides that, "at the request of the

---

[34] U.S. Comptroller General, "More Needs to be Done to Reduce the Number and Adverse Impact of Illegal Aliens in the United States," July 31, 1973, p. 41.
[35] Domestic Council Committee on Illegal Aliens report (December 1976), p. 214.
[36] North Houstoun study (March 1976), p. 142.
[37] "Refund for Illegal Alien Medical Care Sougth," Los Angeles Times, June 26, 1974, pt. 2, p. 1.
[38] "United States Refuses to Repay County's Alien Health Bill," Los Angeles Times, Aug. 15, 1974, p. 1.
[39] Congressman B. F. Sisk has been the chief sponsor of these bills, which have included H.R. 5307 in the 93d Congress, and H.R. 2159, H.R. 3609, and H.R. 4807 in the 94th Congress.

Immigration and Naturalization Service, any person detained by that Service, may be treated and cared for by the Public Health Service." [40] Apparently, it is the policy of INS to request emergency medical care from Public Health Service hospitals only for illegal aliens in its custody. Reportedly, INS will not assume jurisdiction for illegal aliens not in its custody who are in need of emergency medical treatment until they have received the necessary care.[41] According to some sources, this is because INS lacks the necessary funds to reimburse the PHS hospitals, as also required by law.[42]

B. Findings of North/Houstoun study

Based on interviews with the 793 apprehended illegal aliens in their sample, North and Houstoun concluded that "the respondents were more likely to have participated in tax-paying systems (many of which are automatic) than to have used tax-supported programs." [43] Thus 77 percent of their respondents had Social Security taxes withheld; 73 percent had Federal income taxes withheld; and 44 percent had hospitalization payments withheld. The use of tax-supported health, education, and welfare programs was significantly lower. Except for hospitals and clinics, used by 27 percent of the respondents, no other tax-supported program was used by more than 4 percent of the respondents (see Table 8).

The authors note that their respondents were "typically young male workers, . . . not those of a population likely to receive income transfer payments." [44] As indicated in the preceding section, the available information indicates that the typical illegal alien *is* a young male worker in search of a job, although this information may be biased by INS's concentration on apprehending males.

Further, North and Houstoun emphasize that their analysis was not based on a random sample, but on

> . . . A group of illegals selected among those caught by INS, and selected precisely because they had been workers in the United States. It cannot therefore be regarded as a reliable indicator of the activities of all illegals in the nation.[45]

TABLE 8

Extent of participation of apprehended illegal alien respondents in tax-paying and tax-supported programs

Program activity	Percentage of respondents participation
Input:	
Social Security taxes withheld	77
Federal income taxes withheld	73
Hospitalization payments withheld	44
Filed U.S. income tax returns	31
Output:	
Used hospitals or clinics	27
Collected one or more weeks of unemployment insurance	4
Have children in U.S. schools	3
Participated in U.S.-funded job training programs	3
Secured food stamps	1
Secured welfare payments	1

Source: North/Houstoun study (March 1976), p. S–14.

[40] Public Health Service Act, as amended, sec. 322(a)(3).
[41] Jane Reister Conard, "Health Care for Indigent Illegal Aliens: Whose Responsibility?" University of California, Davis, Law Review, v. 8, 1975, pp. 112–113. See also, Gary Atkins, "Sick and illegal: It's a problem for everyone," Riverside Press-Enterprise, Mar. 10, 1974, p. A-1.
[42] Public Health Service Act, as amended, sec. 502: 42 U.S.C. 292.
[43] North/Houstoun study (March 1976), p. S–14.
[44] Ibid., p. 142.
[45] Ibid., p. 149.

Differences between non-Mexican and Mexican illegal aliens are particularly significant here. Commenting elsewhere on the results of their study, North and Houstoun note:

> Ironically, however, it was the non-Mexican illegals, who were the least likely to be apprehended by the INS, who were the more likely to have taken advantage of tax-supported programs. In addition, and not surprisingly, the Mexican respondents were substantially more likely to have families in their home country and to move back and forth much more frequently than the non-Mexican respondents. The non-Mexican illegals, on the other hand (who, unlike the Mexicans, were for the most part visa abusers), were more likely to have families in the United States, were more likely to have children in U.S. schools, supported significantly fewer relatives in their homeland, and sent substantially less money to their country of origin than did the Mexican illegals.[46]

Despite these caveats, the authors concluded that the major impact of illegal aliens in this country was probably on the labor market, rather than on public service and benefit programs. Quoting:

> *The major immediate impact of illegals in the U.S. today is probably on the labor market.* Most respondents came to the United States explicitly to find employment. We suspect that most illegals who establish a residence in the U.S. similarly came to find jobs, and that those who did not are unlikely to remain in the nation without entering the labor force. Further, if the survey respondents are typical of illegals working in the nation, illegals in the U.S. labor force are substantially more likely to pay taxes than to use tax-supported systems and to support relatives in their country of origin than to have a spouse or children here.[47]

This finding is qualified by the observation that the direct and indirect impact of illegals who settle permanently in this country will be "more far-ranging and profound" than that of those here temporarily, and will include more use of public services.[48] Similar points have been made by economists Ray Marshall [49] and Michael Piore,[50] as well as by the Domestic Council Committee on Illegal Aliens, which concluded:

> The major impact of illegal aliens at this time seems to be in the labor market. This impact is likely to extend over time to other areas as the process of settlement proceeds.[51]

C. Federal bars against illegal alien participation in public assistance programs

Under legislation and a series of regulations adopted following the Supreme Court decision on June 14, 1971 in *Graham* v. *Richardson*, 403 U.S. 365, illegal aliens are now barred from participation in major Federal public assistance programs. These are Supplemental Security Income for the Aged, Blind, and Disabled (SSI), Aid to Families with Dependent Children (AFDC), Medicaid, and the Food Stamp Program. All are restricted by Federal law or regulation to U.S. citizens, aliens lawfully admitted for permanent residence, and to other aliens permanently residing in the United States "under color law," including specified categories of refugees (see p. 30).

Similarly, the Social Security Act Amendments of 1972 (Public Law 92–603; 86 Stat. 1329) contained provisions aimed at curtailing the participation of illegal aliens in Federally funded assistance programs (see p. 28). State courts and legislatures have also been active in excluding illegal aliens from public service and benefit

[46] North/Houstoun "Summary" (October 1976), p. 41.
[47] North/Houstoun study (March 1976), p. 152.
[48] Ibid.
[49] Marshall (1976), pp. 57–58.
[50] Piore (1976), p. 28.
[51] Domestic Council Committee on Illegal Aliens report (December 1976), p. 237.

programs, such as unemployment insurance in California,[52] and the public schools in Texas.[53]

The opportunity for fraudulent participation in public assistance and service programs clearly continues to exist. However, in the opinion of a number of observers, illegal aliens are often reluctant to participate in such programs even if it is not clearly illegal for them to do so. Julian Samora wrote in 1971 that, "The wetback will avoid any situation which requires identification papers and he will avoid relationships with institutions generally." [54] If this line of reasoning is correct—and it is largely undocumented—presumably, illegal aliens would be even less likely to participate in government programs on a fraudulent basis.

D. Displacement effects unknown

Without question illegal aliens do displace some U.S. workers who, in turn, become legal recipients of public assistance. The Cramton report points out that: "While illegal Mexican aliens are generally relectant to seek benefits under Government welfare programs for fear of being discovered and returned to Mexico, it appears likely that they have a significant effect upon the total public assistance burden through displacement of citizens who are forced to resort to welfare." [55] However, virtually no reliable information is available on this phenomenon. Quoting again from North and Houstoun:

> We do not know, and cannot know, the extent to which the illegals we interviewed caused other workers to draw unemployment insurance benefits, or to rely on food stamps or welfare. Given the inadequate data on these indirect impacts, those who have written on the subject have been forced to use a process of building assumptions upon assumptions.[56]

We also lack adequate data about the actual motivation of U.S. workers, who may only appear to be displaced by illegal aliens and who may, in fact, prefer welfare to, for instance, stoop labor. The argument is made by economists as well as employers that many illegal aliens fill jobs that U.S. workers are unwilling and/or unavailable to take. Thus, Michael J. Piore writes:

> Industrial societies seem to generate a series of jobs, at the bottom of the social structure, which their own labor force is reluctant to fill. Such jobs are generally viewed as menial and demeaning; their chief economic characteristic appears to be a lack of job security and career opportunity. They are rejected in favor of higher level employment opportunities whenever the latter become available and, sometimes, even in period of unemployment when there are no alternatives. The rejection of these jobs by native workers leads industrialists to recruit migrants from underdeveloped rural areas. . . .
>
> This line of argument implies that the heavy emphasis in public policy discussions upon the competition between native and foreign workers is misplaced. Foreign workers are coming essentially to fill jobs which native workers have rejected. To the extent that these jobs are critical to the functioning of an industrial society—and, while there are exceptions, the jobs taken as a group do seem to be critical—the aliens are complementary to native workers and to domestic consumption patterns. Any wholesale attempt to end the migration is, therefore, likely to be exceedingly disruptive to the operation of the society and to

---

[52] Alonso v. State, Department of Human Resources, 123 Cal. Reptr. 536 (Ct. of App., 2d Dist. July 30, 1975).

[53] Texas recently enacted legislation restricting public education to "all children who are citizens of the United States or legally admitted aliens." See Good Neighbor Commission of Texas, "1975 Texas Migrant Labor Report," p. 54.

[54] Julian Samora, Los Mojados: the Wetback Story. University of Notre Dame press, 1971, p. 97. (Henceforth cited as Samora (1971).)

[55] Cramton report (Jan. 1973), p. 10.

[56] North/Houstoun study (March 1976), p. 140. The authors cite as an example of this process "the 4 December 1975 letter from Richard D. Darman, Principal, ICF Incorporated, to General Leonard Chapman, Commissioner, Immigration and Naturalization Services, which INS released to the press."

the welfare of various interest groups within it, and to meet, for this reason, with widespread resistance. The gap between the *de jure* policy, which is one of virtual exclusion of unskilled migrants, and the *de facto* presence of large numbers of such workers is no doubt a result of this fact.[57]

PAYMENTS SENT TO HOME COUNTRIES BY ILLEGAL ALIENS

The amount of money sent to home countries by illegal aliens has important implications for U.S. foreign policy. Money sent home by aliens to their native countries contributes to the problems associated with an adverse balance of payments. However, it also constitutes an indirect form of foreign aid. By all reports the amounts involved are substantial, particularly as far as Mexico is concerned.

North and Houstoun found that out of an average gross weekly wage of $120, their study group sent home an average of $105 a month.[58] As shown in Table 9, the Mexican group reported both the lowest weekly wages and the highest monthly sums sent home. They also reported the heaviest family responsibilities in their home country. The Mexican group was supporting an average of 5.4 dependents outside the United States. In contrast, the other Western Hemisphere illegals were supporting an average of 3.6 dependents outside the United States, and the Eastern Hemisphere aliens were supporting 1.8 dependents abroad.[59]

North and Houstoun tentatively estimate that $1.5 billion annually may be sent by illegal aliens in the United States to Mexico, assuming that there were one million Mexican workers employed in the United States, and that the average figure of $129 a month reported by the Mexican illegals interviewed reflected the monthly average for all.[60]

This figure, the authors note, is considerably higher than the unpublished estimate by the Department of Commerce's Bureau of Economic Analysis. The Commerce Department's estimate of person-to-person remittances for 1974 was $73.9 million, and included remittances from all individuals in the United States (excluding only legal and illegal commuters), to all individuals in Mexico, including U.S. citizens.[61]

TABLE 9.—PAYMENTS MADE TO HOMELAND RELATIVES AND WAGES OF SELECTED GROUPS OF APPREHENDED ILLEGAL ALIEN RESPONDENTS

Groups of respondents	Average weekly wage	Average monthly payments [1]	Percentage of group making payments	Average monthly payments [2]	Total number of respondents
Region of origin:					
Mexican illegals	$106	$169	89	$129	481
Western Hemisphere illegals (excluding Mexico)	127	116	72	76	237
Eastern Hemisphere illegals	195	104	44	37	75
Entry technique:					
Entered without inspection [3]	108	162	87	124	555
Visa abusers	150	115	63	63	238
Illegals in southwest border counties	74	186	89	129	68
All apprehended respondents	120	151	79	105	793

[1] Average based on only those making such payments.
[2] Average based on all illegals, including those not paying.
[3] INS term for aliens who enter the United States without authorization.

Sources: Linton & Co. Illegal Alien Study, 1975. North/Houstoun study (March 1976), table IV-5, p. 80.

[57] Piore (1976), pp. 25-26.
[58] North/Houstoun study, p. S-6.
[59] Ibid., p. 79.
[60] Ibid., p. 81.
[61] Ibid., p. 79.

III. Existing Legislation and Recent Congressional and Federal Action

EXISTING FEDERAL LEGISLATION

A. Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1101 et seq.)

The basic U.S. law governing immigration is the Immigration and Nationality Act of 1952, as amended.[1] The most significant amendments to this act were those enacted in 1965 [2] and in 1976.[3] Among other things, the 1965 amendments abolished the national origins quota system and placed a numerical ceiling on Western Hemisphere immigration beginning July 1, 1968. The 1976 amendments extended equally to both hemispheres a slightly modified version of the seven-category preference system and a 20,000 per-country annual limit, both of which had previously been in effect only for the Eastern Hemisphere.

The Immigration and Nationality Act defines an alien as "any person not a citizen or national of the United States," and sets forth the conditions under which aliens may enter this country. A basic distinction is made between immigrants and nonimmigrants. Immigrants are those aliens admitted for permanent residence, as opposed to the different classes of nonimmigrants, who are granted temporary admission for specific purposes. As may be expected, far fewer immigrants than nonimmigrants are admitted, and the conditions of their admission are far more stringent. A total of 386,194 immigrants were admitted in fiscal year 1975. During the same year, 7,083,937 nonimmigrants were admitted, of whom more than 5 million were tourists.[4]

While some nonimmigrants are admitted for the express purpose of temporary employment, most nonimmigrants—including all tourists—are prohibited from accepting employment. Immigrants, on the other hand, may and do freely accept and change employment. All nonimmigrants are required to leave the country at the end of their allotted time. Immigrants, in contrast, are admitted permanently and may apply for U.S. citizenship after five years residence.

For the purposes of the provisions of law governing the entry of immigrants, the world is divided into the Western Hemisphere, which comprises the other countries of North and South America as well as the neighboring islands, and the Eastern Hemisphere. Western Hemisphere immigration is subject to a numerical restriction of 120,000 a year, and Eastern Hemisphere immigration to 170,000. Under these separate hemispheric ceilings, immigrant visas are distributed according to a seven-category preference system which gives priority to family members, those with needed skills, and refugees. Each country is limited to 20,000 immigrants a year, not including immediate relatives. The spouses and children of U.S. citizens and the parents of U.S. citizens who are over 21 are classified as immediate relatives, and are exempt from all numerical restrictions.

---

[1] McCarran-Walter Act, Act of June 27, 1952, Public Law 414, 82d Congress, 66 Stat. 163.
[2] Immigration and Nationality Act Amendments of 1965, Act of Oct. 3, 1965, Public Law 89-236; 79 Stat. 911.
[3] Immigration and Nationality Act Amendments of 1976, Act of Oct. 20, 1976, Public Law 94-571; 90 Stat. 2703. This act went into effect Jan. 1, 1977.
[4] 1975 INS Annual Report, p. 31, p. 68.

Illegal aliens are aliens who have violated the immigration law. The phrase is a popular expression, rather than a term defined by the Immigration and Nationality Act. It refers to two categories of immigration law violators—those who have entered illegally, by-passing inspection; and the less common group who have entered legally, generally as nonimmigrants, and violated the terms of their admission.

The law includes criminal sanctions for illegal entry. Under section 275 (8 U.S.C. 1325), any alien who enters the United States without examination by INS or through misrepresentation or fraud, is guilty of a misdemeanor punishable by up to six months' imprisonment and/or a $500 fine. A second offense is a felony, punishable by not more than two years' imprisonment and/or a $1,000 fine. Section 276 (8 U.S.C. 1326) provides that an alien who was previously deported and who enters without permission from the Attorney General is guilty of a felony punishable by not more than two years' imprisonment, and/or a fine of $1,000.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324) defines the smuggling, harboring, transporting, or encouraging of illegal entrants as felonies, punishable by a fine not exceeding $2,000 and/or by imprisonment for a term not exceeding five years, for each alien involved. However, the law specifically exempts the employment of illegal entrants from the penalties attached to harboring. Section 274(a)(4) contains the following proviso: "*Provided, however*, That for the purposes of this section, employment (including the usual and normal practices incident to employment) shall not be deemed to constitute harboring." This is popularly referred to as the Southwest or Texas proviso, and was enacted in 1952,[5] prior to the enactment of the Immigration and Nationality Act, in which it was subsequently incorporated.

The Immigration and Nationality Act does not contain criminal sanctions for aliens who accept employment or otherwise violate the conditions of their admission. Such aliens are, however, subject to deportation under section 241(a)(9) of the Act (8 U.S.C. 1251(a)(9)), which provides that an alien shall be deported if he "was admitted as a nonimmigrant and failed to maintain the nonimmigrant status in which he was admitted or to which it was changed pursuant to section 248, or to comply with the conditions of any such status." Under the 1976 amendments, aliens who accept unauthorized employment are also prohibited from adjusting their status from that of nonimmigrant to that of permanent resident alien (immigrant) while remaining in this country. (Sec. 245(c); 8 U.S.C. 1255c).

B. Other Federal laws and regulations with a bearing on illegal aliens

As amended in 1974,[6] the Farm Labor Contractor Registration Act of 1963, as amended (7 U.S.C. 2041 et seq.), includes criminal penalties of up to a $10,000 fine and/or three years imprisonment for certain contractors who knowingly engage the services of illegal aliens. These penalty provisions are applicable to farm labor contractors who have

[5] Act of Mar. 20, 1952, Public Law 283, 82d Congress, 66 Stat. 26. The debate preceding the enactment of the proviso was a heated one which in many ways prefigured the current debate about legislation which would establish penalties for the employment of illegal aliens.

[6] Act of Dec. 7, 1974, Public Law 93-518, 88 Stat. 1652.

not registered under the Act, or whose registration has been revoked or suspended.

Amendments to the Social Security Act (42 U.S.C. 301 et seq.) enacted in 1972 [7] included a new provision relating to the method of the issuance of social security numbers. The provision is aimed in part at curtailing the use of social security cards for employment purposes by noncitizens who are not legally entitled to work. It is also at least indirectly aimed at reducing the participation by illegal aliens in Federally-financed benefit programs.

The 1972 amendments to the Social Security Act require the Secretary of Health, Education and Welfare to take affirmative measures to assure that a social security number be assigned to a noncitizen at the time of his admission, provided he is entitled to work; or at the time of his subsequent change to a status which permits employment. Social security numbers are also required to be issued to individuals applying for or receiving benefits under Federally financed benefit programs. Further, all applicants for social security numbers are required to establish, among other things, their citizenship or alien status. Criminal penalties of $1,000 and/or imprisonment for up to one year are provided for willful fraud.

The Secretary of Health, Education and Welfare is also required to enter into such agreements as may be necessary in carrying out the requirements for the issuance of social security numbers with, among other officials, the Attorney General. Based on this legislative requirement, the regulations issued by the Social Security Administration currently provide that the Administration will notify the Immigration and Naturalization Service in the event social security records indicate that an alien is illegally employed; that documents submitted by aliens have expired or are otherwise invalid; or that an alien is requested to submit documentary evidence, and does not comply within a reasonable time.[8]

Aliens who have entered the United States illegally, as well as all nonimmigrants, are excluded from coverage under the three major public assistance programs authorized by the Social Security Act, as amended (42 U.S.C. 301 et seq.). These programs are Supplemental Security Income for the Aged, Blind, and Disabled (SSI), Aid to Families with Dependent Children (AFDC), and Medicaid. Illegal entrants and nonimmigrants are also excluded from participation in the Food Stamp Program, authorized by the Food Stamp Act, as amended (7 U.S.C. 2011–2025).

The alien eligibility requirements for the above programs are statutory only in the case of the Supplemental Security Income program, authorized by title XVI of the Social Security Act as amended in 1972.[9] In the case of the other three programs, the requirements for alien eligibility are set forth in the regulations, all of which were adopted after 1972.[10]

---

[7] The provision referred to is contained in section 137 of the Social Security Act Amendments of 1972 (Act of Oct. 30, 1972, Public Law 92-603, 86 Stat. 1329), which amended section 205(c)(2) of the Social Security Act (42 U.S.C. 405).

[8] 20 C.F.R. 422.107(d).

[9] Section 1614(a)(1)(B); 42 U.S.C. 1382c(a)(1)(B).

[10] The alien eligibility requirement for AFDC appears in the regulations at 45 CFR 233.50; for Medicaid, it appears at 45 CFR 248.50; and for the Food Stamp Program, it appears at 7 CFR 271.1(e).

The basic requirements for alien eligibility are identical for the four public assistance programs. In each case, eligibility is limited to a U.S. resident who is either a citizen or . . .

an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or section 212(d)(5) of the Immigration and Nationality Act).

The citations to the Immigration and Nationality Act refer, respectively, to seventh preference refugees who are initially admitted on a two-year conditional basis; and to parolees admitted at the discretion of the Attorney General.

The Unemployment Compensation Amendments of 1976, enacted by the 94th Congress, amended the Internal Revenue Code of 1954 by the addition of language almost identical to that quoted above, restricting unemployment compensation to permanent resident aliens and other aliens permanently residing in the U.S. under color of law.[11] Additionally, the amendments include provisions designed to insure that unemployment compensation will not be inadvertently denied or delayed because of the ethnic, racial, or linguistic characteristics of those legally eligible for it. These provisions follow:

(B) any data or information required of individuals applying for compensation to determine whether compensation is not payable to them because of their alien status shall be uniformly required from all applicants for compensation, and

(C) in the case of an individual whose application for compensation would otherwise be approved, no determination by the State agency that compensation to such individual is not payable because of his alien status shall be made except upon a preponderance of the evidence.

These provisions go into effect Jan. 1, 1978 or, in the case of states whose legislatures do not meet in a regular session which ends in 1977, on Jan. 1, 1979.

Illegal aliens are also barred from participation in Medicare (Parts A and B),[12] as well as in programs authorized by Titles I and II of the Comprehensive Employment and Training Act (CETA) of 1973.[13]

RECENT CONGRESSIONAL ACTION

A. Penalties for the employment of illegal aliens

In addition to the enacted legislation included in the previous section, other legislation pertaining to the control of illegal aliens has been receiving serious attention by the Congress since 1971. Chief among the legislative approaches to the problem has been the proposed establishment of penalties for the employment of illegal aliens.

Extensive investigative and legislative hearings on the problem of illegal aliens were held during the 92nd Congress, beginning in 1971, by the House Judiciary subcommittee with special jurisdiction over immigration matters, then under the chairmanship of Representative Peter W. Rodino, Jr.[14] Quoting from a recent House Judiciary

[11] Act of Oct. 20, 1976, Public Law 94-566; 90 Stat. 2680, Sec. 314; amends Internal Revenue Code, Sec. 3304(14), 26 U.S.C. 3304.

[12] Medicare Part A: Sec. 1818(a)(3), Social Security Act; Medicare Part B: Sec. 1836(2), Social Security Act.

[13] Title I: 29 CFR 95.32(d); Title II: 29 CFR 96.27(g).

[14] U.S. Congress. House. Committee on the Judiciary. Hearings, 92d Congress, 1st and 2d session. Serial No. 13, Pts. 1-5. Washington, U.S. Government Printing Office, 1971-72. A summary of the hearings was made available in the form of a Committee print entitled "Illegal Aliens: A Review of Hearing Conducted during the 92d Congress (Serial No. 13, Pts. 1-5) by Subcommittee No. 1," published February, 1973. (Cited as Illegal Aliens, House Judiciary Committee print (1973).)

Committee report, "The basic conclusion reached by the majority of the members of the Subcommittee as a result of the hearings was that the adverse impact of illegal aliens was substantial, and warranted legislation both to protect U.S. labor and the economy, and to assure the orderly entry of immigrants into this country." [15]

These hearings formed the basis for a series of bills prohbiting the knowing employment of illegal aliens, and establishing a graduated three-step series of administrative, civil, and criminal penalties for employers violating this prohibition. The basic raticnale for this approach was explained as follows during the 94th Congress by the House Judiciary Committee:

> The Committee believes that the primary reason for the illegal alien problem is the economic imbalance between the United States and the countries from which aliens come, coupled with the chance of employment in the United States. Consequently, it is apparent that this problem cannot be solved as long as jobs can be obtained by those who enter this country illegally and by those who enter legally as nonimmigrants for the sole purpose of obtaining employment.
>
> The Committee, therefore, is of the opinion that the most reasonable approach to this problem is to make unlawful the "knowing" employment of illegal aliens, thereby removing the economic incentive which draws such aliens to the United States as well as the incentive for employers to exploit this source of labor.[16]

Legislation embodying this approach received the continuous support of the Nixon and Ford Administrations. Bills were passed by the House during the 92nd Congress (H.R. 16188) and the 93rd Congress (H.R. 982). However, they received no Senate action.

A bill identical to the House-passed H.R. 982 of the 93rd Congress was introduced at the beginning of the 94th Congress, and hearings were held by the House Judiciary Subcommittee on Immigration, Citizenship, and International Law, under the chairmanship of Representative Joshua Eilberg.[17] A clean bill, H.R. 8713, was reported to the House on September 24, 1975,[18] but received no further action by the House. H.R. 8713 differed from earlier versions of the House Judiciary illegal alien bill most notably in the inclusion of a provision allowing for the regularization of status ("amnesty") for certain illegal aliens who had been in the country since July 1, 1968, as well as a provision intended to insure against employment discrimination those of foreign appearance who are legally entitled to work.

Bills providing for a graduated series of civil penalties for the employment of illegal aliens, in conjunction with amnesty provisions for certain illegal aliens presently in the country, were introduced by Senator Edward Kennedy, a member of the Senate Judiciary Subcommittee on Immigration and Naturalization, during the 93rd (S. 3827) and 94th (S. 561) Congresses. However, the first time illegal alien legislation received formal consideration by the Senate Judiciary Committee in recent years was during the 94th Congress. On March 4, 1976, Senator James O. Eastland, Chairman of the Senate Judiciary Committee and of its Subcommittee on Immigration and Naturalization, introduced an omnibus immigration reform bill, S. 3074. In addition to provisions which were similar to those enacted into law

---

[15] H. Rept. 94-506 (1975), p. 3.
[16] Ibid., p. 6.
[17] House Judiciary hearings, 1975; see note I-19.
[18] H. Rept. 94-506 (1975); see note 2.

as the Immigration and Nationality Act Amendments of 1976 (Public Law 94–571; see p. 27 above), the bill included civil penalties for the knowing employment of illegal aliens as well as an amnesty provision for certain illegal aliens presently in the country. Hearings were held on S. 3074 in March and April, 1976,[19] but it was not reported.

Major provisions of H.R. 8713, as amended, are compared with those provisions of S. 3074 relating to illegal aliens in Appendix A. General arguments for and against employer sanctions and amnesty for illegal aliens presently in the country are discussed in Section V.

B. Operations of the U.S. Immigration and Naturalization Service (INS)

During the 93rd Congress (1973–1974), the Legal and Monetary Affairs Subcommittee of the House Committee on Government Operations held extensive hearings on INS.[20] The purpose of the hearings was to examine the operations of INS as they related to illegal aliens; and, in the final series of hearings, to review allegations of corruption within INS itself, and to monitor the progress of "Operation Clean Sweep," a Justice Department investigation of those allegations then underway.

Quoting from an Interim Report published in December 1974, "The Legal and Monetary Affairs Subcommittee conducted this study to determine whether operational and managerial weaknesses on the part of INS might be responsible for the tremendous growth in illegal alien presence in the United States in recent years." Based on testimony from "witnesses from all levels of INS," they concluded that INS was an agency "whose dimensions had increased dramatically within the past decade, but which was funded at a level that failed to provide the means of accomplishing its task." [21]

This, generally speaking, was the overall conclusion reached by the Committee, at least as reflected in its Interim Report. They found that, "The ever-increasing number of illegal aliens in this country appears to be due in great part to the inability of the Service to control and enforce immigration laws in every section of the country." [22] This, in turn, was found to be due largely to underfunding, and the resulting understaffing, of the agency. The House Government Operations Committee concluded that, "Fiscal policies and budget requests have consistently failed to provide INS with necesasry levels of support to maintain effective levels of enforcement activity," [23] a situation attributed to lack of support by the Department of Justice and the Office of Management and Budget (OMB), dating back over a ten-year period.[24] The Committee linked the need for increased funding and manpower primarily to the increase in the illegal alien problem.[25]

---

[19] Senate Judiciary hearings, 1976; see note I–10.
[20] U.S. Congress. House. Committee on Government Operations. Legal and Monetary Affairs Subcommittee. Immigration and Naturalization Regional Office operations. Parts 1–5. Hearings, 93d Congress, 1st and 2d session. Washington, U.S. Government Printing Office, 1973 and 1974. 616 p.
[21] U.S. Congress. House. Committee on Government Operations. Interim report on Immigration and Naturalization Service regional office operations; twentieth report together with separate views. Washington, U.S. Government Printing Office, 1974. 59 p. (93d Cong., 2d session, House. Report No. 93–1623), p. 2.
[22] Ibid., p. 3.
[23] Ibid., p. 5.
[24] Ibid., p. 20.
[25] Ibid., p. 16.

C. INS authorizations and appropriations

The House Committee on the Judiciary has shared the Government Operations Committee's concern with what they have seen to be the inadequate funding of INS, and has also attributed this to lack of support for INS from Justice and OMB as reflected in the annual budget requests. Quoting from the House Judiciary Committee report on H.R. 8713, the illegal alien bill discussed above:

> For several years, the Committee has been deeply concerned by the inadequate funding of INS. The Committee believes that the lack of funds has greatly diminished the capacity of INS to properly and effectively administer the Immigration and Nationality Act.
>
> This problem can be traced directly to the failure of the Department of Justice and OMB to place sufficient priority on the enforcement of our immigration law.

H.R. 8713 contained a provision repealing INS' open-ended authorization and requiring annual authorizations by the Congress. Quoting further:

> As a result of this provision, the Committee and the Congress will be required to approve annual or periodic authorization bills for INS. In particular, the Subcommittee on Immigration, Citizenship and International Law will, by necessity, review the functions, programs, and activities of INS on a line item basis.[27]

While H.R. 8713 was not enacted, the provision under discussion has become law. As the result of another bill enacted by the 94th Congress, the Crime Control Act of 1976,[28] annual authorizations are now required for all Justice Department agencies, including INS, beginning with fiscal year 1979.[29]

The amount appropriated by Congress for INS for fiscal year 1977 was $234 million, $12.4 million more than the amount requested by the President. The Administration's budget request of $221,581,000 had represented a net increase of $7.4 million and a decrease of 111 positions compared to fiscal year 1976.

The unusual step of appropriating an amount for salaries and expenses which is higher than the amount requested originated with the House Appropriations Committee and was explained on the grounds of the Committee's concern about "workload backlogs." The additional funds were to be used primarily for increased manpower.[30]

RECENT EXECUTIVE BRANCH ACTION

Responsibility for administering the Immigration and Nationality Act is shared by the Department of Justice's Immigration and Naturalization Service and the Department of State's Bureau of Security and Consular Affairs, with participation of varying degrees by agencies of the Department of Labor, the Department of Health, Education, and Welfare, and the Treasury Department. The primary responsibility for most enforcement aspects of immigration, and hence for the illegal alien problem, rests with INS.

---

[27] Ibid., p. 19.

[28] Act of Oct. 15, 1976, Public Law 94-503; 90 Stat. 2407. See Title II, Sec. 204; 90 Stat. 2427.

[29] For further discussion of this provision, see the House report on the legislation enacted as Public Law 94-503, H. Rept. No. 94-1155, pp. 15-16.

[30] U.S. Congress. House. Committee on Appropriations. Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Bill, fiscal year 1977; report to accompany H.R. 14239. Washington, U.S. Government Printing Office, 1976 (94th Cong., 2d session. House. Report No. 94-1226), p. 18.

A. INS priorities and budget

Since Commissioner Leonard F. Chapman took office on November 29, 1973, the illegal alien problem has been given top priority by INS. In his letter to the Attorney General accompanying the fiscal year 1974 INS Annual Report, Commissioner Chapman described "the continuing surge of illegal aliens into the United States" as "the most serious problem facing the Immigration Service, and one of the Nation's most pressing problems." [31] Commissioner Chapman reiterated this point many times in his frequent speeches and statements on the subject of illegal aliens.

Top priority within INS has been placed on Border Patrol and inspections activities aimed at preventing aliens from entering the country illegally. Quoting from the report of the Domestic Council Committee on Illegal Aliens, "In enforcing the nation's immigration laws, the prevention of illegal entry is of paramount importance to INS and involves almost 40 percent of its personnel." [32] They estimate that in fiscal year 1976, over 1,700 of the Border Patrol's 2,000 officers were located in the Southwest border area. However, this yielded about 200 men a shift, or "one patrolman for every ten miles of the 2,000 mile long border." [33]

Those aliens who escape detection while entering illegally or violate their status after legal entry are the responsibility of the investigative personnel of INS, who concentrate on illegal aliens seeking employment or employed, particularly in higher paying jobs. Other ongoing INS activities relating to the illegal alien problem include the alien documentation program, the purpose of which is to replace all existing INS identification cards with counterfeit-proof ID cards; expansion of detention and deportation facilities, including "interior repatriation" of deported Mexican aliens; and, as mentioned earlier, a comprehensive seven-part study of the illegal alien problem.[34] As a further indication of INS priorities, the appropriations and permanent positions available to INS during fiscal years 1976 and 1977 are summarized by major budget activities in Tables 10 and 11.

The extent of INS's activities is, of course, a function of its budget. In recent years, Congress has generally appropriated an amount very close to that requested for INS by the Administration. However, the Administration's request has generally been significantly lower than the amount originally requested by INS. For example, INS requested a manpower increase for fiscal year 1977 of 2,600 positions;the request submitted to the Congress by the Administration provided for a net decrease of 111 positions.[35]

---

[31] 1974 INS Annual Report, p. iii.
[32] Domestic Council Committee on Illegal Aliens report (December 1976), p. 76.
[33] Ibid., p. 84.
[34] For a discussion of INS programs and priorities pursuant to the fiscal year 1977 budget request, see House Appropriations Subcommittee hearings entitled "Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations for 1977," Part 4, pp. 628–719.
[35] Senate Judiciary hearings, 1976, p. 51. See also House Rept. No. 94-506 (1975), p. 18.

TABLE 10.—INS APPROPRIATIONS BY BUDGET ACTIVITY, FISCAL YEARS 1976-77

[Dollar amounts in thousands]

Budget authority	Fiscal year 1976 [1]	Fiscal year 1977 [2]	Percent change
1. Inspection for admission into the United States	$36,318	$37,936	4
2. Adjudications	15,466	19,666	27
3. Detention and deportation	26,309	37,885	44
4. Naturalization	10,147	10,488	3
5. Border patrol	64,877	64,459	−1
6. Investigating aliens' status	31,580	34,922	11
7. Immigration and naturalization records	17,747	15,909	−10
8. General administration	12,165	12,735	5
Total	214,609	23,000	9

[1] The total fiscal year 1976 appropriation of $214,609,000 includes the original appropriation of $208,000,000 (Public Law 94-121), plus a supplemental appropriation of $6,609,000 (Public Law 94-303). Data on the earmarking by budge activities has been derived from a combination of (1) the INS breakdown by budget activity of $213,609,000 contained in the hearings of the House Appropriations Committee entitled "Departments of State, Justice, and Commerce, the Judiciary and Related Agencies Appropriations for 1977" (pt 4, p. 633), 94th Cong. 2d sess; and (2) CRS computations based on information provided by the INS budget office on the distribution of the additional $1,000,000 obtained as part of a supplemental appropriation.

[2] The breakdown by budget activity of the fiscal year 1977 appropriation of $234,000,000 (Public Law 94-362) was provided by the INS budget office.

TABLE 11.—INS PERMANENT POSITIONS BY BUDGET ACTIVITY, FISCAL YEARS 1976-77

Budget activity	1976 [1]	1977 [2]	Percent change
1. Inspection for admission into the United States	1,491	1,591	7.0
2. Adjudications	685	785	15.0
3. Detention and deportation	827	1,031	25.0
4. Naturalization	473	473	----------
5. Border patrol	2,434	2,439	.2
6. Investigating aliens' status	1,304	1,504	15.0
7. Immigration and naturalization records	1,057	1,057	----------
8. General administration	561	571	2.0
Total	8,832	9,451	7.0

[1] House Appropriations Committee hearings "Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations for 1977," 94th Cong., 2d sess. ,pt 4, p. 633.

[2] INS budget office.

B. Foreign policy

U.S. concern with illegal aliens in the context of foreign policy considerations is a fairly recent development and, to date, limited almost exclusively to Mexico. Quoting from the report of the Domestic Council Committee on Illegal Aliens:

> With the possible recent exception of Mexico, the control of illegal immigration has not been an item of concern to U.S. policymakers in the governance of our relations with sending countries. The State Department's country policy papers, which outline U.S. policy goals for the major sending countries, do not in any case cite illegal emigration as an issue although several accord priority to establishing effective visa issuing processes.[36]

The issue of illegal aliens was among those discussed Oct. 21, 1974 between President Ford and President Echeverria of Mexico. At that time, President Echeverria indicated that the Mexican Government

[36] Domestic Council Committee on Illegal Aliens report (December 1976), p. 56.

was not interested in a renewal of the Bracero program, allowing for temporary entry of Mexican agricultural workers on a contract basis;[37] the previous program ended in December 1964. The two Presidents agreed to reactivate a joint U.S.-Mexican commission to update existing data and to reanalyze the illegal alien problem from an international point of view.[38] The Interagency Committee on Mexican Migration to the United States, chaired by the Department of State, was established pursuant to this meeting, and subsequently doubled as the Foreign Relations task force of the Domestic Council Committee on Illegal Aliens.

A similar bilateral effort was conducted in the early 1970s. On the U.S. side, the Special Study Group on Illegal Immigrants from Mexico was chaired by Roger C. Cramton, of the U.S. Department of Justice, and included representatives from INS and the Departments of HEW, Agriculture, Labor, and State. Their Final Report, commonly referred to as the Cramton report, was issued January 15, 1973. A companion report was issued by Mexico's Interdepartmental Commission for the Study of the Problem of the Clandestine Emigration of Mexican Workers to the United States of America on December 14, 1972.

Since the meeting between the U.S. and Mexican presidents in 1974, the U.S. group and its Mexican counterpart, the Mexican Commission on Undocumented Workers, have continued discussions of the illegal alien problem. In 1976, a joint plenary session was held in Washington, with follow-up sessions at the border. The work of these groups is described by the Domestic Council Committee on Illegal Aliens as representing "initial steps toward meeting the serious need for cooperative efforts between the governments of both nations." [39]

C. Preliminary report of the Domestic Council Committee on Illegal Aliens

In January 1975, President Gerald Ford established the Domestic Council Committee on Illegal Aliens, chaired by the Attorney General, "to develop, coordinate and present to me policy issues that cut across agency lines to provide better programs for dealing with this National problem." [40] The Preliminary Report of the Cabinet-level Committee was released in early January, 1977.

The Committee concludes that "illegal immigration is significant and growing." [41] Generally speaking, however, its assessment of the volume and impact of illegal immigration is more tentative and qualified than that presented by Administration spokesmen, particularly those from INS, in the recent past. The report repeatedly emphasizes the inadequacy of existing information, observing in the concluding section that, "one clear theme of this report is that a dramatic lack of reliable information makes thorough analysis of illegal immigration impossible at this time." [42]

---

[37] U.S. Congress. House. Committee on the Judiciary. Western Hemisphere Immigration. Hearings, 94th Congress, 1st and 2d sessions on H.R. 367, H.R. 981, and H.R. 10323. Serial No. 34. Washington, U.S. Government Printing Office, 1976, p. 240. (Henceforth cited as House Judiciary Western Hemisphere Immigration hearings, 1976).

"President Ford Meets with President Echeverria of Mexico," Department of State Bulletin, vol. LXXI. No. 1847, Nov. 18, 1974.

[38] Ibid., p. 241.

[39] Domestic Council Committee on Illegal Aliens report (December 1976), p. 55.

[40] Weekly Compilation of Presidential Documents, Jan. 13, 1975, p. 26.

[41] Domestic Council Committee on Illegal Aliens report (December 1976), p. 236.

[42] Ibid., p. 235.

The report reviews the illegal alien problem in the context of U.S. immigration law and policy, and considers the underlying "international push-pull" factors. Various domestic aspects of the problem are examined, including law enforcement, interagency cooperation, and existing research ("in its infancy"). The characteristics of illegal aliens are tentatively discussed, as are their domestic impact, with emphasis on employment, use of welfare, and social implications.

The Committee's general conclusions, described as tentative, follow:

1. Illegal immigration is rooted in powerful social and economic forces endemic to both host and sending countries. . . .
2. Illegal immigration is significant and growing. . . .
3. The major impact of illegal aliens at this time seems to be in the labor market. This impact is likely to extend over time to other areas as the process of settlement proceeds. . . .
4. The community-related implications of large numbers of illegal aliens are significant and merit government attention. . . .
5. Effective enforcement of the Immigration and Nationality Act must stress prevention above all other considerations. . . .
6. Effective enforcement is not enough. The illegal alien issue is ultimately an issue of immigration policy and will not be satisfactorily met until a thorough rethinking of our immigration policy is undertaken.[43]

The major recommendations of the Domestic Council Committee are summarized below:

1. "The issue of illegal immigration merits priority attention and requires Cabinet leadership," in order to provide "continued coordination and direction at the highest level." [44]
2. Aggressive pursuit by the executive branch of legislation relating to illegal aliens, including (a) penalties for the knowing employment of illegal aliens; (b) legislation, since enacted as Public Law 94–571, extending the preference system and 20,000 per-country limit to Western Hemisphere countries; (c) revision of the labor certification provision; (d) amnesty for otherwise eligible illegal aliens present in the country since July 1, 1968, through a permanent amendment of the Immigration and Nationality Act (Sec. 249, the "registry" provision); and (e) increased penalties for smugglers and others who facilitate illegal immigration.[45]
3. "An expanded government to government foreign worker program should not be sought at this time." An evaluation by the Committee of the adequacy of the existing provisions relating to temporary alien ("H–2") workers is recommended, as is an evaluation of the bracero program and foreign guest worker programs.[46]
4. INS and the State Department "should receive high priority in the allocation of resources directed at prevention of and screening for illegal entries, management and operational upgrading, and inter-Departmental coordination." [47]

[43] Ibid., p. 235–239.
[44] Ibid., p. 241.
[45] Ibid., pp. 241–242.
[46] Ibid., p. 242.
[47] Ibid.

5. The Committee recommends against massive deportation as being "both inhumane and impractical." In addition to the amnesty recommendation (#2(d) above), it recommends evaluation and development of other policy approaches toward illegal aliens currently in the country.[48]

6. The Department of State should undertake negotiations with governments of the major illegal alien sending countries on illegal migration and related issues, in addition to those already underway with Mexico. U.S. foreign aid to less developed nations should be encouraged, with more emphasis on counteracting migration here.[49]

7. "The Committee and the cognizant Federal agencies should initiate and support a broad based research program to determine the nature and scope of various immigration related problems." [50]

8. A thorough reexamination of current U.S. immigration policy is recommended.[51]

U.S. Supreme Court decisions

Two major decisions with a direct bearing on the illegal alien issue were handed down by the U.S. Supreme Court during the 1975–1976 term. In *De Canas* v. *Bica*, 424 U.S. 351 (1976), the Court ruled unanimously that California and other states can constitutionally legislate prohibitions against the employment of illegal aliens. With specific reference to the California Labor Code, the Court held that the prohibition of the knowing employment of illegal aliens in order to protect workers within the State is within the police powers of the State, and does not constitute a violation of the Federal government's exclusive power over the regulation of immigration.

In a second case, *United States* v. *Martinez-Fuerte*, 428 U.S. (1976), the Court sustained the power of Border Patrol agents to make warrantless stops of cars at fixed checkpoints even without reason to believe that they contain illegal aliens. However, probable cause or consent is required for vehicle searches. Quoting from the discussion of this case by the Domestic Council Committee on Illegal Aliens:

> Whenever a vehicle is to be searched in any but a "border search" situation, the officer must be prepared to articulate a clear determination of probable cause, or the stated consent of the driver or owner. This is applicable to both checkpoint and roving patrol stops. To comply with the decisions in these cases, the Service revamped some of its Mexican border area highway operations; a case in point was the elimination of stopping cars by roving patrols.[52]

According to the Domestic Council Committee, the effect of this and related decisions affecting operations of the INS "has been to place even greater emphasis on preventing entry in the first place." [53]

IV. Historical Development and Background

DEVELOPMENT OF U.S. IMMIGRATION LAWS

A. General

During its first century, the United States permitted and, in fact encouraged free immigration. The only exception to this general rule

[48] Ibid., p. 243.
[49] Ibid.
[50] Ibid.
[51] Ibid., p. 244.
[52] Ibid., p. 86.
[53] Ibid., p. 87.

was the Alien Act of 1798,[1] a part of the Alien and Sedition Laws, which authorized the President to expell dangerous aliens. However, this first deportation statute was very controversial and was not extended beyond its initial two-year term.

In 1875, as a result of increasing pressure for Federal controls on immigration after the U.S. Supreme Court had declared State statutes to be unconstitutional, the Congress began enumerating categories of aliens who were prohibited from entering the country. An 1875 statute[2] prohibiting the entry of convicts and prostitutes was followed in 1882 by legislation described as "the first general immigration statute," barring persons likely to become public charges, as well as idiots, lunatics, and convicts.[3] The Chinese Exclusion Act was also enacted in 1882,[4] and remained in effect until 1943. The contract labor laws of 1885 and 1887[5] prohibited the importation under contract of foreign labor.

An 1888 amendment[6] to the contract labor laws permitted the deportation within one year of aliens who entered in violation of the law—in effect, the first illegal alien statute.

Legislation enacted during World War I, the Immigration Act of 1917,[7] codified existing restrictions on immigration and added new ones. Enacted over President Wilson's veto, the 1917 Act included the controversial literacy requirement, prohibiting the entry of aliens over 16 who were unable to read, and established the Asiatic Barred Zone, which further restricted the entry of Orientals.

Until the 1920's, restrictions on immigration had been qualitative, rather than quantitative. That is, there were no restrictions on the number of aliens who could enter, provided they met the criteria set forth in the law. During the 1920s, numerical restrictions were placed on U.S. immigration, in the form of the national origins quota system. The temporary Quota Law of 1921[8] was followed by the permanent Immigration Act of 1924.[9] This Act assigned nontransferable quotas to Eastern Hemisphere countries, based on the number of persons of that national origin recorded as being present in the United States by the 1920 census. Immigration under the quotas was limited to approximately 150,000 a year. Numerical restrictions were not extended to the natives of other countries in the Western Hemisphere (see pp. 41–46 below).

The national origins quota system remained controversial from the time of its inception until its repeal in 1965. Pro and con arguments at the time of its permanent adoption in 1924 were summarized in a 1950 Senate report, in part as follows:

> The 1924 act had been hailed as the most far-reaching change that occurred in America during the course of that quarter century, in that it arrested the tendency toward a change in the fundamental composition of the American stock. It has been denounced as radically biased, statistically incorrect, and a clumsy instrument of selection which bars individuals by discrimination against nations instead of considering personal qualifications of immigrants.[10]

---

[1] Alien Act of 1798, Act of June 25, 1798, 1 Stat. 570.
[2] Act of Mar. 3, 1875, 18 Stat. 477.
[3] Act of Aug. 3, 1882, 22 Stat. 214. Charles Gordon and Harry Rosenfield, Immigration Law and Procedure, 1976, vol. 1, p. 1-7. See pp. 1-5 through 1-27 for a general survey of the development of immigration law through 1965.
[4] Act of May 6, 1882, 22 Stat. 58.
[5] Act of Feb. 26, 1885, 23 Stat. 332; Act of Feb. 23, 1887, 24 Stat. 414.
[6] Act of Oct. 19, 1888, 25 Stat. 566.
[7] Act of Feb. 5, 1917, 39 Stat. 874.
[8] Act of May 19, 1921, 42 Stat. 5.
[9] Act of May. 26, 1924, 43 Stat. 153.
[10] Senate Rept. No. 1515, 81st Cong., 2d session, 1950, p. 64.

Together with the Immigration Act of 1917, the Immigration Act of 1924 constituted the basic U.S. immigration law until 1952. Legislation passed during the period preceding the major recodification of the law in 1952 included a series of temporary humanitarian measures designed to admit refugees in the aftermath of World War II. The most significant of these was the Displaced Persons Act of 1948, significantly amended in 1950.[11]

In 1952, Congress enacted the Immigration and Nationality Act [12] commonly referred to as the McCarran-Walter Act, after the chairmen of the Senate and House Judiciary immigration subcommittees, Senator Patrick McCarran (D. Nev.) and Rep. Francis Walter (D. Pa.). Enacted over President Truman's veto, the 1952 Act continued both the national origins quota system, as well as numerically unrestricted Western Hemisphere immigration. While it has been repeatedly amended, the Immigration and Nationality Act remains our basic immigration law today.

The four-title structure of the Immigration and Nationality Act has remained basically the same since 1952. However, the substantive immigration provisions were significantly amended in 1975 and 1976.

The Immigration and Nationality Act Amendments of 1965 [13] abolished the 40-year-old national origins quota system as the primary control on U.S. immigration, replacing it with an annual ceiling on Eastern Hemisphere immigration of 170,000 and a 20,000 per-country limit. Within those restrictions, immigrant visas are distributed according to a seven-category preference system. The 1965 amendments also provided a ceiling on Western Hemisphere immigration for the first time in our history, limiting total immigration from other countries in this hemisphere to 120,000 a year.

The Immigration and Nationality Act Amendments of 1976,[14] enacted by the 94th Congress, extended to the Western Hemisphere the preference system with minor modifications, and the 20,000 per-country limit previously in effect only in the Eastern Hemisphere. The House Judiciary Committee report on the bill enacted as Public law 94–571 quoted Chairman Joshua Eilberg of the House Judiciary Committee on Immigration, Citizenship, and International Law, as follows:

> It should be remembered that, with the abolition of the national quota system in 1965, Congress endorsed the principles of equity and family reunification as the basis of our immigration policy for the Eastern Hemisphere. It remains the unfinished business, therefore, of this subcommittee and the Congress to extend these principles to the natives of the Western Hemisphere.[15]

The elimination of the inequities in the regulation of immigration from the two hemispheres was the basic purpose of the 1976 amendments. As floor manager of the bill during its consideration by the House, Representative Joshua Eilberg reiterated its major objectives in his statement that it would "provide uniform treatment for all intending immigrants, and it is a major step forward in advancing the primary objective of our immigration law—the reunification of families." [16]

---

[11] Act of June 25, 1948, 62 Stat. 1009; Act of June 16, 1950, 64 Stat. 219.
[12] Act of June 27, 1952, Public Law 82-414, 66 Stat. 163, 8 U.S.C. 1101 et seq.
[13] Act of Oct. 3, 1965, Public Law 89-236, 79 Stat. 911.
[14] Act of Oct. 20, 1976, Public Law 94-571, 90 Stat. 2703.
[15] U.S. Congress. House. Committee on the Judiciary. Immigration and Nationality Act Amendments of 1976; Report to Accompany H.R. 14535. Washington, U.S. Government Printing Office, 1976. (94th Congress, 2d Session. House. Report No. 94-1553) pp. 4-5. (Henceforth cited as H. Rept. No. 94-1553 (1976).)
[16] Congressional Record [daily ed.], Sept. 29, 1976: H11683.

B. Application of the 20,000 per-country limit to Mexico

The only provision of any real controversy in the Immigration and Nationality Act Amendments of 1976 was the extension of the 20,000 per-country limit to Mexico. As noted above, prior to this Act, which went into effect January 1, 1977, immigration from all independent countries in the Western Hemisphere had been numerically limited only by the overall ceiling of 120,000 immigrant visas exclusive of immediate relatives, with no per-country limitations. Mexican immigration under the Western Hemisphere ceiling has exceeded 20,000 every year since the ceiling went into effect on July 1, 1968 (Table 12).

TABLE 12.—MEXICAN IMMIGRATION, FISCAL YEARS 1966–75

	Total	Western Hemisphere ceiling	Eastern Hemisphere ceiling	Numerically exempt
1966	45,163	NA	NA	NA
1967	42,371	NA	NA	NA
1968	43,563	NA	NA	NA
1969	44,623	31,933	18	12,672
1970	44,469	27,044	20	17,405
1971	50,103	31,695	15	18,393
1972	64,040	41,694	13	22,333
1973	70,141	43,510	71	26,560
1974	71,586	45,156	91	26,339
1975	62,205	41,894	83	20,228

NA signifies not applicable.

Source: U.S. Immigration and Naturalization Service, annual report, fiscal years 1966–75.

Because of this high demand, there has been support in the past for a higher per-country allocation for the contiguous countries. In fact, this would have affected only Mexico; Canadian immigration under the Western Hemisphere ceiling has never even approached 20,000. However, as the House Judiciary Committee states, "During the 94th Congress, a general consensus has been reached that the 20,000 per-country limit should be extended to all countries of the world, including those geographically contiguous to the United States." [17] Included in this consensus was the Administration, which in previous Congresses had backed a 35,000 allocation for the two contiguous countries. In the 94th Congress, however, the Administration bill (H.R. 10323) included a 20,000 per-country limit for all Western Hemisphere countries, an approach defended as follows in a joint statement by the Departments of Justice and State:

> Based on a review of existing data, a uniform ceiling for each country . . . would be preferable. This would permit an equitable distribution of immigration from throughout the hemisphere and from throughout the world. Problems with illegal immigration will exist whether immigration from Mexico is limited to 20,000 or 35,000 per year or not at all. While permitting 35,000 immigrants a year from Mexico would ease their demand slightly, this would only increase the waiting lists and the demand throughout the rest of the hemisphere.[18]

However, this position was reversed by President Gerald Ford in his statement on signing the Immigration and Nationality Act Amendments of 1976 into law. At that time he voiced concern "about one

[17] H. Rept. No. 94–1553 (1976), p. 8.
[18] Western Hemisphere Immigration hearings, 1976, pp. 362–363; quoted in H. Rept. No. 94–1553 97(16), p. 9.

aspect of the legislation which has the effect of reducing the legal immigration into this country from Mexico." Quoting further:

> The United States has a very special and historic relationship with our neighbor to the south. In view of this special status we have with the Mexican Government and the Mexican people, I will submit legislation to the Congress in January to increase the immigration quotas for Mexicans desiring to come to the United States.[19]

In support of its decision to limit all countries to 20,000, the House Judiciary Committee has argued, "The proposed legislation rejects the concept of a 'special relationship' between this country and certain other countries as a basis for our immigration law, in favor of a uniform treatment of all countries." [20]

In contrast to President Ford, the Domestic Council Committee on Illegal Aliens, which had been established by him, supported the extension of the 20,000 per-country limit to the countries of the Western Hemisphere without reference to special treatment for Mexico. They recommended executive branch support for "application of the preference system and foreign state limitations to Western Hemisphere immigration in a manner similar to that regulating Eastern Hemisphere immigration," and in a footnote indicated that Public Law 94–571, signed after the Committee's report was written and approved, contained these provisions.[21]

The factors involved in the illegal alien problem as it relates to Mexcio are so complex that it is impossible to predict the probable impact on it of the application of the 20,000 per-country limit to Mexico. On the one hand, assuming the pressure to come to the United States from Mexico continues at its present level, the reduction of the opportunity for legal immigration would, almost by definition, appear likely to increase the pressure for illegal immigration. Thus, it was reported that an INS spokesman "said that the pressures caused by the reduced quota for Mexico would probably produce an increase in the number of Mexicans seeking to enter the United States illegally." [22]

On the other hand, the number of legal immigrants affected by the new legislation is comparatively small in the context of the illegal alien problem. The number of Mexican illegal aliens apprehended in fiscal year 1975 was more than 10 times the total number entering legally as immigrants, including numerically exempt immediate relatives. As the State and Justice Departments noted in support of the uniform application of the 20,000 per-country limit, in their joint statement quoted above, "problems with illegal immigration will exist whether immigration from Mexico is limited to 20,000 or 35,000 per year or not at all." [23]

C. Western Hemisphere ceiling

The imposition of the numerical ceiling on Western Hemisphere immigration, resulting from the 1965 amendments to the Immigration and Nationality Act, is generally agreed to be one of the factors behind the current illegal alien problem, although there is disagree-

---

[19] Weekly Compilation of Presidential Documents, Oct. 25, 1976, p. 1548.
[20] H. Rept. no. 94–1553, p. 9.
[21] Domestic Council Committee on Illegal Aliens report (December 1976), p. 241.
[22] "Ford signs revision in immigration law," New York Times, Oct. 24, 1976, p. 26.
[23] See quote accompanying footnote 18 on p. 41.

ment about the extent of its impact. Because of its relevance to the illegal alien issue, the historical development of the regulation of Western Hemisphere immigration is considered below in more detail.

Natives of other countries in the Western Hemisphere were omitted from the quota restrictions imposed on the Eastern Hemisphere in 1921 and 1924, according to Marion T. Bennett, for three main reasons:

(1) Some of these countries had few or no nationals in the United States upon whom a national origin quota could be based and under the quota system they would have been totally excluded in the future.

(2) The borders between this country and Canada and Mexico were considered too extensive to patrol against illegal entries effectively.

(3) The desirability of continued favored treatment to sister nations of the Western Hemisphere. [24]

The issue of a numerical limitation on Western Hemisphere countries in general and Mexico in particular arose again in the mid-1920s and was the subject of a four-year debate described by Robert A. Divine as generating "a great deal of heat but very little light." Quoting further:

When the committee hearings closed in 1930, very little had been achieved. The voluminous printed record, filling over 2,000 pages, revealed the wide disagreement between the opposing sides but contained little that would help legislators to form judicious conclusions on the question of Mexican immigration. . . . Most evident were the petty and narrow motives which inspired the antagonists. The supporters of restriction, posing as defenders of the American laborer and protectors of American society, seemed to be moved primarily by racial prejudice. Their opponents, ostensibly acting to prevent a serious dislocation in the nation's economy, appeared to be motivated by economic self-interest.[25]

Those attempting to restrict immigration were unsuccessful, due primarily to the strong opposition of the State Department, led by Secretary of State Kellogg, to a ceiling on Mexican immigration because of foreign policy considerations. Quoting again,

The vital factor in defeating the restrictionist cause was the opposition of the State Department. Appealing to the traditional ideal of Pan-Americanism, a principle which was to develop into the Good Neighbor policy in the next few years, the officials of the State Department presented a powerful case against Western Hemisphere restriction. . . . Thus it was that considerations of foreign policy, based on a long-standing idea, prevailed over the previously dominant ideas of race and nationalism to halt the restrictionist surge.[26]

Proponents of numerical restrictions had argued that immigration was a domestic issue, to be determined by internal rather than international considerations. They also argued that every country objected to external bars to the emigration of its citizens, and hence it was foolish to consider other countries' views in determining immigration policy.[27]

The inclusion of a Western Hemisphere numerical restriction in the 1965 amendments appears to have resulted from a growing concern

[24] Marion T. Bennett, American Immigration Policies: A History. Washington, D.C., Public Affairs Press, 1963, p. 61.
[25] Robert A. Divine, American Immigration Policy, 1924–1952. New Haven, Yale University Press, 1957, p. 61.
[26] Ibid., p. 67.
[27] Ibid., p. 64.

that immigration would increase significantly as a result of population pressure in Latin America, combined with political considerations relating to passage of the 1965 amendments as a whole. The political situation at the time is described as follows in a recent House Judiciary Committee report.

> To a considerable extent, passage of the provision for a ceiling on Western Hemisphere immigration came about because a sufficient number of those opposed to it agreed to accept it as the price that had to be paid in order to insure passage of legislation abolishing the national origins quota system which dated back to the 1920's. This latter goal was the primary purpose of the 1965 legislation since its inception, and this emphasis accounts in large part for the very limited consideration given to the actual implementation of the Western Hemisphere ceiling during the 1965 debate.[28]

However, the final inclusion of the ceiling in the enacted bill was not simply a *quid pro quo* in exchange for abolishment of the national origins quota system. The debate for and against the ceiling turned basically on the issue of how many more immigrants would be entering this country, on the one hand, versus foreign policy considerations on the other. There is considerable evidence that the majority in the Congress, as well as the American public, were in favor of restricting rather than liberalizing immigration, and felt that a ceiling on Western Hemisphere immigration was thus necessary. A Harris poll, cited in the Washington Post on May 31, 1965, indicated that people were against allowing more people in the United States by a margin of 2 to 1.[29]

The argument in favor of a quota on Western Hemisphere immigration given the most weight was population pressure. It was noted in the "Additional Views" appended to the House Judiciary Committee report that:

> The most compelling reason for placing a numerical ceiling upon the Western Hemisphere relates to the worldwide population explosion and the possibility of a sharp increase in immigration from Western Hemisphere countries. Testimony before the Judiciary Committee identified Latin America as the area of greatest future population growth.[30]

In opposition, the Johnson Administration was strongly opposed to the imposition of a ceiling on Western Hemisphere immigration on foreign policy grounds. The argument that such a ceiling would, in the words of Representative Emanuel Celler, "muddy the waters of foreign affairs," [31] combined with support for the Administration in its judgment on the conduct of foreign policy, formed the basis of the case against a numerical ceiling on Western Hemisphere immigration.

As enacted, the 1965 amendments provided for a ceiling of 120,000 on Western Hemisphere immigration to go into effect July 1, 1968 "unless legislation inconsistent herewith" was enacted. At the same time, the 1965 Act created a Select Commission on Western Hemisphere Immigration which was instructed to recommend "whether, and if so how, numerical limitations should be imposed upon immigration to the United States from the nations of the Western Hemisphere." The Select Commission had strong reservations about the ceiling, and recommended that the effective date be postponed for a

---

[28] H. Rept. No. 94-1553 (1976), p. 2.
[29] Immigration, Hearings before the Subcommittee on Immigration and Naturalization of the Committee on the Judiciary, Senate, 89th Cong., 1st Sess., 1965, Part 2, pp. 666-667.
[30] House Report No. 745, 89th Congress (1965), p. 48.
[31] Congressional Record [daily ed.], Aug. 25, p. 20955.

year in order to permit further study.[32] This recommendation was not acted on, and the ceiling went into effect on July 1, 1968.

Events during the intervening years have tended to support the arguments of those who favored the Western Hemisphere ceiling. Quoting again from the 94th Congress House Judiciary Committee report:

> Since the establishment of the Western Hemisphere immigration ceiling, there has been no concerted attempt or public pressure to abolish it. In this regard, the Committee notes the recommendation made in 1972 by the President's Commission on Population Growth and the American Future, that "immigration levels not be increased." It is apparent from the estimated current Western Hemisphere backlog of approximately 300,000 active cases that immigration would have risen above the current level without the ceiling.[33]

The Committee went on to note that, "Attention is more appropriately focused on two aspects of the immigration law which received little discussion during the 1965 debate: the absence of a preference system and per-country limit for the Western Hemisphere." [34] As discussed above, the extension of these two provisions to the Western Hemisphere was the primary purpose of the Immigration and Nationality Act Amendments of 1976.

D. Restrictions on alien workers

Another aspect of immigration law of particular importance to the illegal alien issue is the parallel development of provisions safeguarding U.S. labor, together with sometimes complementary, sometimes contradictory provisions aimed at supplying U.S. employers with needed alien workers.

During the 19th century, successive waves of immigrants came to America, fleeing political unrest and economic disaster in their own countries, and seeking a better life here. The Germans in the 1840s, the Irish in the 1850s, the British, French, Swedes, and Norwegians, and after them the Eastern Europeans, the Chinese and the Italians, came to this country by the hundreds of thousands. They supplied the country with its labor force at a time when there were unlimited job opportunities and, particularly, an inexhaustible need for unskilled labor.

However, beginning in the 1860s, charges were made that alien laborers were being brought here by employers in excessive numbers and under false pretenses for the express purpose of keeping down wages. A dominant theme throughout the essentially one-hundred year development of restrictions on U.S. immigration, beginning in the 1870s, has been the need to protect American labor against adverse competition from alien workers. The discriminatory Chinese Exclusion Act was motivated in part by a desire to protect U.S. labor. The first laws aimed solely and specifically at protecting U.S. workers were the contract labor laws of 1885 and 1887, which prohibited the importation under contracts of foreign labor; and, under an 1888 amendment, permitted the deportation within one year of contract laborers who entered in violation of the law.

---

[32] U.S. Select Commission on Western Hemisphere Immigration, Report, January 1968, p. 9.
[33] H. Rept. No. 94-1553 (1976), p. 3.
[34] Ibid.

As explained in a Senate report, the alien contract labor law:

> . . . was aimed at the practice of certain employers importing cheap labor from abroad. This importation practice began in 1869. Advertisements were printed offering inducements to immigrants to proceed to this country, particularly to the coal fields, for employment. Many advertisements asserted that several hundred men were needed in places where there were actually no vacancies. The object was to oversupply the demand for labor so that the domestic laborers would be forced to work at reduced wages.
>
> These abuses came to the attention of Congress about 1884. The House Committee on Labor found that the evils complained of by labor organizations existed to an alarming extent.[35]

The alien contract labor law made it unlawful to import or assist in the importation or migration of aliens under previously agreed upon contracts for the performance of labor or service of any kind in the United States. However, there were some significant exemptions. Foreigners temporarily residing in the United States, skilled workmen for any new industry not yet established in the United States, and artists, lecturers, and servants were not covered by the laws.

In particular, the exemption from the contract labor law of workers temporarily residing in the United States was a precedent for subsequent special measures for the admission of temporary alien workers, most notably the Mexican "Bracero" contract labor program, discussed in the following section. Provisions corresponding to those of the alien contract labor laws were included in the recodification of immigration law in the Immigration Act of 1917. However, as one commentator observed:

> The act revealed, even at this early date, the power of agricultural interests vis-a-vis organized labor. The statute, though highly restrictive, contained a loophole in the area of labor importation. Under the terms of the ninth proviso to Section 3 of the act, the commissioner general of immigration was authorized to admit for temporary employment various classes of workers, among them agricultural laborers.[36]

Since the enactment of the contract labor law in 1885, the permanent immigration law has always included provisionsex plicitly intended to protect U.S. labor from adverse competition from aliens. The present-day equivalent of the contract labor laws is the labor certification provision, which provides that aliens seeking permanent admission (i.e., as immigrants) for the purpose of performing skilled or unskilled labor may not enter unless the Secretary of Labor certifies that there is a shortage of willing and available, similarly qualified U.S. workers, and that the entry of the alien workers will not adversely affect the wages and working conditions of U.S. workers who are similarly employed.[37]

Additionally, under one of the nonimmigrant categories set forth in the Immigration and Nationality Act, temporary alien workers are admissible to perform service or labor of a temporary nature, "if unemployed persons capable of performing such services cannot be found in this country." [38] The law requires that the H–2 provision, as it is commonly referred to, be administered by the Attorney General in consultation with the appropriate agencies of Government, administratively interpreted to be the Department of Labor.[39]

---

[35] Senate Report No. 1515, 81st Cong., 2d Sess., 1950, p. 50.
[36] Richard B. Craig. The Bracero Program; Interest Groups and Foreign Policy. Austin, University of Texas Press, 1971, p. 7.
[37] Immigration and Nationality Act, sec. 212(a)(14); 8 U.S.C. 1182(a)(14).
[38] INA, sec. 101(a)(15)(H)(ii)—hence the reference to "H–2" workers; 8 U.S.C. 1101(a)(15)(H)(ii).
[39] INA, sec. 214(c); 8 U.S.C. 1184(c). See 8 CFR 214.2(h)(3) (INS, Department of Justice), and 20 CFR 602.10, 621 (Employment and Training Administration, Department of Labor).

Both the labor certification requirement for immigrants, and the H–2 temporary worker provision have been criticised as being inadequately responsive to employers' needs, at least as presently administered. The labor certification provision has also been widely criticized as being ineffective as a protection of U.S. labor. The U.S. Department of Labor and the House Judiciary Committee have been in agreement that, in the words of Judiciary Committee Chairman Peter W. Rodino, Jr., "further modification of the labor certification program is unquestionably required." [40] Nonetheless, the protection of U.S. labor is the major objective of the labor certification provision, and the fact that organized labor has not been among its critics would appear to indicate at least a partial degree of success.

Provisions designed to protect U.S. labor have been accompanied over the years by a second series of provisions, either as part of the permanent law or on a temporary basis, allowing for, or not effectively prohibiting, admission of various categories of alien workers sought by U.S. employers, with little regard to their impact on U.S. labor. Two examples, spanning the history of immigration restrictions, have already been noted: the exemptions for certain workers under the contract labor laws, and the proviso in current law exempting employers of illegal aliens from the felony penalties attached to the harboring of illegal aliens (see above). The resulting conflict between efforts to protect U.S. labor and efforts to supply U.S. employers with needed workers has been a recurrent source of controversy in immigration policy over the past hundred years, of which the current illegal alien policy debate is the most recent example. This conflict is exemplified by the history of immigration from Mexico to the United States, which is discussed in detail in the following section because of its fundamental importance to the illegal alien problem.

HISTORICAL ANALYSIS OF MEXICAN IMMIGRATION TO THE UNITED STATES

As noted earlier, it appears from the limited data available that Mexican illegal immigration differs in some significant respects from illegal immigration from other countries. Certainly among the more important of these differences is the existence of a long history of legal and illegal work-related migration from Mexico to the United States.

Many of the pressures underlying this Mexican-U.S. migration are common to the immigration, either legal or illegal, from other countries. Quoting U.S. Secretary of Labor Ray Marshall:

> The main factors causing workers to move between countries, in the United States and other countries, have been associated with relative international disparities in economic conditions and job opportunities. This is especially true of the movement into the United States from Mexico.[41]

However, primarily because of the factor of geographical proximity, the patterns of Mexican migration to this country are unique. These patterns continue into the present, and are of particular importance

[40] Hon. Peter W. Rodino, Jr. "The Impact of Immigration on the American Labor Market," Rutgers Law Review, v. 27, Winter 1974, p. 248. See also H. Rept. No. 94–1553, pp. 10–11.

[41] Marshall (1976), p. 53.

because, in the words of the Domestic Council Committee on Illegal Aliens, "Although Mexico is not the sole source of illegal entrants, it is the major source." [42] The following is a brief analysis of the historical development of Mexican immigration to the United States, with emphasis on the apparent interrelation between legal and illegal immigration.

It is increasingly argued that the laws and administrative practices regulating Mexican immigration have differed significantly from those applying to other countries, and make up a coherent pattern of their own. Gilberto Cardenas has suggested that:

> Since . . . [1918], the Department of Labor, the Department of Agriculture and the State Department, operating under various mandates and in conjunction with organized American interest groups, have invoked departmental policies and practices that have effectuated specific migration patterns of Mexican nationals and Mexican labor on both sides of the border. These migration patterns have taken various forms—be they legal immigration, bracero, commuter or illegal—and are sufficiently interrelated to be considered as part of an overall United States immigration policy toward Mexico.[43]

The current illegal alien problem, insofar as it concerns Mexico, is viewed by some observers as another phase in this pattern.

It is argued that the underlying rationale govering our immigration policy toward Mexico is the ebb and flow of the U.S. need for Mexican labor. The pattern has been a cyclical one, in which periods of a high demand for Mexican workers have been followed—coincidentally, at 20 year intervals—by periods when Mexican workers are more or less officially viewed as a threat to American labor generally because of disturbances in the U.S. economy. According to this argument, the "illegal alien problem" of the 1970s is the result less of a sudden upsurge in the number of illegals, but of a downturn in U.S. economic conditions.

A similar observation was made in general terms, without specific reference to Mexico, by the Domestic Council Committee on Illegal Aliens: "illegal migration in times of prosperity tends to be viewed as a handmaiden of economic growth but it becomes transformed into a threat in times of economic downturn." [44] North and Houstoun spell out the implications of this interpretation, again in general terms, as follows:

> Increasingly adverse public opinion should not, however be simply attributed to increasing adverse effect's of this underground and therefore obviously unknown phenomenon. The public outcry against illegal aliens too closely resembles the 1930s, when similar ascriptions of their adverse economic role, under all too similar conditions, led to the "repatriation" of tens of thousands of Mexicans, with little regard for their real legal status, or their legal relatives. Public concern with the economic adversities brought about by illegals today likewise coincides with a time of scarcity, both real and perceived, when the interests of all groups seem threatened.[45]

With specific reference to Mexico, far from blaming the illegal aliens for the present problem, Cardenas assigns much of the responsibility for illegal immigration to the past practices of the United States:

> . . . Mexican aliens in the United States have entered at the behest and through the active solicitation and encouragement of many of the same economic

---

[42] Domestic Council Committee on Illegal Aliens report (Dec. 1976), p. 63.
[43] Gilberto Cardenas, "United States Immigration Policy toward Mexico: an Historical Perspective," Chicano Law Review, UCLA, Vol. 2, Summer 1975, p. 66. (Henceforth cited as Cardenas (1975).)
[44] Domestic Council Committee on Illegal Aliens report (Dec. 1976), p. 2.
[45] North/Houstoun study (March 1976), p. 29.

interests that today proselytize for their expulsion and exclusion through the rigorous application or change in immigration laws. For example, serving as open invitations to Mexican migration have been bracero type programs throughout this century, allowing commuter status, and utilization of illegals. In these forms Mexican aliens have been told that their labor is welcomed in the United States, and they have responded accordingly.

The "illegal alien" problem is therefore one whose seed has been planted time and again by the United States when it has been in need of Mexican labor. When expediency better serves, however, immigration laws have been administered and changed in response to a problem perceived as having been created by illegal aliens, when in fact it is largely of the United States' own making.[46]

Without question, the statistical pattern of Mexican entries to this country is unique, in terms of the heavy dominance of temporary workers and illegals. According to North and Houstoun, "Almost ten times as many Mexican nonimmigrant workers and apprehended illegals were reported to have crossed its 1,945-mile land border, as compared to the number of Mexican immigrants between the years 1870–1970." [47]

Julian Samora describes the problem in more detail:

The number of illegal Mexicans reportedly located is particularly significant when compared to legal Mexican immigration. In the last 100 years, no more than 1,525,928 Mexicans were admitted into the United States as legal immigrants. In the twenty-six year period from 1942 to 1968, 5,050,093 Mexican nationals were imported into the United States as temporary contract laborers (braceros). Yet, in the forty-five year period from 1924 to 1969, 5,628,712 illegal Mexican aliens were reporedly located (apprehended) by the United States Immigration and Naturalization Service.[48]

Samora interprets these statistics as reflecting "the evolution of an immigration policy that may best be understood as an extensive farm labor program," and continues "This policy stands out as a legitimized and profitable means of acquiring needed labor without incurring the price that characterized the immigration, utilization, and the eventual settlement of European and Oriental immigrants." [49]

A related interpretation of the causes underlying the early development of the apparently symbiotic relationship between Mexican workers and certain U.S. employers is presented, in terms more favorable to the U.S., by North and Houstoun in their recent Labor Department-financed study, as follows:

In brief, given the developing labor-intensive economy in the north and the pool of unskilled labor in the south, a historic precedent of northbound migration, the Spanish-speaking culture which bridged the border, and the political insignificance (for so many years) of the border itself, workers moved easily from their homes in Mexico to jobs in the States, as those jobs came into being.[50]

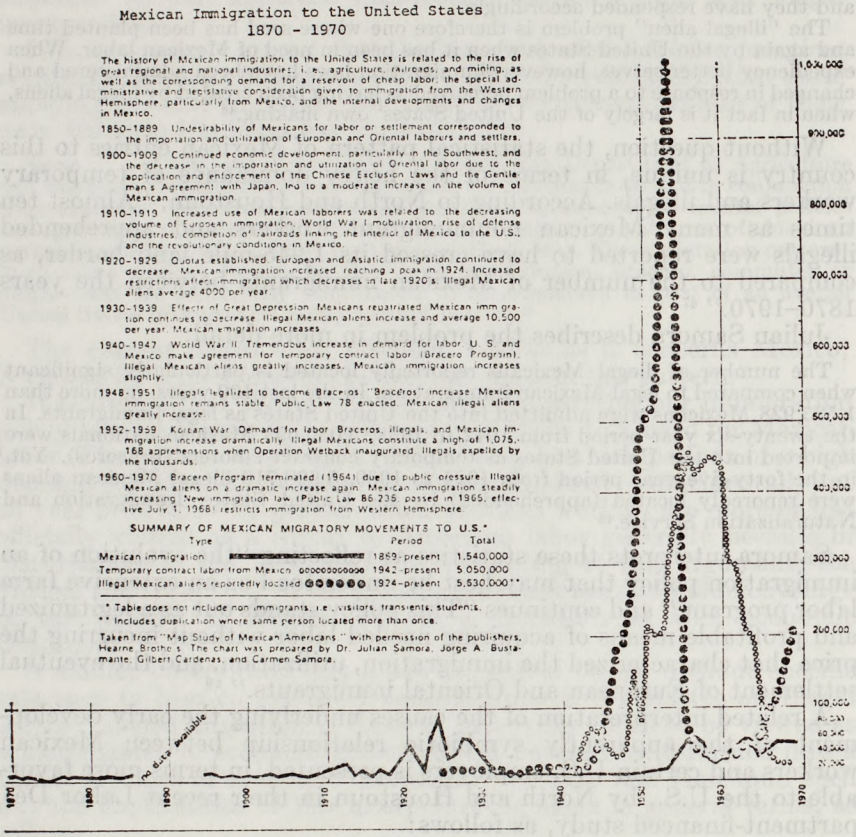
Mexican immigration to the U.S. during the period 1870–1970 is charted and summarized in Figure 1, reproduced from Samora's The Wetback Story. A brief review of the development of special U.S. legislative and administrative measures relating to the regulation of Mexican immigration follows.

---

[46] Cardenas (1975), pp. 88–89.
[47] North/Houstoun study (March 1976), p. 9.,
[48] Samora (1971), p. 57.
[49] Ibid.
[50] North/Houstoun study (March 1976), p. 11.

FIGURE 1

CRS-99



Source: Julian Samora, "Los Mojados: The Wetback Story" (Notre Dame, University of Notre Dame, 1971), app. II, pp. 195–196.
Reprinted from North/Houstoun study, p. 10.

A. 1917–1942

Mexicans were first made an exception to the general rule of U.S. immigration policy under an administrative Departmental Order of 1918 issued by the Commissioner General of Immigration, with approval of the Secretary of Labor.[51] This order waived the head tax, contract labor laws, and literacy requirements for Mexican laborers, under the authority of the ninth proviso to Section 3 of the Immigration Act of 1917.[52] The Departmental Order was a wartime measure as was, approximately 25 years later, the Bracero program. Both continued in effect well after the end of the immediate manpower shortages they had been created to meet.

[51] Departmental Order No. 52461/202 U.S. Immigration Serial Bulletin, 1918, Vol. I, No. 3, pp. 1–4. (See Cardenas (1975), p. 68)
[52] Act of Feb. 5, 1917, 39 Stat. 878.

In 1929, in action apparently inspired more by a desire to head off restrictionist efforts to place a statutory ceiling on Mexican immigration than by an awareness of the impending economic depression, administrative control of the Mexican border was significantly tightened. As noted earlier, the State Department believed that such a ceiling would have a harmful effect on our relations with Mexico. During the lengthy debate on the subject at the end of the 1920s, the State Department combined an appeal to Pan-Americanism with more stringent enforcement of the provisions of existing immigration law in a successful attempt to decrease immigration levels in the opening years of the depression. According to a State Department press release in June 1930,

> . . . proper enforcement of existing immigration laws can and will be maintained in the future, in Mexico as in other countries, so as to prevent effectively the recurrence of conditions existing a few years ago, when the recorded admissions of Mexican laborers were very high.[53]

The public view of alien workers in the early 1930s, during the opening years of the Great Depression, is described by one commentator as follows: "In the manner of a crusade, the idea was promulgated that aliens were holding down high-paying jobs and that by giving those jobs to Americans, the depression could be cured." [54] The Los Angeles *Times* quoted the Los Angeles County Supervisor as saying, "If we were rid of the aliens who have entered this country illegally since 1931. . . . our present unemployment would probably shrink to the proportions of a relatively flat spot in business." [55]

During the 1930s, Mexican out-migration far exceeded immigration—more than 89,000 legally admitted Mexicans left the United States, compared to 27,900 who immigrated on a permanent visa.[56] The factors involved were many, including both the dismal employment prospects here, and wide-scale "repatriation." According to one author, "the outstanding feature of this troubled era, in the Southwest as well as elsewhere, was the repatriation of numerous people of Mexican descent—of legal and illegal immigrants, temporary workers and permanent residents, U.S. citizens and aliens." [57] Of those leaving, some were deported illegal aliens, and others were legally admitted Mexicans returning voluntarily or involuntarily, some with the assistance of the Mexican government. The withholding of U.S. welfare payments to which the "Mexicans" were legally entitled was among the means used to induce them to leave. The Mexican born population in this country declined from 639,000 in 1930 to 377,000 in 1940.[58]

B. Bracero program

In 1942, in response to the U.S. manpower shortage arising from World War II, the United States and Mexico negotiated a treaty permitting the entry of Mexican farm workers on a temporary basis

---

[53] U.S. Department of State, Press Releases, June 14, 1930, Vol. 2, pp. 304–503. (See Divine (1967), p. 63.)

[54] Vilma S. Martinez, "Illegal Immigration and the Labor Force: An Historical and Legal View," American Behavioral Scientist, Vol. 19, Jan./Feb. 1976, p. 340.

[55] Quoted ibid.

[56] Leo Grebler, Mexican Immigration to the United States: the Record and its Implications. Mexican-American Study Project, Advance Report 2, Dec. 1965, p. 28.

[57] Ibid., p. 25.

[58] Ibid., p. 29.

under contract to U.S. employers. This emergency wartime measure was the beginning of the Bracero program, which continued under various legal authorizations for 22 years and involved approximately 4.8 million Mexican workers.[59]

The program operated on the basis of international treaty until 1951. On July 12, 1951, Congress enacted Public Law 78 (65 Stat. 119) authorizing the importation of temporary Mexican agricultural workers under the Agricultural Act of 1949, as amended. This authorization originally had an expiration date of Dec. 31, 1951. It was extended by successive amendments until Dec. 31, 1964, when it was allowed to expire.

The Bracero program's lengthy history is both complex and controversial. One of the more intriguing controversies is whether it was a cause or a cure of the illegal alien problem of the time. It appears to have been both. Without question, both its existence and its termination are causes of the current illegal alien problem.

The Bracero program is credited with "the dramatic reduction, if not the total elimination, of the Wetback traffic" by Ernesto Galarza in his otherwise highly critical examination of the program:

> Between 1920 and 1954 commercial agriculture in the border states, operating by its own admission above the law and beneath morals, had organized a freely flowing labor market that brought together rich lands and poor men. It was an arrangement that did not commend itself to many. Its beneficiaries were a small group of employers in a comparatively narrow belt of borderlands whose easy access to illegals gave them an advantage over their northern competitors. The incidents of the Wetback way of life made the governments of two great republics blush, the Mexican with indignation, the American with shame. The traffic was suppressed only when it became possible to assure farm employers, substantially on their terms, that they could have as many contract laborers as they might demand.[60]

Average annual apprehensions of illegal aliens were less than 80,000 during the ten-year period, 1956–1965, following Operation Wetback, the full-scale roundup of Mexican illegal aliens led by the Border Patrol in 1954–1955 (see Table 1). Commenting on the success of the INS Operation Wetback in dealing with the illegal alien problem in the mid-1950s, Galarza indicates that a key factor was

> . . . the change in attitude of farm employers, hundreds of whom had come to accept the legal *braceros* as a practical and safe alternative [to Wetbacks] and had joined associations to procure them. By the time the operation was launched the bracero system had shown its economic and political feasibility.[61]

On the other hand, Julian Samora, among others, argues that the Bracero program actually stimulated illegal migration to the United States, in part because more Mexicans wished to come than were legally permitted, and partly because it was often easier to enter illegally than legally.[62] Samora notes that during the 22-year life of the Bracero program, over 5 million wetbacks were apprehended, a figure exceeding the 4.8 million braceros contracted.[63]

---

59 Samora (1971), p. 19.
60 Ernest Galarza, Merchants of Labor. McNally and Loftin, 1964, p. 255. (Henceforth cited as Galarza (1964).)
61 Ibid., p. 70.
62 Samora (1971), pp. 44–45.
63 Ibid., p. 19.

Regarding other aspects of the Bracero program, the 1951 President's Commission on Migratory Labor was among the many critics of what it saw to be the program's adverse impact on U.S. farm labor:

> It is our conclusion that the evidence demonstrates that the agencies of Government responsible for importing and contracting foreign labor have not been successful in protecting domestic farm labor from detrimental effects of imported contract alien labor. We find alien labor has depressed farm wages and, therefore, has been detrimental to domestic labor.[64]

Considering the program in the context of national immigration policy, the Commission was equally critical:

> Thus, temporary foreign laborers passing in and out of this country with little restriction have come to substitute for a supply subject to stringent numerical restrictions, thereby furnishing the very competition to American labor that it is the purpose of the immigration law to prevent.
>
> This undermining of national policy stands out more clearly in that it has been the negotiators for foreign governments, notably of Mexico, rather than our own representatives, who have secured reasonable limitation of numbers and some protection to labor standards. While their motive is primarily to protect the standards of their own nationals working in the United States, the effect of their concern, fortunately, is also to help sustain the tenets of American policy. The contrast in this curious difference of attitudes is heightened by the fact that through the negotiations of their governments, foreign laborers have actually achieved, in most instances, better living and working conditions than domestic workers whose protection is a main concern of American immigration law.[65]

It will be noted that the responsible U.S. administrative agencies, rather than U.S. employers or the braceros themselves, are the primary objects of the Commission's criticism. Thus, the passage quoted above is preceded by the following:

> . . . official vigilance for the protection of living and working standards of alien farm laborers was largely abandoned in the postwar phase. Responsible United States administrative agencies practically ceased to exert effective effort to preserve the requirements of national immigration policy. The same ineffectiveness or laxity that undermined protective standards in the contract spread also to the official scrutiny of the number of foreign laborers that employers claimed they needed.[66]

Similar observations are carefully documented by Galarza, who implicitly—and sometimes explicitly—charges collusion between the U.S. Department of Labor and U.S. employers involved in agribusiness in the administration of the Bracero program.

Apprehensions of illegal aliens began mounting steadily with the termination of the Bracero program in mid-sixties.Quoting from the INS 1970 *Annual Report,*

> Since expiration of the Mexican Agriculture Act on December 31, 1964, the number of deportable aliens located has continued an upward climb. For the 6-year period, fiscal years 1965–70, 71 percent of the 1,251,466 total deportable aliens located were of Mexican nationality. Year by year, the annual percentage of this nationality group has risen, from 50 percent in 1965 to 80 percent this year.[67]

The patterns of employment which grew up during the Bracero period, as well as the elimination of legal channels for temporary employment provided by the program, are viewed by many as signifi-

---

[64] U.S. President's Commission on Migratory Labor, Migratory Labor in American Agriculture, Mar. 26, 1951, p. 59.
[65] Ibid., pp. 64–65.
[66] Ibil., p. 64.
[67] U.S. Immigration and Naturalization Service, 1970 Annual Report, p. 11.

cant causal factors in the current illegal alien problem. The case is well stated as follows:

> Another significant "pull" factor is a clear result of former American policy. Many Mexicans who were employed as braceros brought their families with them to the border areas and relied on American employment as their sole source of income. When the bracero program was terminated, the only work available to the ex-bracero was illegal employment in the United States. In short, the present influx of illegals reflects the operation of socioeconomic forces set in motion by the United States over two decades ago.[68]

This analysis is borne out by research cited by the Domestic Council Committee on Illegal Aliens:

> Several studies have also pointed out that the areas [in Mexico] from which many illegal aliens come are precisely those areas which provided the bulk of the "braceros" during the life of that program (1942–1964). One researcher [Wayne Cornelius] has suggested that the "bracero" program in a sense never stopped, but merely went underground.[69]

From the point of view of the U.S. employers who hire them, the illegal alien has replaced the legal bracero worker. Writing in 1960, Galarza noted:

> In considering alternatives to Public Law 78 [authority for the Bracero program], the return of the Wetback could not be ruled out. This did not seem probable, especially in the light of public reaction in the middle 1950's. The indignation of high federal officials, influential citizens, religious organizations and even farm employers over the evils of labor bootlegging might be aroused again. But the door was not entirely closed. When the immigration code was revised in 1952 it was carefully provided that employers could not be prosecuted for harboring illegals. . . . Senator Hayden once warned his colleagues that the demand for laborers north of the border and their abundance south of it would be brought together legally if possible, and outside the law if it could not be done otherwise. Congressman Poage of Texas urged the House of Representatives in June 1960 to extend Public Law 78 on the ground that otherwise "there is going to be a stream of wetbacks to fill all of the area close to the border." Braceros on their terms or Wetbacks remained a feasible choice, in the opinion of many employers.[70]

From the point of view of the aliens themselves, the 22-year program, in the words of the North-Houstoun report, "created patterns of explicitly work-related movements of aliens, from South to North." Continuing:

> . . . it created the braceros' expectations of higher wages than were possible within the Mexican economy; it provided them with U.S. job contacts and job skills; it exposed them to the Anglo demand for their labor; language and Anglo customs—including the work habits of INS. For many rural Mexican males, the bracero program was an eye-opener; they learned about American jobs and American wages; many responded to their U.S. employers' interest in bypassing the federally regulated program during its existence; and many kept traveling north after the program ended, despite the fact those trips were illegal ones.[71]

It can be argued that the bracero program reinforced rather than created these patterns which, in fact, originated not with the labor shortage of World War II, but of World War I. Thus, Cardenas describes the Departmental Order of 1918 as, "in terms of the United States immigration policy toward Mexico, . . . the first Bracero Program." [72]

---

[68] Notes, "Commuters, Illegals and American Farmworkers: the Need for a Broader Approach to Domestic Farm Labor Problems," New York University Law Review, vol. 48, June 1973, p. 482.
[69] Domestic Council Committee on Illegal Aliens report (Dec. 1976), p. 135.
[70] Galarza (1964), pp. 251–252.
[71] North/Houstoun study (March 1976), p. 12.
[72] Cardenas (1975), p. 68.

C. Illegal aliens as black market guest workers

The Mexican component of the current illegal alien problem can be viewed as an unregulated and illegal continuation of the Bracero program, with all the evils this suggests, including the exploitation of alien workers, and the lack of protection of domestic workers from adverse competition. In the words of the Domestic Council Committee on Illegal Aliens:

> The forces which created and sustained the "Bracero" program continue to persist. There continues to be an economic demand induced by some employers in the United States for Mexican workers. That demand is being met by commuters and illegal aliens.[73]

The European experience with legal guest worker programs has been suggested as a useful model for understanding the U.S. illegal alien problem. Professor Richard Sterling described the "United States-Mexican international labor market" as "the largest two-nation exchange of labor for wages in the world," noting that the Mexican workers constitute "by far the largest alien labor pool, legal or illegal, now present in the United States." [74] According to Secretary of Labor Ray Marshall,

> Perhaps the most important difference between the U.S. and European experiences is the sheer size of the immigrant population. In absolute numbers, at least in this century, no other country in the world has experienced the influx of as many alien workers as has the U.S. Indeed, the number of illegal alien workers in the United States probably exceeds the total number of legal aliens in all Common Market countries combined.[75]

Marshall comments as follows on other significant differences between the European and American experience with legal and illegal guest workers:

> The workers who lose by the employment of immigrants are those who compete directly with them for jobs, housing, social services, and other amenities. European economists seem generally to have concluded that immigration has largely positive results for workers in the host countries, but this conclusion has to be modified when applied to conditions in the United States. American employers clearly gain and higher-paid workers move up faster in the short run but might face increasing competition in the long run as competition from immigrants increases. Moreover, the employment of illegal immigrant workers has a more depressing effect on wages than the use of legal aliens whose initial employment is ostensibly controlled in such a way as to prevent direct competition between immigrant and native workers. There have been such regulations in the United States but they have not been adequately enforced.[76]

Professor Sterling comments on the "ominous import" of the illegality that characterizes the U.S.-Mexican international labor market, unlike that of Western Europe:

> Of more ominous import is the illegality that stamps every phase of its operation, from labor recruitment practices to border crossing to employment arrangements, wage levels and living conditions. The violation and debasement of law

---

[73] Domestic Council Committee on Illegal Aliens report (Dec. 1976), p. 71. Commuters are legally admitted aliens who live in Mexico and Canada and commute to work in the United States. The Domestic Council Committee reports that there were about 54,000 commuters in Dec. 1975, of whom 45,000 were from Mexico.

[74] Richard Sterling, "International Labor Markets: The United States-Mexican case in a comparative context with special reference to post–1945 Western European experience," Sept. 1974, p. 1. (Unpublished "statement of research purpose and procedures.")

[75] Marshall (1976), p. 62.

[76] Ibid.

in this massive and peculiar economic transaction between Mexicans and Americans unavoidably debase those involved in the exchange. With no laws to govern them, the relationships between alien migrants and the citizens of the alien society are ones of radical inequality, exploitation, fear, and endemic hostility.[77]

It does not necessarily follow from the above that a renewal of the Bracero program or some other form of legal guest worker program is the appropriate response to the current illegal alien problem, even if a decrease in the current concern about domestic unemployment made such a program politically feasible. (See below.) The nature of the truly difficult dilemma presented by the current situation has been well stated as follows:

In order to protect American labor from the influx of foreign workers, the United States is only able to institute policies on one side of the border. Many policies that would make the quota system more viable and stem the tide of illegal entries, such as lowering the minimum wage in this country to reduce the wage differential between the United States and Mexico, would hurt American labor. Conversely, policies designed to protect American labor from alien competition, such as the phasing out of the Bracero program, restricting commuters, placing numerical limitations on immigration, and requiring labor certification, tend to increase the number of illegal border crossings.[78]

V. Current Issues: Pro and Con

Possible solutions or approaches to the illegal alien problem which have been recommended, either singly or in combination, are discussed briefly below, along with arguments for and against them. As will be noted, most would involve Federal legislative action although in some cases this would be limited to increased appropriations.

PENALTIES FOR THE EMPLOYMENT OF ILLEGAL ALIENS

Legislation establishing penalties for the employment of illegal aliens passed the House during the 92nd and 93rd Congresses. Similar legislation was reported but not passed in the House in the 94th Congress and, for the first time in the past three Congresses, given serious consideration by the Senate Judiciary Subcommittee on Immigration and Naturalization. (See Appendix A for a comparison of the major House and Senate bills in the 94th Congress.)

The principal argument in favor of the establishment of penalties for the employment of illegal aliens is that the availability of possible employment appears to be the main reason for illegal immigration. Without the magnet of employment, it is argued, illegal aliens would not come to the U.S. or, in the case of nonimmigrants, violate their status. Quoting from the 94th Congress House Judiciary Committee report on H.R. 8713:

The Committee believes that the primary reason for the illegal alien problem is the economic imbalance between the United States and the countries from which the aliens come, coupled with the chance of employment in the United States. Consequently, it is apparent that this problem cannot be solved as long as jobs can be obtained by those who enter this country illegally and by those who enter legally as nonimmigrants for the sole purpose of obtaining employment.

---

[77] Sterling, p. 1.

[78] Harvard Law School, Civil Rights-Civil Liberties Research Committee, "Proposed bills H.R. 981, H.R. 982, and S. 3827 [93rd Cong.]," unpublished memo to Senator Alan Cranston, Jan. 15, 1975, p. 19.

The Committee, therefore, is of the opinion that the most reasonable approach to this problem is to make unlawful the "knowing" employment of illegal aliens, thereby removing the economic incentive which draws such aliens to the United States as well as the incentive for employers to exploit this source of labor.[1]

Employer penalties have had the continuous support of the Nixon and Ford Administrations and, most recently, were endorsed by the Domestic Council Committee on Illegal Aliens, established by President Ford.[2] The Cabinet-level Committee also observed, "Those agencies concerned with administering and regulating the flow of aliens into the country are convinced that only when we begin to cope with the economic magnet that draws individuals here will we be in a position to have some control of illegal immigration." [3]

Penalties for the employment of illegal aliens are generally viewed as being deterrent in nature. That is, it is assumed, in the words of the Domestic Council Committee that "such sanctions would achieve a high level of voluntary compliance simply by being legislated as Federal policy." [4] Those few who would violate the law, it is argued further, are generally already known to INS. Consequently, it is believed that enforcement would not be unduly costly or onerous.

Generally speaking, most opposition to employer penalties centers not on the aim—the curtailment of the employment, and thus the entry, of illegal aliens—but on the mechanism for accomplishing this aim. At issue, specifically, is the role of the employer in determining illegal status. Employers groups (e.g., the American Farm Bureau) and civil rights groups (e.g., ACLU, National Congress of Hispanic American Citizens) argue against penalty provisions in essentially identical terms—forming an unusual and powerful opposition. Quoting from North and Houstoun:

> On the one hand, employers have argued that it is difficult to know who is an illegal and who is not; they have argued that the Immigration Service should keep the illegals out of the labor market by keeping them out of the country. On the other hand, those concerned with civil liberties and the rights of ethnic minorities have argued that certain classes of legal residents of the United States might not secure jobs because employers would turn them away, on the grounds that they might be illegal aliens. In short, both groups object to the proposed locus of responsibility for determining who can, and who cannot, work in the United States. Both groups object to employers playing this role.[5]

In addition, there are those—the Chairman of the Senate Judiciary Committee, Senator James Eastland among them—who have indicated a willingness to accept the penalty provisions only in conjunction with other amendments aimed at making legal temporary alien workers more readily available,[6] presumably on the grounds that the penalty provisions would reduce the number of alien workers available. In opposition to the bill, it has also been argued that, contrary to the assertions of its proponents, the penalty provisions would be both difficult and costly to enforce.

---

[1] H. Rept. No. 94–506 (1975), p. 6.
[2] Domestic Council Committee on Illegal Aliens report (Dec. 1976), p. 241. See also pp. 111–116.
[3] Ibid., pp. 111–112.
[4] Ibid., p. 112.
[5] North/Houstoun study (March 1976), p. 178.
[6] S. 3074, Sec. 2 (94th Congress).

WORK PERMIT

Largely in response to the concern, noted above, of employers, civil rights groups, and others about the problems of identification and possible discrimination in hiring practices in connection with employer penalties for hiring illegal aliens, it has been argued that all aliens and citizens who are legally entitled to work should be issued work permits. It is further argued that the social security card comes close to serving this function today, particularly following the 1972 amendments, and that it should be converted into legal evidence of the right to work.

Thus, in a recent policy statement, the National Council on Employment Policy endorsed the basic concept of penalties for the knowing employment of illegal aliens, but stated, "The employer should . . . be required to obtain a standard proof of the applicant's legal residence." Quoting further:

> The most common document that each American must show before commencing employment is the social security card. By law, this is not to be issued to illegals, but the procedures for investigating applicants are not very rigorous. . . . If the integrity of the social security card were increased, it could serve more effectively as a work identification document.[7]

A work permit system, in conjunction with penalty provisions for the employment of illegal aliens, was supported by David North and Marion Houstoun on the grounds that, "despite its complex ramifications, the work permit program is more likely to inhibit illegal immigration than any other proposed program." They suggest that the "situation is sufficiently serious to call for the creation of a work permit system covering all U.S. workers, so that the Government bears responsibility for determining who is legally permitted to work in the U.S. labor market." [8]

Opposition to a work permit or identification card "runs the gamut from civil libertarians to organized labor," [9] in the words of the Domestic Council Committee on Illegal Aliens, which made no explicit recommendation on the issue. However, the U.S. Justice Department's Federal Advisory Committee on False Identification recommended in November 1976 against a national identification document.[10] In its report on H.R. 8713 in the 94th Congress, the House Judiciary Committee also indicated that it had rejected approaches which "may have far reaching implications and may be a step in the direction of a national identification or work permit system." [11]

With specific reference to the expanded use of the social security card in this context, the Social Security Administration has long opposed the use of its card as legal documentation of status for a variety of reasons, as explained recently by the Deputy Commissioner of the Social Security Administration in testimony before the House Judiciary Subcommittee on Immigration:

> I would say that personally I would, and on behalf of the Social Security Administration, we would, be very reluctant to see a numbering system which was designed essentially for recordkeeping purposes converted into a documentation system that would, in effect, mean that the carrier of this document or the

---

[7] National Council on Employment Policy, "Public Policies toward Alien Workers," Illegal Aliens: An Assessment of the Issues, Oct. 1976, pp. 2–3.
[8] North/Houstoun study (March 1976), p. 179.
[9] Domestic Council Committee on Illegal Aliens report (Dec. 1976), p. 115. See also pp. 218–219.
[10] Report of the Federal Advisory Committee on False Identification, pp. 73–76.
[11] H. Rept. No. 94–506 (1975), p. 14.

holder of this number is bearing prima facie evidence of some status under law. It would, I suppose, in the last analysis, if that were to be taken seriously, it would drive us to having to recontact everybody who has a social security number and perhaps adjudicate certain evidence with respect to that number. Or if one did not want to go back and review all existing numbers, it would certainly require us to do things with respect to future enumeration which I think would be technically feasible, but which might cause people to go underground. It would increase the counterfeiting of numbers and cause people to go underground to get false identities, and to that extent degrade the number system for the purposes for which it was really created, and that is for us to keep the earnings records of the individual straight in connection with his potential benefit rights.[12]

AMNESTY

In the context of the illegal alien problem, "amnesty" refers to permitting illegal aliens to convert to legal status. The Immigration and Nationality Act includes two provisions which are at least theoretically relevant. These are the registry provision (Sec. 249; 8 U.S.C. 1259), which grants the Attorney General discretionary authority to establish a record of lawful admission for certain aliens who entered the country prior to June 30, 1948; and suspension of deportation (Sec. 244; 8 U.S.C. 1254), which has a seven or ten year residency requirement, depending on the offense. However, this provision is keyed into deportation hearings by the regulations, and is not used on a mass scale.

Legislation introduced in the 94th Congress included both temporary and permanent amnesty provisions, as well as a wide range of eligibility requirements relating to period of residency here, family ties, show of hardship, etc. In the major bills (H.R. 8713, S. 3074, S. 561), amnesty provisions were linked with penalties for the future employment of illegal aliens.

The principal argument in favor of an amnesty provision is that many aliens working here illegally have built up considerable equity—a significant factor in immigration law, particularly in the considerations of private immigration bills, which amnesty resembles on a mass scale. A major consideration in this respect are family ties with U.S. citizens and permanent resident aliens, as well as other community ties in the United States.

Generally speaking, argument during the 94th Congress turned on the details of the amnesty provision, such as the date of entrance which must be established, other conditions of eligibility, and the degree of discretion to be granted the Attorney General in the administration of the provision. For example, the U.S. Catholic Conference reportedly opposed H.R. 8713 largely because of its dissatisfaction with what it saw to be the bill's unduly limited amnesty provision. Concern was expressed that the mass expulsion that would follow the bill's enactment would result in the separation of families.

In its December 1976 report, the Domestic Council Committee on Illegal Aliens took a strong stand against massive deportations of illegal aliens already in the country as "both inhumane and im-

[12] Arthur E. Hess, House hearings, 1975, p. 227. See also Domestic Council Committee on Illegal Aliens report, pp. 89–95. Commenting on the less than successful "SSA/INS cooperative efforts" to date, that Committee observes, "future policymakers should be extremely wary of drawing agencies whose central purpose is not enforcement into arrangements which require them to act in ways contrary to their historical nature. The SSA has always seen itself as a service agency, and thus has been slow to adjust to the requirements inherent in the amendments of 1972" (p. 95).

practical." It recommended amnesty for otherwise eligible aliens who entered prior to July 1, 1968, the date the Western Hemisphere ceiling took effect, through a permanent amendment of the registry provision (Sec. 249) of the immigration law. Additionally, it recommended that "other policy approaches toward those illegal aliens currently in the country" be evaluated and developed.[13]

Opponents to amnesty for illegal alliens in any form have argued that it implicitly condones law breaking, past and future; and gives those aliens who break the law an advantage over those who comply with its provisions. One member of the House Judiciary Subcommittee on Immigration explained his opposition to the amnesty provision in H.R. 8713 in part as follows:

> It has been maintained that opposing the granting of amnesty is evidence of a lack of compassion for the hardship endured by those who have only sought to better their lives. It is my belief, however, that we do not resolve the problem generated by the presence (and ongoing influx) of illegal aliens simply by removing the stamp of illegality. Indeed, we do little to maintain or restore a respect for our immigration laws by absolving those who have broken them.[14]

EXPANDED AVAILABILITY OF TEMPORARY ALIEN WORKERS

Particularly with regard to Mexico, it is arguable that there are two choices facing the United States: illegal aliens or an expanded legal temporary worker program—in effect, a renewal of the "Bracero" program. The argument that it is almost impossible to keep alien workers from entering the country given the present economic imbalance between the United States and Mexico, short of the construction of a "Berlin wall" between the two countries, is perhaps the strongest argument in favor of an expanded temporary worker program. Legality, it is argued, would afford both the aliens and the U.S. workers with whom they compete the protection from exploitation and adverse competition lacking in the current unregulated underground labor market situation.

The argument summarized above is presented by Alejandro Portes, in part as follows:

> . . . effective control of illegal crossings would require nothing short of drastic measures, given current pressures at the border. Sharply increased patrolling and control operations, much tougher penalties for violators, and even the physical closing of the border except at selected points would be required. Erection of a "Berlin wall in reverse" to prevent further illegal entries is not likely to occur at the present time.
>
> Short of this radical alternative, only two other channels seem open to deal with the problem. One is simply to allow the present situation to go on unheeded. This would mean ever-greater numbers of illegal entries and progressive reduction of border regulation to a purely "symbolic" function. The second alternative would involve stricter enforcement activities coupled with some program of regulated entry of Mexican labor. This would encompass not only agricultural labor but industrial and domestic service workers as well.
>
> There seem to be some advantages to such a controlled entry program. First, it would provide a less risky, legal alternative to Mexican workers seeking entry into this country. This should reduce the attraction of illegal migration and thus facilitate its control. Second, it would protect Mexican aliens against present uncontrolled exploitation by making provisions for minimum wages, accident insurance, and other benefits. Third, and most important in the domestic front, regulation of Mexican labor entry and wage and fringe benefit guidelines would alleviate the competition by the native poor against unregulated wetback labor.

---

[13] Domestic Council Committee on Illegal Aliens report (Dec. 1976), pp. 242–243.
[14] "Additional Views of William S. Cohen on H.R. 8713." H. Rept. No. 94–506 (1975), p. 31.

Any controlled entry program should logically be accompanied by stiffer penalties for hiring wetbacks. The impunity with which employers have made use of this source of labor continues to be a major "pull" factor stimulating illegal migration. Moreover, unions of agricultural and industrial workers affected by Mexican labor should have an effective monitoring role as a way of protecting domestic labor interests and insuring proper application of the program.[15]

A "controlled entry program" of the type described above has been defended on economic as well as moral grounds. Quoting from a discussion of this viewpoint in a Harvard Law School Civil Rights-Civil Liberties Research Committee memo,

If Mexican aliens will enter the country, regardless of the legality of their status, it is to their advantage, to American labor's advantage, and to the advantage of the United States as a whole that they have some sort of legally recognized status. As illegals they are subject to exploitation by employers and do not enjoy the minimum protections afforded other residents of this country.[16]

A related view was expressed by Ernesto Galarza with reference to the Bracero program, "Morally, the system sought a pattern of control which would shield the Mexican migrant from the nauseous evils of the Wetback traffic, on the one hand, and which would on the other prevent a deterioration of employment conditions for domestic laborers." [17]

Opposition to an expanded temporary alien labor program is based, first, on the current high regional and national unemployment rates, particularly among those groups with whom the alien workers would be most likely to compete. Beyond this, and more specifically, it is based on the lengthy U.S. experience with the "Bracero" program (See pp. 102–108 above).

Based on that experience, it is in fact debatable whether the legalization of an expanded temporary alien worker program would increase or decrease illegal traffic. It is argued by, among others, Julian Samora and the Harvard Research Committee quoted directly above, that there would probably be more applicants than opportunities, thereby increasing the pull on Mexicans from the interior to the border and, eventually, the United States. On the other hand, Ernesto Galarza, generally a strong critic of the results of the "Bracero" program, argues that it eventually brought about a "dramatic reduction, if not the total elimination, of the Wetback traffic." [18]

However, according to Galarza, the success of the program was in large part the result of "the position of the bracero as a bound worker in a captive market," and the U.S. employers' resulting gradual acceptance of the program as a satisfactory alternative to illegal aliens as a dependable source of abundant cheap labor. Galarza generalizes as follows about the effect of the Bracero program in California, the subject of his study:

In a free labor market, particularly in one where the sellers are organized, workers withdraw their services until rates rise to meet their demands. This did not happen in California. When domestic workers held back they gave evidence of a shortage from the employer's point of view, and thus proved the need for

[15] Portes, "Return of the Wetbacks," Society, March/April 1974, p. 46. While Mr. Portes believes that a controlled entry program offers the "greatest advantages," he concludes, "Until unionization of agricultural and urban unskilled workers in the United States changes present power arrangements, the sad but most realistic prediction is that the current situation will continue in the years to come" (p. 46).

[16] Harvard Research Committee, Jan. 15, 1975, p. 26. This passage does not necessarily reflect the committee's viewpoint. The next sentence reads, "However, two opposing arguments render this problem an insoluble dilemma."

[17] Galarza (1964), p. 199.

[18] Ibid., p. 255.

more braceros. It was not surprising that wage surveys regularly found rates on jobs where domestics and braceros both were employed to be lower than the average composite rates for farm work generally.[19]

In short, the Bracero program raises definite questions about whether the organized importation of temporary alien labor would in fact provide either the alien or U.S. workers with protection. It is arguable—and Galarza does so in documented detail—that the chief function of the Bracero program at least, was to provide U.S. employers involved in the program with a dependable supply of cheap labor.

In opposition to the expanded importation of temporary alien labor, the Harvard Research Committee argues that "it is eminently unfair to import, support, and employ foreign labor when the domestic labor force suffers from a high rate of unemployment." [20] Further, it has been argued by, among others, Michael Piore and Ray Marshall that it is in the nature of alien temporary labor to become permanent. Quoting from Marshall, "Despite attempts by host countries to limit the use of immigrants to prescribed occupations for certain lengths of time, these restrictions are rarely successfull in either halting the spread of immigrant workers from the initial penetration points or in preventing permanent settlements." [21] The current situation in the Virgin Islands of the United States is a particularly graphic illustration of both the tendency of a "temporary" labor force to become permanent, and the potentially undesirable consequences of this process for both the alien workers and the host society. Temporary workers brought into the U.S. Virgln Islands since the mid-1950s now make up approximately half of the Islands' work force, in an extremely volatile economic and political situation which has yet to be resolved.[22]

Finally, it can be argued, as North and Houstoun do by implication, that in fact there is little to choose between morally, and to some extent economically, in the use of illegal aliens and the legal aliens who are barred from full participation in the institutions of our society.

> At bottom, a decision to use aliens—nonimmigrants or illegals—as a supply of cheap, low-skill labor is an attempt to acquire labor and to adjure its economic and its social costs. That is, of course, a form of exploitation, the de jure or de facto institutionalization of inequities.[23]

REASSESSMENT OF U.S. IMMIGRATION POLICY

A total reassessmcnt of U.S. immigration policy has been recommended recently by both the U.S. General Accounting Office and the Domestic Council Committee on Illegal Aliens. In a report entitled, "Immigration—Need to Reassess U.S. Policy," GAO stated:

> U.S. immigration problems may be alleviated somewhat by changes to the current laws; however, to adequately cope with all the problems and to effectively regulate future immigration, we recommend that the Congress work with the administration to totally reassess U.S. immigration policy.[24]

---

[19] Ibid., p. 145.
[20] Harvard Research Committee, p. 26.
[21] Marshall (1976), p. 59. See also Piore (1976), p. 28.
[22] See U.S. Congress. House. Committee on the Judiciary. Nonimmigrant alien labor program on the Virgin Islands of the United States. (Committee print) Washington, U.S. Govt. Print. Off., 1975.
[23] North/Houstoun study (March 1976), pp. 169–170.
[24] U.S. Comptroller General of the United States, "Immigration—Need to Reassess U.S. Policy," Oct. 19, 1976, p. 3.

In a similar vein, the Domestic Council Committee on Illegal Aliens concluded, "The illegal alien issue is ultimately an issue of immigration policy and will not be satisfactorily met until a thorough rethinking of our immigration policy is undertaken." [25]

The basic four title structure and many of the provisions of the Immigration and Nationality Act are 25 years old, and few would disagree that the Act includes obsolete, anachronistic, and unnecessarily complex provisions. Our basic immigration policy is of a more recent vintage, dating back to the 1965 amendments, which abolished the national origins system, and the 1976 amendments, which extended to the Western Hemisphere the preference system and 20,000 per-country limit which had previously regulated only Eastern Hemisphere immigration. It is certainly arguable that, as a result of these substantive amendments, the Immigration and Nationality Act now constitutes an imperfectly blended amalgam of provisions reflecting the very different needs and values of the early 1950s, the mid-1960s, and the present day,

The basic goals of our current immigration policy, as embodied in the Immigration and Nationality Act, as amended, are the reunification of family members, the uniform treatment of all countries, and numerical restriction. Other major goals include the protection of U.S. labor from adverse competition, the admission of workers in short supply, the admission of refugees, and the exclusion of undesirable aliens,

While there are a number of options which might be considered in rethinking and revising U.S. immigration policy, those which might predictably have a direct impact on illegal immigration would appear to be fairly limited. The expansion of a temporary worker program, discussed immediately above, is one such option.

A second major option would be increasing the number of immigrants who may enter annually, either across the board, or from countries of particularly high demand. While the Domestic Council Committee on Illegal Aliens in no way recommends a liberalization of the numerical restrictions, it posits a direct causal correlation between "a large documented demand for immigration" and "a great hidden demand which is producing illegal entry to the U.S." [26] With specific reference to Latin America and Asia, they note:

> Pressure to immigrate from these areas is intense with several high demand countries having up to two-year waiting periods for immigrant visas issuance. Such backlogs contribute to illegal immigration streams from these nations.[27]

Another major option would appear to be liberalizing existing work-related restrictions. In their Labor Department-financed study, North and Houstoun reported that three-quarters of the approximately 800 illegal aliens interviewed for their study had been working in occupations for which labor certification would have been automatically denied under the Labor Department's administrative interpretation of the labor certification provision at that time.[28]

---

[25] Domestic Council Committee on Illegal Aliens report (Dec. 1976), p. 239.
[26] Ibid., p. 39.
[27] Ibid., p. 33.
[28] North/Houstoun study (March 1976), p. 111. North and Houstoun in no way recommended a relaxation of work-related restrictions.

It is arguable that a liberalization of numerical and/or work-related restrictions would increase opportunities for legal entry and thus, presumably—although not inevitably—reduce illegal entries. However, such measures would be likely to meet strong opposition on the grounds that they would exacerbate present unemployment and population problems.

On the other hand, it can also be argued that immigration tends to beget immigration, both legal and illegal, by attracting more intending immigrants than can legally be accommodated. It follows from this hypothesis that a more restrictive policy, combined with the allocation of greater resources to law enforcement, might be effective in reducing the total number of aliens entering this country legally as well as illegally. However, as with liberalization, any decision to restrict immigration would have to take into account many other factors besides illegal aliens, including the foreign policy implications.

ADEQUACY OF FINANCIAL RESOURCES FOR INS (JUSTICE) AND BUREAU OF SECURITY AND CONSULAR AFFAIRS (STATE)

As discussed in Section III, the need for increasing INS's appropriations has been argued by many, including INS itself, the House Judiciary Committee, the House Government Operations Committee, and numerous other commentators on the current illegal alien problem. For example, observing that "the level of effort expended on the enforcement of the immigration law is astonishingly minimal," North and Houstoun point out that INS investigative and Border Patrol agents numbered 2,739 in fiscal year 1974 and accounted for 788,147 apprehensions, compared to, for instance, the 4,750 members of the D.C. Metropolitan Police Force, and the 3,994 corrections officers in Federal penal institutions housing approximately 23,000 prisoners.[29] Quoting from the INS 1976 budget justification:

> With current manpower levels, the border patrol simply cannot handle the present volume of illegal entry. In the 15 years between 1960 and 1974, the authorized strength of the border patrol has been increased by only 349 positions (1,773 to 2,122) while border patrol apprehensions have increased by over 2,000 percent (29,881 to 640,913). It is only through the use of the sensor systems, and because the alien intrusion pattern has tended to be channeled in certain key sectors, that the border patrol has been able to achieve its current level of success.[30]

The need for additional INS inspectors at major Southern land border ports and international airports in this country would appear to have been clearly demonstrated by the recent INS Fraudulent Entrants Study, although this was not among its specific findings. As the result of the allotment of additional manpower, allowing for more thorough inspections, at selected high volume Mexican border ports of entry and international airports, the number of attempted fraudulent entrants apprehended was 12 to 14 times greater than the number apprehended at the same ports during routine operations.[31]

In a related point, it is argued that more resources and prestige should be allocated by the State Department to the visa issuance function abroad. Quoting from the Domestic Council Committee on Illegal Aliens,

---

[29] North/Houstoun "Summary" (Oct. 1976), p. 46.
[30] House Appropriations Committee hearings, FY 1976, 94th Cong., 1st Sess., 1975, p. 897.
[31] INS Fraudulent Entrants Study (Sept. 1976), p. 18.

Prevention of entry should remain the foremost enforcement goal of both the INS and the Department of State from a cost, a legal, and a community impact point of view. To achieve an acceptable level of prevention will require additional resources for both agencies, and improved management techniques . . . , and higher priority for the visa function with the Department of State.[32]

Generally speaking, it is argued that greater expenditures on the enforcement of current immigration law may be potentially more effective and ultimately less costly than some of the alternate approaches to the illegal alien problem which have been proposed. In this vein, Representative Elizabeth Holtzman observed to Justice Department witnesses during hearings in the 94th Congress,

Is there anything we can learn from the mistakes that we have made in terms of screening potential tourists who come to this country? I mean, for you to say that we are going to enact a bill that is going to require every American to carry a nationality card for the first time in our history without at the same time saying that we have done everything in our power to enforce the laws and enforce them properly puzzles me. . . .[33]

In particular, tighter border security has been defended as lacking many of the disadvantages of alternative approaches. Shortly after Operation Wetback, the INS Commissioner at the time, General Swing, wrote in the INS Annual Report: "The prevention of illegal entries, as the major ingredient of border control, is more difficult, requires more ingenuity, more men and equipment, but is, in the long run, more economical and more humane than the expulsion process." [34]

Writing in 1973, in the context of the current illegal alien problem, the Cramton report concluded:

The Study Group is strongly of the opinion that substantially greater resources should be made available for the purpose of improving the effectiveness of border security. While the available data do not permit any precise quantitative assessment of the net effect that illegal Mexican aliens have on the economy of the United States, it seems clear that illegal Mexican workers adversely affect wages and working conditions in some areas of this country, and may force citizens to resort to welfare.[35]

Commenting further, they noted:

Preventing Mexican nationals from crossing the border illegally is one of the few alternatives which holds forth any significant hope of preventing abuses against them. . . .

Increasing the security of the border has few of the disadvantages which can be discerned in other alternatives. In an area where feelings and political opposition are often intense, this is one of the few options that will not threaten the legitimate interests of any affected group.[36]

The Domestic Council Committee on Illegal Aliens recommended similar measures for similar reasons in late 1976, without specific reference to Mexico. One of its major recommendations was that, "Effective enforcement of the Immigration and Nationality Act must stress prevention above all other considerations." Quoting further,

---

[32] Domestic Council Committee on Illegal Aliens report (Dec. 1976), pp. 122–123.
[33] House Judiciary hearing, 1975, p. 52.
[34] Quoted by Samora (1971), p. 53.
[35] Cramton report (Jan. 1973), p. 17
[36] Ibid., pp. 17–18.

It is vastly more desirable from both a policy and a resources standpoint to prevent entry of the illegal or screen out potential illegals before arrival than to locate and apprehend the illegal once he is in the U.S. This strategy is currently accepted but it will require more adequate resources for both the State Department and the Immigration and Naturalization Service, improved management and tactics, legislation, and greater cooperation among federal agencies with related enforcement responsibilities to be effective.[37]

It is believed by some that illegal entries from other countries, most notably in the West Indies, are potentially more subject to control than those from Mexico, where the patterns of illegal entry and employment are firmly established. Thus, Michael Piore, writes,

For migrations already in process, the push factors. the pull factors, and the techniques of response are at their maximum. New migration streams should, by contrast, be relatively easy to forestall: and the payoff to doing so lies not only in those who are actually apprehended but in the prevention of the development of a long-term migration stream. This implies that enforcement resources should be concentrated on locating and halting the new.[38]

However, it can be argued that, ideally, given adequate resources, a choice need not be made between prevention of illegal entry and other enforcement efforts,

The general argument against increasing the INS budget appears to be the need for economy in government. Presumably, also, the Justice Department and OMB, at least during the past Administration, suspended judgment on the dimensions of the illegal alien problem until the completion of the comprehensive study currently underway by INS.

In more specific terms, it has been argued that it would be impossible to effectively close the U.S.-Mexican border, short of measures that we would be unwilling to undertake, This argument as stated by Alejandro Portes is quoted above. In a related point, INS has argued the need for the enactment of legislation establishing penalties for the employment of illegal aliens, if it is to successful in controlling their entry. Again the argument has been that employment opportunities here attract the clandestine workers in the first place, and that in the absence of legislation prohibiting their employment, the problem is essentially uncontrollable. Thus, the following exchange took place between Representative Joseph Early and INS Commissioner Leonard Chapman during hearings on the fiscal year 1977 INS appropriations:

Mr. EARLY. I can't understand why we are spending all of this money and still not getting at the root of the problem.

General CHAPMAN. The root of the problem is employment. That is the bottom line.

Mr. EARLY. Why won't someone in your position. Mr. Commissioner, say you don't care about the budget at all until you get an employment bill and put the heat on some people to get the bill moving?

General CHAPMAN. Well, I think in the past 2 years I have made something like 45 speeches, and I forget how many press conferences, all on that very point.

Mr. EARLY. You know what I think, General. No one is listening.

General CHAPMAN. I think I have been before congressional committees 35 or 40 times, in which I have made this same speech repeatedly.[39]

INCREASED ENFORCEMENT OF EXISTING RELATED LEGISLATION

It can be argued that, to a considerable extent, the adverse impact of illegal aliens in this country is the result of the violation of existing Federal legislation, in addition to the immigration law, by the aliens

[37] Domestic Council Committee on Illegal Aliens report (Dec. 1976), p. 239.
[38] Piore (1976), p. 33.
[39] House Appropriations hearings, FY 1977, 94th Cong., 2d Sess., 1976, p. 704.

themselves, their employers, and/or administrators of public welfare programs. It is further arguable that concerted enforcement of existing tax and labor laws could significantly reduce the competitive advantage of illegal aliens in the labor market. Quoting again from North and Houstoun:

> The Government can discourage illegal immigration by discouraging employers from hiring illegals without the passage of additional legislation; it can do so, in many instances, by focusing tax and labor standards enforcement efforts on the employers of illegals.
>
> A significant minority of the respondents in our study reported that they were paid less than the minimum wage; some reported non-deduction of social security taxes and of income taxes.
>
> Further, our survey data suggest that an employer who hires illegals and violates one tax or labor standards law is likely to violate others.[40]

Similarly, the participation by illegal aliens in the major public assistance and service programs is prohibited by law or regulation. As noted previously, these include Aid to Families with Dependent Children (AFDC), Supplemental Security Income (SSI), Medicaid, and the Food Stamp program. It is arguable that stricter enforcement of these restrictions, as well as those now attached to the issuance of social security cards, could effectively curtail the participation of illegal aliens in the programs, as well as enhance the reliability of the social security card as an indication that its bearer is legally eligible for employment.

However, it is also arguable that INS would first have to be provided with the necessary manpower to conduct prompt checks on all names and other information referred to it by other agencies for verification. Enforcement of the laws and regulations referred to above, as they pertain directly or indirectly to illegal aliens, requires a degree of cooperation from INS which is, according to all reports, currently lacking.

At the same time, other agencies have been criticized for their failure to cooperate with INS. Quoting from the House Judiciary Committee report on H.R. 8713 (94th Congress):

> The Committee continues to be disturbed by the evident lack of cooperation among the agencies and departments of federal and state governments whose programs and functions are impacted by illegal aliens. In our earlier reports in the 92nd and 93rd Congresses on similar legislation, we expressly recommended greater cooperation between the Immigration and Naturalization Service and the Department of Health, Education, and Welfare, particularly the Social Security Administration, the Department of Labor, and the Internal Revenue Service. To date, only minimal progress has been made in this area. . . . .
>
> It is apparent that the primary reason for the lack of cooperation stems from the fact that most government agencies do not feel obligated to cooperate with INS or question the benefits of such cooperation in terms of their own priorities and programs. Similarly, agencies are reluctant to initiate efforts to address the illegal alien issue believing that the INS has the sole jurisdiction and responsibility for dealing with this matter.[41]

The establishment of multi-agency strike forces in areas where illegal aliens are known to be concentrated has been recommended by North and Houstoun, to include enforcement officials from the following agencies:

> Employment Standards Administration, for minimum wage violations;
> Occupational Safety and Health Administration, for OSHA violations;
> State Employment Security Agencies, for violations of unemployment insurance tax laws;

---

[40] North/Houstoun "Summary" (Oct. 1976), p. 47.
[41] H. Rept. No. 94–506 (1975), p. 10.

Internal Revenue Service, for Social Security tax and income tax withholdings; and

Immigration and Naturalization Service, regarding the presence of illegals on company payrolls.[42]

In order to broaden the scope of the strike forces to include illegal participation in public welfare programs where this is believed to be a problem, officials from the Departments of Health, Education and Welfare (SSI, AFDC, Medicaid) and Agriculture (Food Stamps) might also be included.

In addition to reducing the adverse domestic impact of illegal aliens on both the labor market and public welfare programs, the strict enforcement of the relevant existing laws—including the immigration law—has the additional advantage of having no overt adverse foreign policy implications. Furthermore, to the extent that there is a real need for alien labor, this approach would not necessarily result in the total elimination of that labor supply, as long as the clandestine workers were paid the minimum wage, complied with U.S. tax laws, etc. On the other hand, it is arguable that such an approach is deficient precisely because it could be expected to reduce, but not necessarily eliminate, the illegal alien traffic.

The principal argument against such an approach is probably contained in the passage from the House Judiciary Committee report quoted above, to the effect that most agencies do not feel obligated to cooperate with INS, and tend to believe that "INS has the sole jurisdication and responsibility for dealing" with illegal aliens. A coordinated multi-agency enforcement of the existing laws relating directly and indirectly to illegal aliens would require a degree of attention and support which has hitherto been lacking. The first of the major recommendations of the Domestic Council Committee on Illegal Aliens is directly relevant:

> The issue of illegal immigration merits priority attention and requires Cabinet leadership. Actions to be taken cross many bureaucratic and agency lines and will require continued coordination and direction at the highest level.[43]

Increased appropriations for more effective enforcement of the applicable existing laws would also be required.

COMPARISON OF MAJOR PROVISIONS OF H.R. 8713, AS REPORTED, WITH S. 3074 (94TH CONGRESS)

Provision	Existing law	H.R. 8713, as reported (H. Rept. No. 94-506)	S. 3074 (Mr. Eastland)
Adjustment of status	Aliens who are natives of Western Hemisphere countries or the adjacent islands are prohibited from adjusting their status from that of nonimmigrant to that of lawful permanent resident while in the United States (sec. 245).	Also permits the adjustment of status in the United States of otherwise eligible natives of the Western Hemisphere and the adjacent islands. Prohibits the adjustment of status by aliens, other than close relatives of U.S. citizens, who have accepted unauthorized employment. Changes the date used to determine the availability of a visa number from the approval date to the filing date (sec. 1; substantially identical to H.R. 14535, sec. 6, enacted into law, Public Law 94-571).	Also permits the adjustment of status in the United States of otherwise eligible natives of the Western Hemisphere and adjacent islands, as well as alien crewmen. Prohibits the adjustment of status by aliens other than close relatives of U.S. citizens, who have accepted unauthorized employment. Changes the date used to determine both the availability of a visa number and the alien's date of lawful admission from the date his application is approved (current law) to the date it is filed (sec. 10).

[42] North/Houstoun study (March 1976), p. 173.
[43] Domestic Council Committtte on Illegal Aliens report (December 1976, p. 241.

COMPARISON OF MAJOR PROVISIONS OF H.R. 8713, AS REPORTED, WITH S. 3074 (94TH CONGRESS)—Continued

Provision	Existing law	H.R. 8713, as reported (H. Rept. No. 94–506)	S. 3074 (Mr. Eastland)
Penalty provisions for the employment of illegal aliens (i.e., aliens not legally authorized to work).	None; provides that normal employment practices shall not be deemed to constitute harboring, and offense punishable by $2,000 and/or 5 yr imprisonment for each alien involved (sec. 274).	(1) Deletes the proviso that normal employment practices shall not be deemed to constitute harboring. (2) Makes unlawful the knowing employment, continued employment, or referral for employment of an illegal alien by an employer or his agent, or by any person who for a fee refers an alien for employment.	(1) Deletes the proviso that normal employment practices shall not be deemed to constitute harboring. (2) Makes unlawful the knowing employment, continued employment, or referral for employment of an illegal alien by an employer or his agent, by any person who for a fee refers an alien for employment, or by any representative of a labor organization who refers an alien for employment. Provides that persons making a bona fide inquiry as to whether employees are legally authorized to work will be exempt from liability; and further provides that the receipt by the employer, agent, or referrer of a statement on a form prepared by the Attorney General that the employee is authorized to work will be considered prima facie evidence of a bona fide inquiry.
		Establishes a 3-step procedure of administrative, civil and criminal sanctions: (a) Citation for knowing or unknowing employment, continued employment, or referral for employment of illegal aliens; (b) For knowing employment, continued employment, or referral for employment within 2 yr after citation, civil penalty of not more than $500 for each illegal alien involved; (c) Persons convicted of subsequent violations shall be guilty of a misdemeanor punishable by a fine of not more than $1,000 and/or imprisonment of not more than 1 year for each illegal alien involved.	Establishes a 2-step civil penalty structure for violations: (a) Civil penalty of not more than $500 for each alien involved; (b) For subsequent violation, civil penalty of not less than $500 and not more than $1,000 for each alien involved.
		(3) Grants the U.S. district courts jurisdiction to enjoin the knowing employment, continued employment, or referral for employment of illegal aliens (sec. 2).	(3) Grants the U.S. district courts jurisdiction to enjoin the knowing employment, continued employment, or referral for employment of illegal aliens (sec. 12).
Antidiscrimination	No comparable provision in Immigration and Nationality Act (see 42 U.S.C. 2000e–5).	Authorizes the Attorney General to bring civil actions against employers who are believed to discriminate on the basis of national origin (sec. 3).	No comparable provision.
Registry/"amnestry"	Authorizes the Attorney General, at his discretion, to create a record of lawful admission for certain aliens illegally in the United States who have resided here continuously prior to June 30, 1948. Aliens must not be inadmissible under the provisions of 212(a) relating to "criminals, procurers and other immoral persons, subversives, violators of the narcotic laws or smugglers of aliens," and must not be ineligible for citizenship (sec. 249).	Does not amend the registry provision. Authorizes the Attorney General, at his discretion, to adjust the status of certain aliens illegally in the United States who entered prior to June 30, 1968, and who are either close relatives of U.S. citizens or permanent resident aliens, or whose departure would result in unusual hardship. Aliens must be admissible as immigrants under the provisions of the Immigration and Nationality Act, with the exception of the labor certification requirement and certain documentary requirements, and must apply within 1 year after the effective date of this bill (sec. 4).	Similar to existing law, except changes the cutoff date for eligibility for relief under this provision to July 1, 1968 (sec. 11).

COMPARISON OF MAJOR PROVISIONS OF H.R. 8713, AS REPORTED, WITH S. 3074 (94TH CONGRESS)—Continued

Provision	Existing law	H.R. 8713, as reported (H. Rept. No. 94–506)	S. 3074 (Mr. Eastland)
Disclosure of aliens illegally receiving assistance under the Social Security Act.	Requires the Social Security Administration, upon request, to notify the Justice Department of "available information" on the identity and location of aliens in the United States (sec. 290 (c)).	Adds a new provision requiring HEW to disclose to Justice the name and address of any alien, including any alien unlawfully in the United States, who is receiving assistance under specified titles of the Social Security Act for which he is not eligible (sec. 5).	Identical to H.R. 8713, as reported (sec. 13).
alsifying of alien documentation.	Imposes criminal penalties for knowingly falsifying certain immigration documents or for the knowing use of such falsified documents (18 U.S.C. 1546).	Amends 18 U.S.C. 1546 to make it also explicitly applicable to border crossing cards, alien registration receipt cards, or other entry documents (sec. 6).	Identical to H.R. 8713, as reported (sec. 18).
Authorization of Justice Department funds.	No comparable provision in Immigration and Nationality Act.	Requires that Justice Department appropriations for carrying out functions under the Immigration and Nationality Act must be specifically authorized by an act of Congress (sec. 9).	No comparable provision.
Grounds for deportation..	Makes deportable an alien who becomes institutionalized at public expense (sec. 241(a)(3)), or who becomes a public charge (sec. 241(a)(8)), in both cases within 5 yr after entry and for reasons which existed prior to entry.	Further stipulates that becoming a public charge is grounds for deportation regardless of whether the alien is legally liable for repayment or whether any request for repayment has been made (that is, amends sec. 241(a)(8), only) (sec. 10).	Further stipulates that becoming institutionalized at public expense or becoming a public charge are grounds for deportation regardless of whether the alien is legally liable for repayment or whether any request for repayment has been made (sec. 9).

References Cited

Amending the Immigration and Nationality Act. [Debate and vote in the House] Congressional record [daily ed.] v. 122, Sept. 29, 1976: H11682–H11685.

Atkins, Gary. Sick and illegal: it's a problem for everyone. Riverside press-enterprise, Mar. 10, 1974.

Bennett, Marion T. American immigration policies: a history. Washington. Public affairs press, 1963. 362 p.

Briggs, Vernon M. Illegal immigration and the American labor force: the use of "soft" data for analysis. American behavioral scientist, v. 19, Jan./Feb. 1976: 351–363.

Cardenas, Gilberto. United States immigration policy toward Mexico: an historical perspective. Chicano law review, UCLA, v. 2, summer 1975: 66–91. [Cited as Cardenas (1975).]

Commuters, illegals, and American farmworkers; the need for a broader approach to domestic farm labor problems. New York University law review, v. 48, June 1973: 439–492.

Conrad, Jane Reister. Health care for indigent illegal aliens: whose responsibility? University of California, Davis, law review, v. 8, 1975; 107–126.

Coombs, Orde. Illegal immigrants in New York: the invisible subculture. New York magazine. v. 9, Mar. 15, 1976: pp. 31–41.

Craig, Richard B. The Bracero program: interest groups and foreign policy. Austin, University of Texas press, 1971. 233 p.

Davis, Kingsley. The migrations of human populations. In The human population, a Scientific American book. San Francisco, W. H. Freeman and Co., 1974: pp. 53–65.

Del Olmo, Frank. U.S. refuses to repay country's alien health bill. Los Angeles times, Aug. 15, 1974: pp. 1, 25.

Divine. Robert A. American immigration policy, 1924–1952. New Haven, Yale University press, 1957. 220 p.

Galarza, Ernesto. Merchants of labor: the Mexican Bracero story. Charlotte, McNally and Loftin, 1964. [Cited as Galarza (1964).]

Goldfarb, Ronald. A farm workers' bill of rights. Washington Post, Dec. 20, 1976: A19.
Good Neighbor Commission of Texas. Texas migrant labor annual report, 1975. Austin. 72 p.
Gordon, Charles and Harry Rosenfield. Immigration law and procedure. Rev. ed. 3 v. New York, Matthew Bender, 1976.
Gottron, Martha. Illegal alien curbs: House action stalled. Congressional quarterly, v. 34, Mar. 20, 1976: 637–641.
Grebler, Leo. Mexican immigration to the United States: the record and its implications, Mexican-American study project, advance report 2. Los Angeles, University of California, Dec. 1965. 106 p.
Harvard Law School. Civil Rights—civil liberties research committee. Proposed bills H.R. 981, H.R. 982, and S. 3827 [93rd Congress] [Unpublished memo to Senator Alan Cranston] Jan. 15, 1975. 46 p.
Marshall, Ray. Employment implications of the international migration of workers. In Illegal aliens: an assessment of the issues. Washington, National Council on Employment Policy, Oct. 1976: pp. 52–65. [Cited as Marshall (1976).]
Martinez, Vilma S. Illegal immigration and the labor force: an historical and legal view. American behavioral scientist. v, 19, Jan./Feb. 1976: 335–350.
National Council on Employment Policy. Illegal aliens: an assessment of the issues; a policy statement and conference report with background papers. Washington, Oct. 1976. 76 p.
North, David and Marion Houstoun. The characteristics and role of illegal aliens in the U.S. labor market: an exploratory study. Washington, Linton & Co., Inc. Mar. 1976. 181 p. [Cited as North/Houstoun study (March 1976).] Prepared for the Employment and Training Administration, U.S. Department of Labor. The report "does not necessarily represent the official opinion or policy of the Department of Labor."
North, David and Marion Houstoun. A summary of recent data on and some of the public policy implications of illegal immigration. In Illegal aliens: an assessment of the issues. Washington, National Council on Employment Policy, Oct. 1976: pp. 36–51. [Cited as North/Houstoun "Summary" (Oct. 1976).]
Piore, Michael J. Illegal immigration in the United States: some observations and policy suggestions. In Illegal aliens: an assessment of the issues. National Council on Employment Policy, Oct. 1976: 25–35. [Cited as Piore (1976).]
Portes, Alejandro. Return of the wetback. Society, Mar./Apr. 1974: 40–46. [Cited as Portes (1974).]
Rodino, Peter W. The impact of immigration on the American labor market. Rutgers law review, v. 27, winter 1974: 245–274.
Samora, Julian. Los Mojados: the wetback story. Notre Dame, University of Notre Dame press, 1971. 205 p. [Cited as Samora (1971).]
Shabecoff, Philip. Ford signs revision in immigration law. New York times, Oct. 24, 1976: 26.
Sterling, Richard W. International labor markets: the United States-Mexican case in a comparative context with special reference to post-1945 Western European experience. [Dartmouth College, unpublished] Sept. 1974. 5 p.
U.S. Congress. House. Committee on Appropriations. Departments of State, Justice, and Commerce, the Judiciary, and related agencies appropriations for FY 1976. Hearings, 94th Congress, 1st session. Part 2, Department of Justice. Washington, U.S. Govt. Print. Off., 1975: 876–974.
——— Departments of State, Justice, and Commerce, the Judiciary, and related agencies appropriations for FY 1977. Hearings, 94th Congress, 2d session. Part 4, Department of Justice. Washington, U.S. Govt. Print. Off. 1976: 628–719.
——— Departments of State, Justice, and Commerce, the Judiciary, and related agencies bill, fiscal year 1977; report to accompany H.R. 14239. Washington, U.S. Govt. Print. Off., 1976. 65 p. (94th Congress, 2d session. House. Report no. 94–1226).
U.S. Congress. House. Committee on Government Operations. Interim report on Immigration and Naturalization Service regional office operations; twentieth report together with separate views. Washington, U.S. Govt. Print. Off., 1974. 59 p. (93rd Congress, 2d session. House. Report no. 93–1623)
——— Legal and Monetary Affairs Subcommittee. Immigration and Naturalization Service regional office operations. Parts 1–5. Hearings, 93d Congress, 1st and 2d session. Washington, U.S. Govt. Print. Off., 1973 and 1974. 616 p.

U.S. Congress. House. Committee on the Judiciary. Amending the Immigration and Nationality Act, and for other purposes; report to accompany H.R. 2580. Washington, U.S. Govt. Print. Off., 1965. 50 p. (89th Congress, 1st session. (House Report No. 745).

——— Amending the Immigration and Nationality Adt, and for other purposes; report together with additional, supplemental, and dissenting views to accompany H.R. 8713, Washington, U.S. Govt. Print. Off., 1975. 41 p. (94th Congress, 1st session. House. Report no. 94–506) [Cited as H. Rept. no. 94–506 (1975).]

——— Extension of LEAA; report . . . to accompany H.R. 13636. Washington, U.S. Govt. Print. Off., 1976. 64 p. (94th Congress, 2d session. House. Report no. 94–1155)

——— Illegal aliens; a review of hearings conducted during the 92nd Congress (Serial no. 13, pts. 1–5) by subcommittee No. 1. (Committee print) Washington, U.S. Govt. Print. Off., Feb. 1973. 27 p. [Cited as Illegal aliens, House Judiciary Committee print (1973).]

——— Immigration and Nationality Act Amendments of 1976; report to accompany H.R. 14535. Washington, U.S. Govt. Print. Off., 1976. 37 p. (94th Congress, 2d session. House. Report no. 94–1553) [Cited as H. Rept. no. 94–1553 (1976).]

——— Nonimmigrant alien labor program on the Virgin Islands of the United States; a special study of the Subcommittee on Immigration, Citizenship, and International Law. (Committee print) Washington, U.S. Govt. Print. Off., Oct. 1975. 77 p.

——— Subcommittee No. 1. Illegal aliens. Hearings, 92d Congress, 1st and 2d sessions. Serial no. 13, pts. 1–5. Washington, U.S. Gov. Print. Off., 1971–1972. 1528.

——— Subcommittee on Immigration, Citizenship, and International Law. Illegal aliens. Hearings, 94th Congress, 1st session, on H.R. 982 and related bills. Serial no. 8. Washington, U.S. Govt. Print. Off., 1975. 450 p. [Cited as House Judiciary hearings, 1975.]

——— Western Hemisphere immigration. Hearings, 94th Congress, 1st and 2d sessions, on H.R. 367, H.R. 981, and H.R. 10323. Serial no. 34. Washington, U.S. Govt. Print. Off., 1976. 397 p. [Cited as House Judiciary Western Hemisphere hearings, 1976.]

U.S. Congress. Senate. Committee on the Judiciary. The immigration and naturalization systems of the United States; report. Washington, U.S. Govt. Print. Off., 1950. 925 p. (81st Congress, 2d session. Senate. Report no. 1515)

——— Subcommittee on Immigration and Naturalization. Immigration. Hearings, 89th Congress, 1st session, on S. 500. Part 2. Washington, U.S. Govt. Print. Off., 1965.

——— Subcommittee on Immigration and Naturalization. Immigration 1976. Hearings, 94th Congress, 2d session, on S. 3074. Washington, U.S. Govt. Print. Off., 1976. 274 p. [Cited as Senate Judiciary hearings, 1976.]

U.S. Department of Justice. Federal Advisory Committee on False Identification. The criminal use of false identification. Washington, U.S. Govt. Print. Off., Nov. 1976. 141 p.

——— [press release] Statement of Leonard F. Chapman, Jr., Commissioner, Immigration and Naturalization Service before the Select Committee on Small Business, concerning employment of illegal aliens, on Nov. 23, 1976. 7 p.

——— Immigration and Naturalization Service. 1975 Annual Report. Washington, U.S. Govt. Print. Off., 1976. 139 p. [Cited as 1975 INS annual report.]

——— Illegal alien study. Part 1: Fraudulent entrants study. Sept. 1976. 34 p. [Cited as INS Fraudulent Entrants Study (Sept. 1976).]

U.S. Domestic Council Committee on Illegal Aliens. Preliminary report. [Washington], Dec. 1976. 257 p. [Cited as Domestic Council Committee on Illegal Aliens report (Dec. 1976).]

U.S. General Accounting Office. Immigration—need to reassess U.S. policy, Departments of Justice and State; report to the Congress by the Comptroller General of the United States. [Washington] Oct. 19, 1976. 70 p.

——— More needs to be done to reduce the number and adverse impact of illegal aliens in the United States, Department of Justice; report to the Congress by the Comptroller General of the United States. [Washington] July 31, 1973. 76 p.

U.S. President's Commission on Migratory Labor. Migratory labor in American agriculture. [Washington, U.S. Govt. Print. Off.] 1951. 188 p.

U.S. Select Commission on Western Hemisphere Immigration. Report. Washington, U.S. Govt. Print. Off., Jan. 1968. 197 p.

U.S. Special Study Group on Illegal Immigrants from Mexico. A program for effective and humane action on illegal Mexican immigrants. [Washington] Jan. 15, 1973. [Popularly referred to as the Cramton report, after its Chairman, Roger C. Cramton, U.S. Department of Justice; cited as the Cramton report (Jan. 1973).]

Weekly compilation of Presidential documents, v. 11, Jan. 13, 1975: 26; v. 12, Oct. 25, 1976: 1548.

Zeman, Ray. Refund for illegal alien medical care sought. Los Angeles Times, June 26, 1974: part 2, p. 1, 4.

SUS DERECHOS CONTRA LA MIGRA O POLICIA

El proposito de este folleto es de avisarte de tus derechos respecto a la Immigración.

Sin embargo, deberias de estar consiente que la migra no siempre respeta los derechos.

HAY QUE SEGUIR CON MUCHO CUIDADO

1. ¿Que pasa si yo voy andando por la calle y un oficiál de la migra o un policia me para y me pregunta en donde naci o si soy ciudadano de los Estados Unidos?
Nada. Legalmente, el servicio de inmigración solo te puede parar si tiene una razón justificada de pensar que estas en el pais sin documentos o que has cometido algún crimen.

2. ¿Es bastante que yo tenga el aspecto Mexicano?
No, legalmente no te pueden parar sí esa es la unica razon. Pero eso es lo que hace la migra. Paran a toda persona que parezca Mexicana o Latina.

3. ¿Entonces, que hago si me paran?
Las dos reglas para seguir son NO DIGAS NADA Y NO CORRAS No estas bajo ninguna obligación de contestar a las preguntas de nadie. Sigue andando y no digas nada.

4. ¿Que hago si me paran y me detienen?
Nada, sigue las dos reglas. No corras y no digas nada.

5. ¿Pero, que hago si me amenazan con la carcel o deportación?
Nada, sigue las reglas. No corras y no digas nada. La migra no puede hacer nada si no saben quien eres y de donde eres. No digas nada y tendran que dejarte libre.

6. ¿Pero no tengo yo una obligación de contestar a las preguntas de los oficiales?
NINGUNA OBLIGACIÓN, TIENES EL DERECHO ABSOLUTO DE NO DECIR NADA A NADIE.

7. ¿Personas que estan aqui "ilegalmente", sin documentos tambien tienen estos mismos derechos?
Si. No hay ninguna diferencia si tienes documentos o no los tienes. Cualquiera persona tiene el derecho de quedarse callada.

8. ¿Que pasa si digo que soy Mexicano o que soy extranjero?
Entonces, la migra te puede arrestar si no tienes los propios documentos contigo.

9. ¿Que pasa si corro y me pescan?
Entonces te pueden detener por un rato. Pero no tienes que responder a ninguna de las preguntas que te hagan. Si no corres, no te pueden detener, si corres, entonces tienen bastante causa para pararte. Nomás con que NO CORRAS.

10. ¿Que pasa si le pego al oficiál de la migra o le grito maldiciones?
Entonces, te puede arrestar. Nomás con que no grites maldiciones y no resistas. Trata de continuar andando y no digas nada.

11. ¿Que hago si estóy trabajando en un restaurante o otro sitio y la migra viene y pregunta de donde soy o donde están mis documentos?
Nada. Sigue las mismas reglas. No corras y no digas nada.

12. ¿Que hago si tengo preguntas o necesito ayuda por causa de un incidente?
Llama y pide ayuda a un centro legal de la comunidad o alguna agencia que preste ayuda en estas situaciones.

LEGAL ANALYSIS OF AN INDIVIDUALS RIGHT TO REMAIN SILENT

The right of a person to remain silent in the face of questions or accusations is protected by the Fifth Amendment to the Constitution, applicable equally to aliens as well as citizens.

So strong is this right that the Supreme Court, in *Miranda vs Arizona,* 384 U.S. 436 (1966), required that all criminal suspects, once in custody, Must be warned that they have an absolute right to remain silent. The Supreme Court has gone on to rule that at trial, the prosecutor can not even tell the jury that a suspect remained silent. *United States vs Hale,* 95 S.Ct. 2133 (1975).

In the street stop context, Supreme Court Justice Byron White, concurring in *Terry vs Ohio,* 392 U.S. 1,34 (1968) outlined the law:"Of course, the person stopped is not obliged to answer (the police officer's questions), answers may not be compelled, and refusal to answer furnished no basis for an arrest". A recent Supreme Court case dealt directly with a person's right to avoid responding to the inquiry of a police officer. In *Norwell vs City of Cincinnati,* 414 U.S. 13 (1973), a police officer approached a man on the street and asked if he lived in the area. The man looked at him and then turned around and walked away. The officer twice attempted to stop him, but each time the man threw off his arm, saying, "I don't tell you people anything.". The officer arrested the man on charges of disorderly conduct. The Supreme Court unanimously held that the man could not be convicted for not cooperating and for verbally protesting the police officers conduct.

This right to remain silent and not answer questions has long been acknowledged by Federal Courts. As long ago as 1938, the United States Court of Appeals for the Ninth Circuit, which hears appeals from Federal Courts in California, Arizona and other Western States, stated that a person can refuse to answer a police officer's question and no adverse inference may be drawn from a refusal to answer. *Poulas vs U.S.,* 95 F.2d 412,413 (9th Cir.1938). Similarly, the United States Court of Appeals in the District of Columbia stated that: "Had (the suspect) remained standing where he was first accosted, or had he merely refused to talk, the police would have lacked probable cause either to arrest or to search him. The officers would

have had no justifiable reason to lay hands upon him". *Green vs United States*, 259 F.2d 180 (D.C. Cir. 1958).

These rights are clearly applicable when an individual is questioned by immigration officers. Immigration officials, in testimony before Congress, have openly acknowledged that a person does not have to answer, an INS officers's question and that if a person refuses to answer, he/she must be let go. Donald Williams, former District Director of INS in Los Angeles, testified in response to questions by Congressman Joshua Eilberg:Mr. Eilberg:"Do you mean to say that if he (person suspected of being undocumented) remains mute that you would simply allow him to go without any further questioning? ". Mr. Williams:"We would not have any choice". Hearings before the Subcommittee on Immigration, Citizenship and Inter-national law of the House Committee on the Judiciary, 93rd Congress, 1st Session, July 23, 1973.

New York District Director Sol Marks also admitted that INS officials could do nothing if a person refused to respond to their demands. He testified in response to questions by Congresswoman Holtzman, Ms Holtzman: "If somebody refuses to answer an immigration officer who flashes his badge and says, what country are you a citizen of, what happens then? Mr. Marks:"That ends it". Ms. Holtzman:"That ends it. And that person is permitted just to go ahead? " Mr. Marks:"That is correct". Hearings, supra at 44.

CENTRO DE INMIGRACION
GEORGETOWN UNIVERSITY LAW CENTER
600 New Jersey ave., N.W.
Washington, D.C 20001

tre and her husband return to France, and he has been trying to mediate in the Philippines' Muslim insurrection (which he had earlier backed).

BACK-DOOR WARFARE

Meanwhile, Iraq (another vigorous "rejectionist") has taken a more active role on the terrorist scene. "Black June" terrorists operating out of Iraq appear to be responsible for a string of recent incidents: the attempted assassination of Syrian Foreign Minister Abdel Khaddam last December in Damascus; the attack on Amman's Intercontinental Hotel a month earlier; assaults on Syrian embassies in Rome and Islamabad in October; and the attack on Damascus' Semiramis Hotel in September.

It appears that Iraq is using "Black June" terrorists for a form of surrogate, back-door warfare against more moderate Arab states. The "Black September" organization started in much the same way, initially concentrating its fury against Jordan, which had routed the Palestinian guerrillas in September, 1970, and later broadening its scope internationally, with Libyan support. At the same time, Iraq now seems to have become one of the main bases for the extreme PFLP and its terrorist master-planner Waddieh Haddad as well as for Palestinian "rejectionists" fleeing Syrian-controlled Lebanon.

A curious sidelight in Iraq's role emerged in New York a couple of months ago. Agents of the U.S. Treasury's Alcohol, Tobacco, and Firearms (ATF) division discovered the purchase through a Greek middleman of 200 fully automatic submachine guns by the Iraqi mission to the United Nations. These "Mac-10s" are small, compact, 45-caliber weapons described by weapons experts as "ideal for terrorists."

When discovered, half of the order had been delivered to the Iraqi mission. But only 70 of the 100 weapons were handed over to ATF agents last Dec. 11. Some informed sources suspect that the 30 missing Mac-10s had been smuggled out of the country in the Iraqi diplomatic pouch. Since then, Iraqi mission diplomat Alaeddin M. al-Tayyar quietly has been declared unwelcome and recalled home.

Perhaps as the world settles into some new and more stable post-colonial, post-cold-war framework, the bitter rage of would-be terrorists will ebb. Meanwhile, the effort to strengthen national defenses, to build more effective international agreements, and to shift world public opinion against terrorism faces formidable obstacles—not least the overt more subtle opposition of a handful of states.

A CHRONOLOGY

1970

September—Mideast: Popular Front for the Liberation of Palestine (PFLP) tries to hijack five airliners in one week: An attempt on El Al is foiled; Pan Am plane is flown to Cairo and blown up; Swissair, TWA, BOAC jets hijacked to Dawson's Field, Jordan, and blown up.

September—Jordan: Army crushes Palestinian guerrillas.

1972

May—Three members of Japanese Red Army (JRA) kill 25 at Lod Airport.

September—Munich: 11 Israeli athletes are killed when Black September Organization (BSO) attacks Olympic quarters. Weapons allegedly brought in by Libyan diplomatic pouch.

October—Munich: Lufthansa airliner hijacked, forcing release of three BSO survivors of Olympic attack; terrorists all flown to Libya.

1973

March—Khartoum: BSO seizes Saudi Embassy, executes a Belgian and two U.S. diplomats. Terrorists later reported moved to Libya.

July—Amsterdam: JRA and four Palestinians hijack Japan Air Lines 747 to Libya, where it is blown up.

August—Athens: Two Arabs attack passengers, killing three, wounding 55.

September—Rome: Police arrest five Palestinians with Libyan-supplied SA-7 missiles near airport; three are later flown to Libya.

September—Austria: Two Palestinians kidnap three Russian Jews, forcing Austrians to close Schonau Transit Camp; the Palestinians are later flown to Libya.

October—Mideast: Arab-Israeli war.

December—Rome: Libyan-sponsored group attacks U.S. and German planes, killing 32 people.

December—London: PFLP (probably Carlos) nearly kills Joseph E. Sieff, leading British Zionist.

1974

January—Singapore: Two Japanese plus two PFLP attack Shell refinery, seize hostages.

February—Kuwait: Five PFLP storm Japanese Embassy, seize hostages; Singapore and Kuwait terrorists flown to South Yemen.

July—Paris: JRA courier arrested with forged documents.

September—The Hague: Three JRA (with PFLP aid) seize French Embassy; all three, plus courier, flown to Syria.

September—Paris: PFLP (probably Carlos) kills two, wounds 34, with hand grenade outside Le Drugstore.

1975

January—Paris: PFLP carries out two attacks on aircraft at Orly Airport; first group escapes, second seizes hostages and is flown to Iraq.

February—West Berlin: Politician Peter Lorenz is kidnapped; five West German terrorists flown to South Yemen in exchange for his release.

April—Stockholm: Six West Germans attack their embassy, which is blown up when demands denied.

June—Paris: Carlos escapes French agents, killing two, three Cuban diplomats expelled.

August—Kuala Lumpur: Five JRA trained in PFLP camps in Lebanon attack U.S. Consulate, force Japan to release five other JRA; all 10 flown to Libya.

September—The Netherlands: Four Syrians planning to kidnap Russian Jews are arrested; they had trained in Soviet Union.

December—Vienna: Carlos, PFLP gang kidnap OPEC ministers and end up in Libya.

1976

January—Nairobi: Three PFLP arrested with SA-7 missiles apparently from Libya via Uganda.

June—Lebanon: Major Syrian intervention.

June—Entebbe: Air Force jumbo jet hijacked to Uganda by PFLP group; refuels in Libya; July 4 Israelis rescue hostages, killing seven terrorists.

August—Istanbul: Two PFLP trained in Libya attack airport lounge, four are killed, including aide to Senator Javits.

September—Belgrade: Carlos visits Yugoslavia en route to Iraq and back to Libya.

September—Damascus: Semiramis Hotel attacked by "Black June" group trained in and backed by Iraq.

October—Rome and Islamabad: Syrian embassies attacked by Iraqi-backed "Black June."

November—Amman: Intercontinental Hotel atacked by "Black June."

December—Damascus: Attempted assassination of Syrian Foreign Minister by "Black June."

1977

January—Paris: Abu Daoud, accused of planning 1972 Munich Olympic massacre, arrested, then allowed to fly to Algeria.

INTRODUCTION OF COMPREHENSIVE IMMIGRATION LEGISLATION

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 5, 1977

Mr. ROYBAL. Mr. Speaker, I have today introduced a comprehensive immigration bill that is designed to eliminate many of the existing inequities in the Immigration and Nationality Act.

The bill represents an expression of my longstanding and deep concern over the problems and inequities that have arisen and been exacerbated through our piecemeal amendment to what is admittedly a complex area of law. My bill seeks to deal with the problems by solutions that recognize the competing real world interests such as family ties and community relationships, and yet at the same time, the bill seeks to prevent these problems from arising again.

Specifically, my bill provides that most undocumented aliens in the country before January 1, 1977, will be able to adjust their status to become permanent residents by making an application for adjustment within 1 year of the passage of the bill. The only people who will not be entitled to take advantage of this procedure are certain specified groups presently excludable under the Immigration and Nationality Act.

An undocumented alien who makes application for an adjustment of his status will be granted written authorization by the Attorney General to accept or continue employment while his application is pending. Any adjustment of status made pursuant to this one-time program will not have an effect on the numerical limitations contained within the Immigration and Nationality Act.

In order to insure that the problem of the undocumented alien does not recur, my bill provides that every applicant for a social security card would have to sign an affidavit swearing that he is a citizen, lawful permanent resident, permanent resident under color of law, or authorized to work in this country. A false statement in the affidavit would subject the signer to a possible fine and/or jail sentence.

To insure that undocumented aliens do not get social security cards, the thumbprint of every applicant would be kept in an index. Before a social security card is issued, the applicant's thumbprint would be checked to determine if he had previously been excluded from the country as an illegal alien.

Only persons and organizations expressly authorized by law, such as the Internal Revenue Service, could request a social security number from an individual.

My bill also makes four changes that will bring equity and fairness to the the Immigration and Nationality Act. First, the bill would raise the immigration ceiling for the Western Hemisphere to 170,000, the same as is now enjoyed by the Eastern Hemisphere. At the same time, the bill would abolish the 20,000 per-country limitation now imposed on Western Hemisphere countries.

Second, my bill would allow a person applying to become a naturalized citizen to take the citizenship test in the language in which he is most fluent, rather than in English, as is now required.

Third, the bill provides that an individual who is serving in the Armed Forces or who has been honorably discharged from the service can become a naturalized citizen without having to meet the residency requirements or pass the examination on American history.

Fourth, my bill provides that an alien would have to be granted a hearing and be found deportable before being given the option of a voluntary departure. This will insure that aliens legally in the country are not deported. If an undocumented alien worked in this country, the Attorney General has the responsibility to collect any wages due the alien, pay any outstanding Federal, State, or local income taxes and FICA taxes, and then give the alien any money remaining.

Finally, my bill provides for the establishment of a 4-year Presidential Commission on United States-Mexico Immigration Policy. This commission will conduct studies, develop recommendations, and report to Congress concerning immigration between the United States and Mexico and its effects on domestic and international affairs.

Mr. Speaker, there has not been an overall reappraisal of our immigration policy in the past decade. During that time, numerous inequities and ambiguities have crept into the law. The passage of my bill would correct the most serious of these inequities and at the same time insure that similar problems do not recur.

Following is a section-by-section analysis of my bill:

SECTION-BY-SECTION ANALYSIS, ROYBAL COMPREHENSIVE IMMIGRATION BILL

TITLE I

Title I provides that undocumented aliens in the country before January 1, 1977 would be eligible to become permanent resdents if application for adjustment of status is made within one year of the enactment of the bill.

The bill would continue to exclude from amnesty certain groups of individuals: for example, those convicted of certain crimes, such as illicit possession or sale of hard drugs; persons who have advocated a form of politics which would seek to overthrow our form of government or all forms of law; persons with certain mental disabilities; prostitutes; and polygamists.

These people are now excluded from admission to the United States by specific provisions of the Immigration and Nationality Act. However, there are some other categories of people who will be able to qualify for amnesty, even though they are currently excludable from admission. These include persons who would normally need labor certification; persons who might become public charges; and persons who have previously sought to enter, or have entered the United States by seeming fraud or without appropriate documents.

Title I further provides that an undocumented alien who makes application for an adjustment of his status will be granted written authorization by the Attorney General to accept or continue employment pending a decision on his application.

Finally, the title provides that an adjustment of status will not have an effect on any numerical limitation in the Immigration and Nationality Act.

TITLE II

Title II of the bill provides for the equalization of hemispheric immigration quotas by increasing the Western Hemisphere ceiling to 170,000 from its current 120,000. Another provision in the bill would abolish the 20,000 per-country limitation imposed upon Western Hemisphere countries.

TITLE III

Title III provides that a person applying to become a naturalized citizen would be allowed to take the citizenship test in the language in which he or she is most fluent. The present law provides that the test must be taken in English.

TITLE IV

Title IV provides that an alien would have to be granted a hearing and found deportable before being given the option of a voluntary departure.

Under current law, when an undocumented alien is arrested, he may opt to depart voluntarily rather than having a hearing and being deported. However, there are many individuals who are not aware of their rights, and who, therefore, depart voluntarily when, in fact, they are not even deportable. By requiring hearings for these individuals, this bill would ensure due process.

If the undocumented alien has worked in this country, the Attorney General is charged with the responsibility of collecting and paying any wages due the alien. However, the Attorney General must pay any Federal, State or local income taxes or FICA taxes owed by the alien from the proceeds before turning the remainder over to the alien.

TITLE V

Title V provides that an individual who has served in the United States armed forces, and who, if now separated from the service, has been honorably discharged, can become a naturalized citizen without having either to meet the residency requirements or to pass the examination on American history.

TITLE VI

Title VI provides that each applicant for a Social Security card would have to sign an affidavit swearing to his citizenship, lawful permanent resident, permanent residence under color of law, or authorization to work.

If the applicant knowingly makes a false statement in his affidavit, he will be subject to a maximum fine of $2,000 or 5 years in jail or both.

Also, the thumbprint of each applicant for a Social Security card will be taken. This thumbprint is to be checked against others kept in an index to ensure that a person has not previously been excluded from the country as an undocumented alien. This is to ensure that a person who is excluded cannot get back into the United States.

Further, the bill provides that Social Security numbers can only be requested by those individuals and organizations that have express legal authority to do so. This provision will allow government agencies such as IRS and employers to use the number, but will not allow it to be used generally as an identifier.

Finally, Title VI specifies that these social security provisions will only apply to people requesting Social Security numbers after the date of enactment of the bill.

TITLE VII

Title VII provides for the establishment of a 4-year Presidential Commission on United States-Mexico Immigration Policy, whose purpose will be to conduct studies, develop recommendations, and report to Congress concerning immigration between the United States and Mexico and its effects on domestic and international affairs.

On the United States side, the Commission members would include cabinet-level officials and distinguished citizens from the community who are involved in the fields of immigration, labor, business, education, health and international relations.

The Chairman of the Commission would be empowered to invite appropriate officials of the Mexican government to participate in the meetings and hearings. These representatives would be appointed to the Commission by the President of Mexico.

Specific concerns to be addressed by the Commission would include:

(1) prevailing and projected demographic, technological, and economic trends affecting immigration between the United States and Mexico;

(2) the interrelationships between United States-Mexico immigration and existing and contemplated government programs in the United States;

(3) the effects of United States immigration and trade policies and practices on relations with Mexico;

(4) the effectiveness of the operation of the immigration laws of the United States, with emphasis on the adequacy of such laws from the standpoint of fairness to aliens seeking admission into the United States and from the standpoint of the impact of such laws on social and economic conditions in this country; and

(5) present and projected unemployment in the United States, by occupations, industries, and geographic areas and how it is affected by immigration.

PROTECTING THE CONSUMER AGAINST FALSE MAIL-ORDER REPRESENTATIONS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 5, 1977

Mr. GILMAN. Mr. Speaker, today I am introducing legislation imposing civil penalties upon persons who fail to comply with orders of the U.S. Postal Service prohibiting the use of the mails to conduct lotteries or to obtain money or property through false representations.

The intent of this legislation is to protect unsuspecting, unknown consumers from unscrupulous promoters of products and services who engage in misrepresentation and the fraudulent use of the mails.

Under the false representation section of Public Law 91-375 (39 U.S.C. 3005), the Postal Service, upon satisfactory evidence that an individual is engaged in a scheme to obtain money or property through the mail by means of false representations, may issue a mail-stop order directing the postmaster of the promoter's post office to return the mail, appropriately marked as a violation of the statute, to the unsuspecting sender. The returned mail usually contains the sender's remittance. Before a mail-stop order is issued, the promoter is afforded an opportunity to discontinue the advertisements containing the alleged misrepresentations, and if a complaint is issued against the promoter, to appear with an attorney in accordance with the Administrative Procedure Act (5 U.S.C. 551) and the rules governing false representation (39 CFR 952) before an admin-

istrative law judge to challenge the complaint. If the mail-stop order is issued, the promoter may seek relief in an appropriate Federal district court.

In an effort to protect the consumer from misrepresentation by unscrupulous promoters, my proposal extends section 3005 by providing that if the promoter fails to comply with a Postal Service order and continues to engage in proscribed conduct or fails to maintain certain records, then the violator would be subject to a civil penalty of not more than $10,000 for each violation. In the event the Postal Service determines that its orders are subject to a civil penalty, the Service would be authorized to notify the Attorney General of the United States who would be authorized to bring an action in an appropriate Federal district court for the imposition of a civil penalty. The Service could also order the unscrupulous promoter to: First, provide the victimized consumer with a statement summarizing the findings of fact contained in the postal order, and second, offer to return the money or property to the consumer upon written request within 30 days after receipt of the statement.

The promoter could also be ordered to return the money or property to the consumer within 21 days after receipt of a timely request. The violator of this proposal could be directed by the Postal Service to provide the Service with a list of names and addresses of victimized consumers, including those who have requested the return of their money or property, and for whom the money or property has been returned.

Mr. Speaker, this measure is not a mail fraud statute with criminal sanctions; that would require proof beyond a reasonable doubt, that the promoter intended to defraud the consumer. Rather, this proposal is a civil statute directed against those who use the mails to obtain money or property through false representations of their goods or services. Proof of scienter or intent to defraud is not a prerequisite to the issuance of a mail-stop order. *Lynch* v. *Blout*, 330 F. Supp. 689 (D.C.N.Y., 1970), affirmed, 404 U.S. 1007 (1972). In order to obtain an administrative determination that false representations in the advertisement exist, the Postal Service must, however, obtain satisfactory evidence to warrant the issuance of the mail-stop order, and that order is subject to a review by the courts. Speaking for a three-judge court in Lynch, Judge Medina stated that the courts will not uphold mail-stop orders "whenever a person has restored to a little exaggeration or mere puffing. The false statement must be material and it must be substanital to warrant the imposition of this drastic remedy," (330 F. Supp. at 693).

Mr. Speaker, in testimony on my bill, H.R. 10463, the Consumer Fraud Act before the Subcommittee on Consumer Protection and Finance, I pointed out that "economic crimes require stiff economic penalties." Similarly, if the consumer is to be protected from unscrupulous con-artists who use the mails to misrepresent their goods and services, then we should provide the Postal Service with the tools to insure that their administrative orders will not be disregarded, and that those who continue to violate the false representations section should be subject to civil penalties.

This measure is intended to arrest the deceptive work-at-home-in-your-spare-time and other get-rich-quick schemes, the false health claims and the weight reduction schemes, the phoney invention evaluators and the chain letter writers. This proposal sharpens the tools of the Postal Service in their war against the unscrupulous promoters who prey on the miseries and fantasies of unsuspecting consumers for whom the doctrine of caveat emptor—let the buyer beware—is an insufficient shield against those who use the mails to misrepresent their advertised goods or services.

Mr. Speaker, at this point in the RECORD I include the provisions of this bill in full and in the interest of protecting consumers against false mail order representations, I urge my colleagues to support this legislation:

H.R. 6073

A bill to amend title 39, United States Code, to impose civil penalties against persons who fail to comply with orders of the United States Postal Service prohibiting the use of the mails to conduct lotteries or to obtain money or property through false representations, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3005 of title 39, United States Code, is amended by redesignating subsection (d) as subsection (f) and by inserting immediately after subsection (c) the following new subsections:

"(d)(1) Any person who fails to comply with any order of the Postal Service under subsection (a) of this section, and any person who continues to engage in conduct or who resumes engaging in conduct which the Postal Service has determined to be subject to subsection (a) of this section, shall be subject to a civil penalty of not more than $10,000 for such violation.

"(2) Any person who fails to maintain such records as may be necessary to comply with the requirements of this section for a period of 18 months after the last date upon which such person receives any money or property as a result of any conduct subject to subsection (a) of this section shall be subject to a civil penalty of not more than $10,000 for each violation.

"(e)(1) Whenever the Postal Service determines that any person is subject to a civil penalty under subsection (d) of this section, the Postal Service shall notify the Attorney General of the United States and certify any relevant facts to the Attorney General. Upon receiving any such notice and certification, the Attorney General shall bring an action in an appropriate United States district court for the imposition of such civil penalty.

"(2) Any determination made by the Postal Service under paragraph (1) of this section, or any action brought by the Attorney General under paragraph (1) of this subsection, shall not bar the Postal Service from issuing additional orders against the person involved in order to carry out the provisions of this section.".

SEC. 2. Section 3005(a) of title 39, United States Code, is amended—

(1) in paragraph (2) thereof, by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(2) by adding at the end thereof the following new paragraphs:

"(3) contains a summary of the findings of fact upon which the order is based and directs the person to provide to each person from whom money or property was received as a result of conduct subject to this subsection, not later than 30 days after the issuance of such order, a written statement which contains (A) a copy of the summary of the findings of fact contained in such order; and (B) an offer to return such money or property upon written request made no later than 30 days after the receipt of such statement;

"(4) directs the person to return money or property which is the subject of any timely request made under paragraph (3) of this subsection no later than 21 days after the receipt of such request;

"(5) directs the person to provide to the Postal Service, upon request, a list of the names and addresses of all persons from whom money or property was received as a result of conduct subject to this subsection; and

"(6) directs the person to provide to the Postal Service, upon request, a list of the names and addresses of persons who have made timely requests for the return of money or property under paragraph (3) of this subsection, and a statement which indicates the persons to whom money or property has been returned in accordance with paragraph (4) of this subsection.".

PROF. C. LOWELL HARRISS ON THE NEED FOR TAX REFORM AND CAPITAL FORMATION IN THE INTEREST OF AMERICAN FREEDOM AND PROSPERITY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 5, 1977

Mr. KEMP. Mr. Speaker, Prof. C. Lowell Harriss of Columbia University is one of America's most distinguished economists. Recently he wrote an article for the Journal of the Institute for Socioeconomic Studies which discusses the reasons why America faces a serious capital investment shortage, what this means in terms of freedom, economic growth, and prosperity, and what policies are necessary to assure that an adequate amount of capital will be produced to create new jobs and increase productivity:

TAX REFORM, CAPITAL, AND HUMAN PROGRESS

(By C. Lowell Harriss)

"No, Lord Keynes. In the long run, we are not all dead."

Keynes' quip about the inevitability of death has often been cited as a rationalization for a short-short-run focus in public policy and neglect of the future. Yet, in the most humanly meaningful sense, life goes on. Our history testifies to human desire to look beyond individual mortality. Many of us try to make for a better life in the years remaining to us and for our children and grandchildren.

Capital accumulation offers a means of improving the way we work and live. By going without something in the near future, we can raise the level of living permanently. A family saving $1,000 and investing it at 6 percent adds $5 a month to its income. If the $1,000 finances an addition to business facilities which produce, say, 10 percent net after allowing for maintenance and replacement, the economy will have $100 a year more of goods and services year after year.

"Tax reform," if the concept is to embrace progress for the millions—if "reform" is to mean improvement on a broad scale—should

PRESIDENT'S MESSAGE TO CONGRESS AND WHITE HOUSE FACT SHEET ON PROPOSED PROGRAM TO DEAL WITH PROBLEM OF ILLEGAL ALIENS

(TEXT)

TO THE CONGRESS OF THE UNITED STATES:

I am proposing to Congress today a set of actions to help markedly reduce the increasing flow of undocumented aliens in this country and to regulate the presence of the millions of undocumented aliens already here.

These proposed actions are based on the results of a thorough Cabinet-level study and on the groundwork which has been laid, since the beginning of the decade, by Congressmen Rodino and Eilberg and Senators Eastland and Kennedy. These actions will:

- Make unlawful the hiring of undocumented aliens, with enforcement by the Justice Department against those employers who engage in a "pattern or practice" of such hiring. Penalties would be civil -- injunctions and fines of $1000 per undocumented alien hired. Criminal penalties could be imposed by the courts against employers violating injunctions. Moreover, employers, and others, receiving compensation for knowingly assisting an undocumented alien obtain or retain a job would also be subject to criminal penalties.
- Increase significantly the enforcement of the Fair Labor Standards Act and the Federal Farm Labor Contractor Registration Act, targeted to areas where heavy undocumented alien hirings occur.
- Adjust the immigration status of undocumented aliens who have resided in the U. S. continuously from before January 1, 1970 to the present and who apply with the Immigration and Naturalization Service (INS) for permanent resident alien status; create a new immigration category of temporary resident alien for undocumented aliens who have resided in the U. S. continuously prior to January 1, 1977; make no status change and enforce the immigration law against those undocumented aliens entering the U. S. after January 1, 1977.
- Substantially increase resources available to control the Southern border, and other entry points, in order to prevent illegal immigration.
- Promote continued cooperation with the governments which are major sources of undocumented aliens, in an effort to improve their economies and their controls over alien smuggling rings.

Each of these actions will play a distinct, but closely related, role in helping to solve one of our most complex domestic problems: In the last several years, millions of undocumented aliens have illegally immigrated to the United States. They have breached our nation's immigration laws, displaced many American citizens from jobs, and placed an increased financial burden on many states and local governments.

The set of actions I am proposing cannot solve this enormous problem overnight, but they will signal the beginning of an effective Federal response. My Administration is strongly committed to aggressive and comprehensive steps toward resolving this problem, and I am therefore proposing the following actions:

EMPLOYER SANCTIONS

The principal attraction of the United States for undocumented aliens is economic -- the opportunity to obtain a job paying considerably more than any available in their own countries. If that opportunity is severely restricted, I am convinced that far fewer aliens will attempt illegal entry.

I am therefore proposing that Congress make unlawful the hiring by any employer of any undocumented alien. This employment bar would be implemented in the following way:

- Enforcement would be sought against those employers who engage in a "pattern or practice" of hiring undocumented aliens, with the Justice Department setting priorities for enforcement.
- Penalties for violation of the employment bar would be both injunctive relief and stiff civil fines -- a maximum of $1,000 for each undocumented alien hired by an employer. A violation of a court injunction would subject an employer to a potential criminal contempt citation and imprisonment.
- An employer would be entitled to defend any charge of hiring an undocumented alien by proving that a prospective employee's documentation of legal residence, as designated by the Attorney General in regulations, was seen prior to employment.
- The Social Security card would be designated as one of the authorized identification documents; and we will accelerate the steps already being taken to make certain that such cards are issued, as the law now mandates, only to legal residents. Those steps include requiring personal interviews of card applicants and making the cards more difficult to forge. But no steps would be taken to make the Social Security card, or any other card, a national identification document.
- To further restrict job opportunities, criminal sanctions would be imposed on those persons who receive compensation for knowingly assisting an undocumented alien obtain or retain employment, or who knowingly contract with such persons for the employment of undocumented aliens. These sanctions are directed at the substantial number of individuals who broker jobs for undocumented aliens or act as agents for alien smugglers. It is not directed at those who inadvertently refer an undocumented alien to a job, such as an employment agency or a union hiring hall.

To make certain that all of these new sanctions are uniformly applied, they would pre-empt any existing state sanctions.

In addition to the creation of these new sanctions, efforts to increase enforcement of existing sanctions will be significantly increased. The Fair Labor Standards Act, which mandates payment of the minimum wage and provides other employee protections, would not only be strictly enforced, but its existing civil and criminal penalties would be sought much more frequently by the government. To date, the inability of the government to enforce fully this Act, due in part to a lack of resources, has resulted in the hiring of undocumented aliens at subminimum wages, thereby often displacing American workers. Two hundred sixty new inspectors will be hired and targeted to areas of heavy undocumented alien employment. Similarly, the Federal Farm Labor Contractor Registration Act, which prohibits the recruiting and hiring of undocumented aliens for farm work, would be tightly enforced. The Departments of Justice and Labor will work closely in exchanging information developed in their separate enforcement activities.

While I believe that both the new and existing employer sanctions, and their strict enforcement, are required to control the employment of undocumented aliens, the possibility that these sanctions might lead employers to discriminate against Mexican-American citizens and legal residents, as well as other ethnic Americans, would be intolerable. The proposed employer sanctions have been designed, with their general reliance on civil penalties and "pattern or practice" enforcement, to minimize any cause for discrimination. However, to prevent any discriminatory hiring, the federal civil rights agencies will be charged with making much greater efforts to ensure that existing anti-discrimination laws are fully enforced.

BORDER ENFORCEMENT

The proposed employer sanctions will not, by themselves, be enough to stop the entry of undocumented aliens. Measures must also be taken to significantly increase existing border enforcement efforts. While our borders cannot realistically be made impenetrable to illegal entry, greater enforcement efforts clearly are possible, consistent with preserving both the longest "open" borders in the world and our humanitarian traditions.

I am proposing to take the following increased enforcement measures, most of which will require Congressional approval for the necessary additional resources:

- Enforcement resources at the border will be increased substantially and will be reorganized to ensure greater effectiveness. The exact nature of the reorganization, as well as the amount of additional enforcement personnel, will be determined after the completion in September of our ongoing border enforcement studies. It is very likely, though, that a minimum of 2000 additional enforcement personnel will be placed on the Mexican border.
- INS will shift a significant number of enforcement personnel to border areas having the highest reported rates of undocumented alien entry.
- An anti-smuggling Task Force will be established in order to seek ways to reduce the number and effectiveness of the smuggling rings which, by obtaining forged documents and providing transportation, systematically smuggle a substantial percentage of the undocumented aliens entering the country. The U. S. Attorneys will be instructed to give high priority to prosecuting individuals involved in alien smuggling.
- The State Department will increase its visa issuance resources abroad to ensure that foreign citizens attempting to enter this country will be doing so within the requirements of the immigration laws.
- Passage will be sought of pending legislation to impose criminal sanctions on those who knowingly use false information to obtain identifiers issued by our Government, or who knowingly use fraudulent Government documents to obtain legitimate Government documents.
- The State Department will consult with countries which are the sources of significant numbers of undocumented aliens about cooperative border enforcement and anti-smuggling efforts.

COOPERATION WITH SOURCE COUNTRIES

The proposed employer sanctions and border enforcement will clearly discourage a significant percentage of those who would otherwise attempt to enter or remain in the U. S. illegally. However, as long as jobs are available here but not easily available in countries which have been the source of most undocumented aliens, many citizens of those countries will ignore whatever barriers to entry and employment we erect. An effective policy to control illegal immigration must include the development of a strong economy in each source country.

Unfortunately, this objective may be difficult to achieve within the near future. The economies of most of the source countries are still not sufficiently developed to produce, even with significant U. S. aid, enough jobs over the short-term to match their rapidly growing workforce.

Over the longer-term, however, I believe that marked improvements in source countries' economies are achieveable by their own efforts with support from the United States. I welcome the economic development efforts now being made by the dynamic and competent leaders of Mexico. To further efforts such as those, the United States is committed to helping source countries obtain assistance appropriate to their own economic needs. I will explore with source countries means of providing such assistance. In some cases this will mean bilateral or multilateral economic assistance. In others, it will involve technical assistance, encouragement of private financing and enhanced trade, or population programs.

ADJUSTMENT OF STATUS

The fact that there are millions of undocumented aliens already residing in this country presents one of the most difficult questions surrounding the aliens phenomenon. These aliens entered the U. S. illegally and have willfuly remained here in violation of the immigration laws. On the other hand, many of them have been law-abiding residents who are looking for a new life and are productive members of their communities.

I have concluded that an adjustment of status is necessary to avoid having a permanent "underclass" of millions of persons who have not been and cannot practicably be deported, and who would continue living here in perpetual fear of immigration authorities, the local police, employers and neighbors. Their entire existence would continue to be predicated on staying outside the reach of government authorities and the law's protections.

I therefore recommend the following adjustments of status:

First, I propose that permanent resident alien status be granted to all undocumented aliens who have resided continuously in the U. S. from before January 1, 1970 to the present. These aliens would have to apply for this status and provide normal documentary proof of continuous residency. If residency is maintained, U. S. citizenship could be sought five years after the granting of permanent status, as provided in existing immigration laws.

The permanent resident alien status would be granted through an update of the registry provisions of the Immigration and Nationality Act. The registry statute has been updated three times since 1929, with the last update in 1965, when permanent resident alien status was granted to those who had resided here prior to 1948.

Second, all undocumented aliens, including those (other than exchange and student visitors) with expired visas, who were residing in the United States on or before January 1, 1977 will be eligible for a temporary resident alien status for five years.

Those eligible would be granted the temporary status only after registering with INS; registration would be permitted solely during a one-year period. Aliens granted temporary status would be entitled to reside legally in the United States for a five-year period.

The purpose of granting a temporary status is to preserve a decision on the final status of these undocumented aliens, until much more precise information about their number, location, family size and economic situation can be collected and reviewed. That information would be obtained through the registration process. A decision on their final status would be made sometime after the completion of the registration process and before the expiration of the five-year period.

Temporary resident aliens would not have the right to vote, to run for public office or to serve on juries; nor would they be entitled to bring members of their families into the U. S. But they could leave and re-enter this country, and they could seek employment, under the same rules as permanent resident aliens.

Unlike permanent resident aliens, temporary resident aliens would be ineligible to receive such Federal social services as Medicaid, Food Stamps, Aid to Families with Dependent Children, and Supplemental Security Income. However, the allocation formulas for Revenue Sharing, which are based on population, would be adjusted to reflect the presence of temporary resident

aliens. The adjustment would compensate states and local communities for the fact that some of these residents -- undocumented aliens -- are currently not included in the Census Bureau's population counts. That undercount deprives certain states and communities of Revenue Sharing funds which, if Census figures were completely accurate, would be received and used to defray certain expenses caused by the presence of undocumented aliens. Those receiving adjustments of status through the actions I am proposing would be included in the 1980 Census, so that the allocation charges would have to be made only through 1980.

Third, for those undocumented aliens who entered the United States after January 1, 1977, there would be no adjustment of status. The immigration laws would still be enforced against these undocumented aliens. Similarly, those undocumented aliens, who are eligible for adjustment of status, but do not apply, would continue to have the immigration laws enforced against them.

In addition, the INS would expedite its handling of the substantial backlog of adjustment of status applications from those aliens entitled to an adjustment under existing law.

Finally, those persons who would be eligible for an adjustment of status under these proposals must not be ineligible under other provisions of the immigration laws.

TEMPORARY FOREIGN WORKERS

As part of these efforts to control the problem of undocumented aliens, I am asking the Secretary of Labor to conduct, in consultation with the Congress and other interested parties, a comprehensive review of the current temporary foreign worker (H-2) certification program. I believe it is possible to structure this program so that it responds to the legitimate needs of both employees, by protecting domestic employment opportunities, and of employers, by providing a needed workforce. However, I am not considering the reintroduction of a bracero-type program for the importation of temporary workers.

IMMIGRATION POLICY

Our present immigration statutes are in need of a comprehensive review. I am therefore directing the Secretary of State, the Attorney General, and the Secretary of Labor to begin a comprehensive interagency study of our existing immigration laws and policies.

In the interim, I am supporting pending legislation to increase the annual limitation on legal Mexican and Canadian immigration to a total of 50,000, allocated between them according to demand. This legislation will help provide an incentive to legal immigration.

I urge the Congress to consider promptly, and to pass, the legislation I will submit containing the proposals described in this Message.

JIMMY CARTER

THE WHITE HOUSE,
August 4, 1977

* * *

White House Fact Sheet

SUMMARY OF THE PRESIDENT'S PROPOSALS

The President's proposals cover these areas: employer sanctions, border enforcement, adjustment of status, foreign policy, temporary workers, and immigration policy.

(1) Employer sanctions:

-- A law is proposed which would prohibit the hiring by any employer of an undocumented alien. Enforcement would be limited to employers who engage in a "pattern or practice" of hiring undocumented aliens. The law would provide for injunctive relief and civil fines up to a maximum of $1,000 per alien. An employer who violates any injunction would be subject to a possible contempt citation.

-- The Attorney General will establish a list of identification documents, by regulation, which will be accepted as proof of legal status. An employer would be entitled to defend any charge of hiring an undocumented alien by proving that he has seen identification documents as designated by the Attorney General. The employer would not be required to verify the authenticity of the identification document, or to keep records of the documents seen.

-- The Attorney General will designate the Social Security card as one of the authorized identifiers, and the Secretary of the Department of Health, Education and Welfare will take steps to make the card a more reliable indicator of lawful residence status.

-- Criminal penalties will be applied against persons convicted of receiving pay for knowingly assisting an undocumented alien to obtain or retain a job.

-- The Federal Government will increase enforcement of the Fair Labor Standards Act and the Federal Farm Labor Contractor Registration Act, and both civil and criminal penalties for FLSA violations would be used more frequently.

-- Cooperation and information exchanges between the Immigration and Naturalization Service (INS) and the FLSA enforcement personnel will be improved.

-- The Federal Government will strongly oppose discrimination against Mexican-Americans and other ethnic Americans that might result from the undocumented alien program, and federal civil rights agencies will be ordered to assure that existing anti-discrimination laws protecting Hispanic Americans and other ethnic Americans are fully enforced.

-- The proposed new federal law on employer sanctions would preempt state and local laws which prohibit the hiring of undocumented aliens.

Questions and Answers on Employer Sanctions

Q: How ould the Secretary of HEW make the Social Security card a more reliable indicator of lawful resident status?

A: Proof of legal residence, as well as a personnal interview would be required before a Social Security card could be issued.

Q: Would the Social Security card be useful as a national identification card?

A: No. The President is not proposing a national identification system.

Q: What type of documentation do you propose that employers require of aliens they plan to hire?

A: The Attorney General will establish a list of permissible identification documents, for example: Social Security card, birth certificate or immigration document.

Q: Secretary Marshall is on record as favoring a secure work card as part of the undocumented alien package. Why is no such card included in this proposal?

A: The judgment was that the enormous financial and civil liberties costs of creating such a card outweighed its potential benefits at this time.

Q: Why impose criminal penalties on people who receive compensation for knowingly assisting an undocumented alien in obtaining or retaining employment?

A: This is aimed at persons who knowingly "broker" jobs for undocumented aliens and is meant to make it easier to prosecute those who act as agents for smugglers. It also is aimed at individuals in supervisory positions who sometimes threaten to report undocumented aliens unless they are given a fee from every paycheck.

Q: Why would the proposed federal law pre-empt state and local laws?

A: At present, three cities and 12 states have passed laws prohibiting the hiring of undocumented aliens, and 15 states and some cities have legislation pending. The measures differ widely. It is felt the Federal Government must preempt existing law in order to avoid confusion and uncertainty and to insure a uniform employer saction policy.

2) Border Enforcement

-- Enforcement resources at border areas having the highest rates of undocumented alien crossings will be increased.

-- After the on-going border enforcement studies have been completed, it is likely that 2,000 new enforcement officers will be placed on the border.

-- The State Department will strengthen its visa issuance procedures abroad to provide for better prescreening. This will include an increase in anti-fraud action and screening procedures and a new system of issuing more secure visas.

-- An anti-smuggling Task Force will be formed within the Administration to determine ways to reduce alien smuggling rings.

-- The Administration will urge the passage of legislation which is presently pending to establish criminal penalties for persons who knowingly use false information to obtain federal identification documents and who knowingly possess fraudulent federal or state documents that would be used to obtain any federal documents.

Questions and Answers on Border Enforcement

Q: Why is such strong stress being placed on border enforcement?

A: Although statistics are difficult to come by, it is reliably estimated that an overwhelming majority of the undocumented aliens in the United States have come here via crossings on the Southwest border.

Q: In Fiscal Year 1976, some 1,700 of the Immigration and Naturalization Service's 2,000 officers were located in the Southwest border area. Isn't that enough?

A: No. The numbers look impressive, but when these men are stretched out over a long border area it comes down to 200 men per shift or one patrolman per every 10 miles.

3) Adustment of Status

--Temporary Resident Alien. All undocumented aliens, including ones whose legal stays have expired, residing in the United States on or before January 1, 1977, and who register with the Immigration and Naturalization Service, will be granted a new temporary resident alien status for a 5-year period.

--Persons granted temporary resident alien status can remain in the United States for at least five years; during that period a final decision will be made about the legal status of these residents.

--Those granted temporary resident alien status would be allowed to work and would have one year to apply for the new status. However, they would not have political or civil rights to vote, be able to run for office or serve on a jury and could not bring in family members from abroad.

--Those with temporary resident alien status would not be eligible for Medicaid, food stamps, the Aid to Families with Dependent Children (AFDC) program, or the SSI program. State and local governments could provide general assistance if they chose.

--Permanent Resident Alien Status. All undocumented aliens who have been continuously in the United States since January 1, 1970, can apply for permanent resident alien status. This status can lead to full citizenship in 5 years. This will be done by updating the registry provisions already contained in the Immigration and Naturalization Act. Presently, those who entered before 1948 can adjust their status.

Questions and Answers on Adjustment of Status

Q: Could persons who are granted temporary resident alien status re-enter the United States if they depart during the five-year period?

A: Yes. They will be bound by the same re-entry governing travel by permanent resident aliens.

Q: What about the current backlog of applications for adjustment of status?

A: The backlog is estimated currently at over 240,000 and the President's plan calls for the INS to improve its administrative procedures and additional personnel to reduce this.

Q: What is the incentive for an undocumented alien to step forward and register?

A: First, those who register will be issued immigration documents which will permit them to work.

In addition, those who entered before 1970 would be granted the privileges of permanent resident alien status and would eventually be eligible for citizenship.

Those who entered after 1970, but before 1977, would gain the protection of wage and hour regulations; when these are combined with sanctions against employers for hiring undocumented persons exploitation of workers becomes less likely.

Q: Some Federal funding programs are based wholly or partially on population. What effect would the adjustment of status proposals have in this area?

A: Funding allocations for Revenue Sharing would be altered by changing the programs' formulas to include those in the temporary resident alien status. These measures would be temporary since the 1980 census would reflect the total population, including those in the new temporary resident alien status.

Q: Why was the date January 1, 1977 chosen for the new non-deportable status?

A: We needed a date which preceded the announcement of the policy so as not to encourage additional entries.

Q: Why was the date January 1, 1970 chosen for the update of the Registry?

A: Most of those who have been here for such a substantial length of time have built up equities, have jobs, and have established a home and community ties.

Q: How do you propose that undocumented workers prove that they have been in this country seven years?

A: Under current immigration laws, certain people are already eligible to apply for adjustment of status. The Immigration and Naturalization Service already has established procedures which must be followed. Accordingly, residence will be established through the use of documents such as employer affidavits, rent receipts, payroll slips, cancelled checks, bills and other records.

It is true that it is often hard to produce these documents, especially if one has worked for many employers and has used assumed names. But, the Immigration and Naturalization Service deals with this situation on a daily basis, and is flexible enough to evaluate various kinds of proof.

Q: Presently, each country is permitted a quota of 20,000 legal immigrants to the United States per year. How will these quotas be affected by the adjustment of status?

A: The adjustment of status will not affect the quotas. Everyone who is entitled to adjustment of status will be adjusted, regardless of his country of origin.

Q: There are reports that aliens are entering the country in increasing numbers in order to benefit from the adjustment of status. How does the policy affect these people?

A: Anyone who entered the country illegally after January 1, 1977 will be deported upon apprehension. Those who entered without inspection are also subject to criminal penalties for illegal entry.

4) Foreign Policy

--Negotiations will be held with Mexico and other countries which are sources of undocumented aliens regarding the nature and extent of their participation in border enforcement and anti-smuggling work.

--A number of steps will be considered including stimulation of labor intensive projects through multilateral lending institutions and financial assistance for the major source countries. Population education programs for those who bequest such assistance will also be made available.

--Increased trade with the sending countries, with emphasis on labor intensive products, will be explored -- consistent with the objective of not losing U.S. jobs.

Questions and Answers on Foreign Policy

Q: How much and what kind of assistance are you extending to each of these countries -- and for what purposes?

A: This will be decided only after ongoing consultations with each of the countries involved. Each of them has a somewhat different domestic economic situation.

Q: Have Mexico and other major source countries been consulted about your proposals? If so, what was their reaction? Have they opposed the plan? The President of Mexico has been quoted publicly as saying that the problem is a U.S. problem. How then can we expect the cooperation of Mexico and other countries in border enforcement when they clearly do not see it as in their interest?

A: The governments of Mexico and other source countries have been advised of this program. Undocumented aliens come here from a number of countries, most of them highly valued friends and allies of the U.S. The great importance of continued warm and friendly relations with those source nations has been given full consideration in development of this program. The governments consulted have indicated their understanding of the problems caused by undocumented aliens; and they have expressed a desire to be cooperative.

5) Temporary Workers

--The Secretary of Labor is directed to conduct, in consultation with Congress and other interested parties, a comprehensive review of the current temporary foreign worker (H-2) certification program. The program must be structured so that it responds to the legitimate needs of both employees, by protecting domestic unemployment opportunities, and of employers, by providing a needed work force.

Q: Will the review of the temporary workers program result in a new bracero program?

A: No. The President has stated unequivocally that he is not considering a reintroduction of a bracero-type program for the importation of temporary workers.

6) Immigration Policy

--There will be a comprehensive interagency study of immigration policy and laws.

--The Administration will support legislation to increase the current 20,000 person limit on annual Mexican and Canadian immigration to a combined 50,000.

Background Questions and Answers on Undocumented Aliens

Q: How many undocumented aliens are there in the United States?

A: Estimates range from 2 to 12 million, these are educated guesses at best. These figures are based on apprehension statistics; last year nearly 900,000 undocumented aliens were apprehended and deported.

Q: What is the correct terminology for these persons?

A: The most commonly used one is illegal aliens. The announced policy uses undocumented aliens because of sensitivity to criminal connotations that some people associate with the term illegal aliens. Other terms used include illegal immigrant, visa abuser, undocumented worker, clandestine migrant, unauthorized worker.

Q: What are the undocumented aliens like?

A: Generalizations are difficult and, again, the lack of accurate data makes this question difficult to answer. It is further complicated by the fact that the United States has two broad categories of undocumented aliens -- those who cross in great numbers over the borders in the Southwest, and those who come from other countries by other means. The vast majority of undocumented aliens in the United States come from Mexico and what information we have indicates the following characteristics of the average alien: a young adult (most are males), badly educated, primarily a farmworker from rural area, economically motivated, employed at or near the bottom of the U.S. labor market, and inclined to send a major portion of earnings to dependents in his or her homeland, outside the U.S. The typical Mexican worker comes for short periods of time, up to 6 months at a time.

Q: Besides Mexico, what are the countries where undocumented aliens originate?

A: There are undocumented aliens here from nearly every country in the world. It is believed that at least 60 countries are significant regular "source" countries, some of the largest outside of Mexico being the Dominican Republic, Haiti, Jamaica, Guatemala, Colombia, Peru, Ecuador, Philippines, Korea, Thailand, Greece, India, Iran, and Nigeria.

Q: What are the main causes for these large immigrations of undocumented aliens?

A: Generally, most undocumented aliens come from countries with rapid economic expansion, a high population growth rate and close links with the United States. These factors comprise the so-called "push" factor, or incentive for persons to leave.

Second, they come to the United States because of available jobs and the low risk of detection. This is the "pull" factor. Also, it is believed that employer willingness to hire undocumented aliens is a cause.

Q: It is charged that undocumented aliens drain our tax dollars through social services.

A: This charge is difficult to document. Undocumented aliens are excluded from coverage under three major public assistance programs by law. These are the Supplemental Security Income for the Aged, Blind and Disabled, Aid to Families with Dependent Children, and Medicaid. Most public assistance programs are required by regulation to have a screening process for citizenship status. This, plus the fact that undocumented aliens tend to shy from exposure and government identification, basically means they are not now a major drain on public assistance programs paid for by taxpayers.

-- End of Text --

GREATER LOS ANGELES COMMUNITY ACTION AGENCY

314 WEST SIXTH STREET • LOS ANGELES, CALIFORNIA 90014 • PHONE 629-5511

MEMORANDUM

To: Inter-Religious Committee on Human Needs/
Community Advocates

From: Jean McDowell, Advocacy Planning Specialist
Fund and Contract Planning Division

Date: May 27, 1977

Subject: Update on Social Issues

ROBERTI HEALTH BILL

Community enthusiasm for SB 660, authored by State Senator David Roberti has cooled because of action taken by the Los Angeles County Board of Supervisors to seek an amendment to the legislation that would limit public input into health cut decisions. The bill provides state funds to counties which agree to maintain the same level of health care to all indigent persons, regardless of residency status.

The proposed amendment would allow counties whose expenditures for health services exceed the previous costs to make cutbacks without notification to the public. Under current legislation, counties must give a 90-day notice, followed by a public hearing. The Los Angeles County recommended amendment would waive this provision in legislation by Senator Anthony Beilenson and allow immediate health cuts. (See enclosed position of the Los Angeles County Democratic Central Committee.)

Community advocates oppose this denial of public participation in decision making on health care and are urging Senator Roberti to keep his bill intact, without amendments.

SB 660, which is currently in the Senate Health and Welfare Committee is expected to be considered next week.

PROPOSED SSI AMENDMENT

Legislation designed to block the unification of elderly immigrants with their families in the United States will be debated on the federal level in early June.

HR 7200, Section 115, an amendment to the Social Security Act, will be heard before the House Ways and Means Committee. The legislation would apply the income resources of a sponsor of a permanent legal resident applying for SSI for a three-year period, regardless of whether those assets are in fact available to the applicant. It is not clear whether the three years begin at the point of visa receipt or the date of application for SSI.

The enclosed memo from Phil Goar, attorney for the National Senior Citizens Law Center, provides details of the proposed legislation and names of legislators to contact.

Key legislators are Representative James Corman of San Fernando Valley, a member of the Subcommittee on Public Assistance who is sensitive to problems of elderly aliens, and Representative Edward Roybal who does not serve on the committee, but responds to the needs of the target community.

STATEWIDE GENERAL ASSISTANCE BILL

Agencies concerned about the plight of adult indigents have supported SB 382, authored by Senator Alfred Alquist, that would provide for the State of California to assume responsibility for general assistance.

This bill has passed the Senate Health and Welfare and Finance committees and could be on the floor of the Senate within the next week. It is strongly supported by the Los Angeles County Board of Supervisors and a wide spectrum of groups, ranging from poverty agencies to property taxpayers associations.

SB 382 would equalize the grant for adult indigents throughout the state, eliminating the inequitable divergency of monies now being paid by counties. Grants now range from $167, given locally, to bus fare to the next county. The legislation also would liberalize the eligibility requirements, removing the dehumanizing aspects of the current county programs by applying AFDC standards.

Previous bills have died in the Assembly due to opposition by Governor Edmund G. Brown, Jr. The Department of Finance has strongly opposed SB 382, using inflated figures as to the estimated cost to the state.

The bill as amended by the Senate Finance Committee would result in a savings for counties of $40 million, with a large percentage allotted to Los Angeles County. It is estimated that the counties now pay $90 million. The statewide program would cost $150 million, of which the state would finance $100 million and the counties would fund the balance of $50 million.

Although there is widespread support for the bill, the governor and legislators have not heard from churches, labor unions, community organizations or individuals.

It is crucial to send letters to Governor Brown and local state senators and assemblymen. Key legislators to contact are Speaker Leo McCarthy and Assemblymen Howard Berman and Alan Sieroty.

This bill is clearly designed to relieve the financial burden of local property taxpayers and we feel that with an anticipated $2.5 billion surplus in the state coffers, the governor should lend his support to the measure, rather than working for its defeat.

PROPOSED LEGISLATION TO GUT VARELA DECISION

Assemblyman Mike Antonovich has again introduced legislation to change the Welfare and Institutions Code, Section 11104, to delete the provisions under which the Varela court decision found that only persons under order of deportation are ineligible for AFDC.

The bill, AB 1093, this week was sent back to the author for amendments by the Assembly Human Resources Committee. There is no designated time for its reconsideration by the committee. A similar bill by Antonovich was defeated in committee due to community mobilization. Members of the Assembly Human Resources Committee are:

Bruce Nestande, chairperson
Maxine Waters, vice-chairperson
Dixon Arnett
Peter Chacon
Bill Lockyer
Hershel Rosenthal
Vincent Thomas

CARTER'S IMMIGRATION REFORM

Leonel Castillo, newly appointed Commissioner of the Immigration and Naturalization Service, has conveyed the concerns raised all over the nation about the administration's plan to propose sanctions against employers who knowingly hire undocumented aliens. As a result, the president's immigration reform plan has been sent back to the drawing board.

Organizations and individuals having concerns about the discriminatory ramifications of the employer sanctions policy should write to Castillo and Stuart Eizenstat, the president's domestic advisor, in Washington, D.C. to relay this apprehension.

It is important to stress that an amnesty should not be a trade-off for an unenforceable policy to penalize employers for not performing a service for which they are not equipped and which could lead to a policy to exclude applicants with a foreign appearance or difficulty with the English language from the work force.

See the enclosed magazine article which relates an experience with amnesty in Australia.

IMPORTANT DATES TO REMEMBER!!

Public Hearing, RTD Proposed Bus Fare Hikes
June 2, 1977 1:00 p.m.
425 South Main Street
Los Angeles

RTD proposes to increase monthly bus pass fares from $4 to $8 for senior citizens and handicapped persons and from $14 to $16 for other passengers.

Immigration Coalition Meeting
June 7, 1977 10:00 a.m.
International Institute
435 South Boyle Street
Los Angeles

Agenda Items:

1. County Health Cuts
2. Legislative Concerns
3. Anti-defamation Issues

Public Hearing, Proposed Health Cuts
June 13, 1977 9:30 a.m.
Board of Supervisors Hearing Room
Corner of Temple and Grand
Los Angeles

The Human Services Coalition is mobilizing a community protest to these cutbacks and needs widespread support. Enclosed is a flyer with a list of proposed cutbacks.

The public hearing is being conducted in accordance with the Beilenson legislation that the County is attempting to waive in conjunction with the Roberti bill.

ATTACHMENT #3

EMBARGOED FOR RELEASE
AFTER THE BRIEFING

AUGUST 4, 1977

Office of the White House Press Secretary

THE WHITE HOUSE

TO THE CONGRESS OF THE UNITED STATES:

I am proposing to Congress today a set of actions to help markedly reduce the increasing flow of undocumented aliens in this country and to regulate the presence of the millions of undocumented aliens already here.

These proposed actions are based on the results of a thorough Cabinet-level study and on the groundwork which has been laid, since the beginning of the decade, by Congressmen Rodino and Eilberg and Senators Eastland and Kennedy. These actions will:

- Make unlawful the hiring of undocumented aliens, with enforcement by the Justice Department against those employers who engage in a "pattern or practice" of such hiring. Penalties would be civil -- injunctions and fines of $1000 per undocumented alien hired. Criminal penalties could be imposed by the courts against employers violating injunctions. Moreover, employers, and others, receiving compensation for knowingly assisting an undocumented alien obtain or retain a job would also be subject to criminal penalties.

- Increase significantly the enforcement of the Fair Labor Standards Act and the Federal Farm Labor Contractor Registration Act, targeted to areas where heavy undocumented alien hirings occur.

- Adjust the immigration status of undocumented aliens who have resided in the U.S. continuously from before January 1, 1970 to the present and who apply with the Immigration and Naturalization Service (INS) for permanent resident alien status; create a new immigration category of temporary resident alien for undocumented aliens who have resided in the U.S. continuously prior to January 1, 1977; make no status change and enforce the immigration law against those undocumented aliens entering the U.S. after January 1, 1977.

- Substantially increase resources available to control the Southern border, and other entry points, in order to prevent illegal immigration.

- Promote continued cooperation with the governments which are major sources of undocumented aliens, in an effort to improve their economies and their controls over alien smuggling rings.

Each of these actions will play a distinct, but closely related, role in helping to solve one of our most complex domestic problems: In the last several years, millions of undocumented aliens have illegally immigrated to the United States. They have breached our nation's immigration laws, displaced many American citizens from jobs, and placed an increased financial burden on many states and local governments.

more

The set of actions I am proposing cannot solve this enormous problem overnight, but they will signal the beginning of an effective Federal response. My Administration is strongly committed to aggressive and comprehensive steps toward resolving this problem, and I am therefore proposing the following actions:

EMPLOYER SANCTIONS

The principal attraction of the United States for undocumented aliens is economic -- the opportunity to obtain a job paying considerably more than any available in their own countries. If that opportunity is severely restricted, I am convinced that far fewer aliens will attempt illegal entry.

I am therefore proposing that Congress make unlawful the hiring by any employer of any undocumented alien. This employment bar would be implemented in the following way:

- Enforcement would be sought against those employers who engage in a "pattern or practice" of hiring undocumented aliens, with the Justice Department setting priorities for enforcement.

- Penalties for violation of the employment bar would be both injunctive relief and stiff civil fines -- a maximum of $1,000 for each undocumented alien hired by an employer. A violation of a court injunction would subject an employer to a potential criminal contempt citation and imprisonment.

- An employer would be entitled to defend any charge of hiring an undocumented alien by proving that a prospective employee's documentation of legal residence, as designated by the Attorney General in regulations, was seen prior to employment.

- The Social Security card would be designated as one of the authorized identification documents; and we will accelerate the steps already being taken to make certain that such cards are issued, as the law now mandates, only to legal residents. Those steps include requiring personal interviews of card applicants and making the cards more difficult to forge. But no steps would be taken to make the Social Security card, or any other card, a national identification document.

- To further restrict job opportunities, criminal sanctions would be imposed on those persons who receive compensation for knowingly assisting an undocumented alien obtain or retain employment, or who knowingly contract with such persons for the employment of undocumented aliens. These sanctions are directed at the substantial number of individuals who broker jobs for undocumented aliens or act as agents for alien smugglers. It is <u>not</u> directed at those who inadvertently refer an undocumented alien to a job, such as an employment agency or a union hiring hall.

To make certain that all of these new sanctions are uniformly applied, they would pre-empt any existing state sanctions.

In addition to the creation of these new sanctions, efforts to increase enforcement of existing sanctions will be significantly increased. The Fair Labor Standards Act, which mandates payment of the minimum wage and provides other employee protections, would not only be strictly enforced, but its existing civil and criminal penalties would be sought much more frequently by the government. To date, the inability of the government to enforce fully this Act, due in part to a lack of resources, has resulted in the hiring of undocumented aliens at sub-minimum wages, thereby often displacing American workers. Two hundred sixty new inspectors will be hired and targeted to areas of heavy undocumented alien employment. Similarly, the Federal Farm Labor Contractor Registration Act, which prohibits the recruiting and hiring of undocumented aliens for farm work, would be tightly enforced. The Departments of Justice and Labor will work closely in exchanging information developed in their separate enforcement activities.

While I believe that both the new and existing employer sanctions, and their strict enforcement, are required to control the employment of undocumented aliens, the possibility that these sanctions might lead employers to discriminate against Mexican-American citizens and legal residents, as well as other ethnic Americans, would be intolerable. The proposed employer sanctions have been designed, with their general reliance on civil penalties and "pattern or practice" enforcement, to minimize any cause for discrimination. However, to prevent any discriminatory hiring, the federal civil rights agencies will be charged with making much greater efforts to ensure that existing anti-discrimination laws are fully enforced.

BORDER ENFORCEMENT

The proposed employer sanctions will not, by themselves, be enough to stop the entry of undocumented aliens. Measures must also be taken to significantly increase existing border enforcement efforts. While our borders cannot realistically be made impenetrable to illegal entry, greater enforcement efforts clearly are possible, consistent with preserving both the longest "open" borders in the world and our humanitarian traditions.

I am proposing to take the following increased enforcement measures, most of which will require Congressional approval for the necessary additional resources:

- Enforcement resources at the border will be increased substantially and will be reorganized to ensure greater effectiveness. The exact nature of the reorganization, as well as the amount of additional enforcement personnel, will be determined after the completion in September of our ongoing border enforcement studies. It is very likely, though, that a minimum of 2000 additional enforcement personnel will be placed on the Mexican border.

- INS will shift a significant number of enforcement personnel to border areas having the highest reported rates of undocumented alien entry.

- An anti-smuggling Task Force will be established in order to seek ways to reduce the number and effectiveness of the smuggling rings which, by obtaining forged documents and providing transportation, systematically smuggle a substantial percentage of the undocumented aliens entering the country. The U.S. Attorneys will be instructed to give high priority to prosecuting individuals involved in alien smuggling.

- The State Department will increase its visa issuance resources abroad to ensure that foreign citizens attempting to enter this country will be doing so within the requirements of the immigration laws.

- Passage will be sought of pending legislation to impose criminal sanctions on those who knowingly use false information to obtain identifiers issued by our Government, or who knowingly use fraudulent Government documents to obtain legitimate Government documents.

- The State Department will consult with countries which are the sources of significant numbers of undocumented aliens about cooperative border enforcement and anti-smuggling efforts.

COOPERATION WITH SOURCE COUNTRIES

The proposed employer sanctions and border enforcement will clearly discourage a significant percentage of those who would otherwise attempt to enter or remain in the U.S. illegally. However, as long as jobs are available here but not easily available in countries which have been the source of most undocumented aliens, many citizens of those countries will ignore whatever barriers to entry and employment we erect. An effective policy to control illegal immigration must include the development of a strong economy in each source country.

Unfortunately, this objective may be difficult to achieve within the near future. The economies of most of the source countries are still not sufficiently developed to produce, even with significant U.S. aid, enough jobs over the short-term to match their rapidly growing workforce.

Over the longer-term, however, I believe that marked improvements in source countries' economies are achieveable by their own efforts with support from the United States. I welcome the economic development efforts now being made by the dynamic and competent leaders of Mexico. To further efforts such as those, the United States is committed to helping source countries obtain assistance appropriate to their own economic needs. I will explore with source countries means of providing such assistance. In some cases this will mean bilateral or multilateral economic assistance. In others, it will involve technical assistance, encouragement of private financing and enhanced trade, or population programs.

ADJUSTMENT OF STATUS

The fact that there are millions of undocumented aliens already residing in this country presents one of the most difficult questions surrounding the aliens phenomenon. These aliens entered the U.S. illegally and have willfully remained here in violation of the immigration laws. On the other hand, many of them have been law-abiding residents who are looking for a new life and are productive members of their communities.

I have concluded that an adjustment of status is necessary to avoid having a permanent "underclass" of millions of persons who have not been and cannot practicably be deported, and who would continue living here in perpetual fear of immigration authorities, the local police, employers and neighbors. Their entire existence would continue to be predicated on staying outside the reach of government authorities and the law's protections.

I therefore recommend the following adjustments of status:

First, I propose that permanent resident alien status be granted to all undocumented aliens who have resided continuously in the U.S. from before January 1, 1970 to the present. These aliens would have to apply for this status and provide normal documentary proof of continuous residency. If residency is maintained, U.S. citizenship could be sought five years after the granting of permanent status, as provided in existing immigration laws.

The permanent resident alien status would be granted through an update of the registry provisions of the Immigration and Nationality Act. The registry statute has been updated three times since 1929, with the last update in 1965, when permanent resident alien status was granted to those who had resided here prior to 1948.

Second, all undocumented aliens, including those (other than exchange and student visitors) with expired visas, who were residing in the United States on or before January 1, 1977 will be eligible for a temporary resident alien status for five years.

Those eligible would be granted the temporary status only after registering with INS; registration would be permitted solely during a one-year period. Aliens granted temporary status would be entitled to reside legally in the United States for a five-year period.

The purpose of granting a temporary status is to preserve a decision on the final status of these undocumented aliens, until much more precise information about their number, location, family size and economic situation can be collected and reviewed. That information would be obtained through the registration process. A decision on their final status would be made sometime after the completion of the registration process and before the expiration of the five-year period.

Temporary resident aliens would not have the right to vote, to run for public office or to serve on juries; nor would they be entitled to bring members of their families into the U.S. But they could leave and re-enter this country, and they could seek employment, under the same rules as permanent resident aliens.

more

(OVER)

Unlike permanent resident aliens, temporary resident aliens would be ineligible to receive such Federal social services as Medicaid, Food Stamps, Aid to Families with Dependent Children, and Supplemental Security Income. However, the allocation formulas for Revenue Sharing, which are based on population, would be adjusted to reflect the presence of temporary resident aliens. The adjustment would compensate states and local communities for the fact that some of these residents -- undocumented aliens -- are currently not included in the Census Bureau's population counts. That undercount deprives certain states and communities of Revenue Sharing funds which, if Census figures were completely accurate, would be received and used to defray certain expenses caused by the presence of undocumented aliens. Those receiving adjustments of status through the actions I am proposing would be included in the 1980 Census, so that the allocation charges would have to be made only through 1980.

Third, for those undocumented aliens who entered the United States after January 1, 1977, there would be no adjustment of status. The immigration laws would still be enforced against these undocumented aliens. Similarly, those undocumented aliens, who are eligible for adjustment of status, but do not apply, would continue to have the immigration laws enforced against them.

In addition, the INS would expedite its handling of the substantial backlog of adjustment of status applications from those aliens entitled to an adjustment under existing law.

Finally, those persons who would be eligible for an adjustment of status under these proposals must not be ineligible under other provisions of the immigration laws.

TEMPORARY FOREIGN WORKERS

As part of these efforts to control the problem of undocumented aliens, I am asking the Secretary of Labor to conduct, in consultation with the Congress and other interested parties, a comprehensive review of the current temporary foreign worker (H-2) certification program. I believe it is possible to structure this program so that it responds to the legitimate needs of both employees, by protecting domestic employment opportunities, and of employers, by providing a needed workforce. However, I am not considering the reintroduction of a bracero-type program for the importation of temporary workers.

IMMIGRATION POLICY

Our present immigration statutes are in need of a comprehensive review. I am therefore directing the Secretary of State, the Attorney General, and the Secretary of Labor to begin a comprehensive interagency study of our existing immigration laws and policies.

more

In the interim, I am supporting pending legislation to increase the annual limitation on legal Mexican and Canadian immigration to a total of 50,000, allocated between them according to demand. This legislation will help provide an incentive to legal immigration.

I urge the Congress to consider promptly, and to pass, the legislation I will submit containing the proposals described in this Message.

JIMMY CARTER

THE WHITE HOUSE,

August 4, 1977

# # # #

RESEARCH

CARTER PLAN

OFFICE OF THE ATT. GEN.

ILLEGAL IMMIGRATION:

PRESIDENTS'S
PROGRAM
AUG 4 1977

SOURCE: [illegible]
CHICANO FED.

Office of the Attorney General
Washington, D. C. 20530

ILLEGAL IMMIGRATION: PRESIDENT'S PROGRAM

On August 4, 1977, President Carter proposed, in a message to Congress, a comprehensive set of actions directed at significantly reducing the flow of undocumented aliens to the United States and adjusting the status of those already here. The program consists of both administrative actions already underway and new legislation presently before the Congress.

The issue of illegal immigration is complex. The attached packet should be of assistance in understanding the President's program. It includes four papers:

-- Analysis of the Issues

-- Summary of Proposals

-- The Policy Proposals

-- Questions and Answers

Attachments

February, 1978

ILLEGAL IMMIGRATION: PRESIDENT'S PROGRAM

Analysis of the Issues

Over the past decade, millions of people have migrated to the United States illegally. They enter in two ways: (1) through ports of entry with documents; or (2) between ports of entry surreptitiously, without documents. Those with documents (visas) may have obtained them properly and subsequently violated the terms, e.g., overstaying the time specified. Or they may have entered with fraudulent documents. Generally, those who enter without documents are from Mexico. They walk across our common 2000-mile border by themselves or with the help of smugglers (coyotes) whose trade is thriving.

Historically, Mexico has been and remains the major source (about 60 percent) of unlawful entrants to the United States. However, illegal immigration presently involves many nations and includes significant numbers who enter with documents through ports. The major source countries of illegal immigration, in addition to Mexico, include the Dominican Republic, Haiti, Jamaica, Guatemala, Colombia, Peru, Ecuador, the Philippines, Korea, Thailand, Greece, India, Iran and Nigeria. With few exceptions, these predominantly Latin American and Asian countries also provide the major share of illegal immigrants to the United States today.

Causes of Illegal Immigration

Illegal immigration source countries have similar characteristics in several important respects. These characteristics combine to create strong push forces which are met by equally strong pull forces in the United States. The result is migration outside the limits specified by U.S. immigration law.

The composite picture of sending nations is one of depressed economic conditions for the majority of large-scale internal rural to urban migration. The economies are rapidly expanding but unable to provide adequate employment to meet even more rapid population growth. These are not the poorest nations of the world but they are nonetheless unable to provide adequate jobs for their people. The average rural wage in areas of out-migration is 10 percent that for the lowest paid U.S. workers.

Pull forces in the United States are likewise economic and are rooted in the disparity between the developed and less developed nations in the world. Lower paying, low status or disagreeable jobs in the United States are sought by workers from other countries and United States employers are anxious to hire unskilled foreign labor because it is cheap and industrious. It is against the law to be in the United States illegally; it is not against the law to hire those who are here illegally. The absence of penalties against those who employ undocumented aliens and the resulting availability of work for those who wish to improve their circumstances create the incentive or pull forces for migration. Furthermore, the heterogeneity of the United States population makes it relatively easy to find acceptance given cultural and historical affinity between the United States and most sending nations.

There is no evidence to indicate that these underlying push-pull forces will diminish unless strong steps are taken to redirect them.

Numbers

Estimates of the numbers of undocumented aliens in the United States have varied widely and have often been highly irresponsible. The most reliable recent estimates and those being used for policy and planning purposes are based on analysis of population, census, and labor force data of source countries. They are as follows:

-- Three to five million illegal immigrants of all nationalities reside in the United States. This number is growing at a rate of about 500,000 per year.

-- Approximately 60 percent of this group is Mexican despite the fact that over 90 percent of aliens apprehended are Mexican. Apprehension figures reflect the concentration of enforcement resources on the Southwest border rather than the proportion of Mexican undocumented aliens in the population.

-- About one-third of the Mexicans who enter illegally take up permanent residence in the United States. The remainder travel back and forth between our countries, maintaining homes and families in Mexico, with average stays of six months.

-- The majority of aliens from countries other than Mexico who are illegally in the United States generally settle here permanently.

-- In 1977 the unlawful flow of people from Mexico increased sharply (double) due to Mexico's recession and 45 percent devaluation of the peso which increased the wage differences between our countries. It should recede somewhat as the Mexican economy revives.

The Impact of Illegal Immigration in the United States

Traditionally illegal Mexican migration has been localized in the Southwest. In recent years it has spread far from the border into large cities -- Chicago, Denver, Detroit, Kansas City -- and the major industrial centers of the Northeast. Here it has been significantly augmented by migration from countries other than Mexico, a phenomenon of much more recent origins which gives rise to a more complicated picture.

The major domestic impact of illegal immigration is in the labor market. Undocumented workers compete very effectively with native workers, particularly with the minimally skilled and underemployed, because they work "scared and hard." As illegal workers are used, wages and working conditions become depressed and job situations are created that discourage domestic workers from accepting certain jobs. This leads to the frequently heard complaint that "no Americans will take these jobs." The resultant inability to recruit leads to continued dependence on foreign workers despite a possible oversupply of domestic workers. Certain sectors of our economy and geographical areas are already enmeshed in this self-perpetuating process.

The precise degree to which undocumented workers are displacing native workers is not and may never be known. However, the trend is clear and provides sufficient cause to act.

Beyond the labor market impact, which is the most important, there are other effects. During the initial stages of migration, mostly single, young males settle in the host country. Through work, they contribute much and require little from the host society. Over time, these young workers tend to be joined by their families or form families

here. It is with the formation of families that a broader array of impacts -- education, health care, housing, for example -- become evident. Widely conflicting claims of such impacts are likely to be true to varying degrees as different groups are in different stages of the settlement process in different parts of the country.

In the [illegible] sense, the settling in of substantial numbers of undocumented aliens creates an underclass -- communities of individuals whose very existence depends on evading contact with the law or government. Such groups cannot be protected from abuse and do not assert any legal or political rights. The formation and perpetuation of an underclass has extremely negative long-range implications particularly in the area of civil rights and unemployment.

ILLEGAL IMMIGRATION -- SUMMARY OF PROPOSALS

ISSUE	ADMINISTRATIVE ACTION	PROPOSED LEGISLATION
Employers	1. Fair Labor Standards Act (FLSA)-minimum wage -- Increase and target enforcement 2. Fair Labor Contractor Registration Act -- Increase and target enforcement	1. Sanction making it unlawful to employ undocumented aliens -- pattern or practice enforcement -- civil fine of $1000/alien -- defense: showing of identification document specified in AG regulations -- tighten Social Security card issuance -- 260 FLSA inspectors
Border Enforcement	1. Reorganization study 2. Shift and concentrate resources at high-entry points 3. Anti-smuggling task forces and prosecutions 4. Seek cooperation from other countries	1. Increase overseas visa issuance resources 2. Criminal penalty for fraudulently obtaining government identifiers 3. 2000 additional personnel by FY 1980
Adjustment of Status	1. Clear INS backlog 2. Adjust revenue sharing formulas for state and local governments	1. Grant two types of adjustment of status during a one-year registration period -- permanent resident alien status for those here prior to January 1970 -- temporary resident status for those here prior to January 1, 1977 (good for five years)

ISSUE	ADMINISTRATIVE ACTION	PROPOSED LEGISLATION
Source Countries	1. U.S. assistance to improve economies -- trade -- technology -- population programs 2. World Bank, Inter-American Development Bank rural development projects	
Temporary Foreign Workers	1. Secretary of Labor review of existing H-2 program 2. No new worker program	
Immigration Policy	1. Directive to AG, Secretaries of Labor and State to review current law and policy	1. Cranston bill to combine Mexican and Canadian immigration and raise from 40,000 to 50,000/ year.

February, 1978

ILLEGAL IMMIGRATION: PRESIDENT'S PROGRAM

Policy Proposals

At the first Cabinet meeting of the Carter Administration, well before inauguration day, the President-elect requested proposals to meet the problem of illegal immigration. He asked the Attorney General to head a task force composed of the Departments of Labor, State, Justice and HEW for that purpose.

The task force first reported to the President four months later, in April, 1977, with a comprehensive set of options. In this and several subsequent meetings the President requested and heard the range of views and analyses of the issues. The options were sharpened and additional ideas were researched at his direction. At the same time, meetings and discussions were held with interest groups and affected parties within and outside government. The results were reported to him and used to recast the proposals in several important respects.

The policy which emerged drew upon many assumptions and views; principally, however, it is a statement of the choices and ideas of the President himself. Formally announced on August 4, 1977, in a Message to the Congress, it includes both administrative directives and legislative proposals. The legislation is presently under consideration by the Congress (Judiciary Committees) and is called the Alien Adjustment and Employment Act of 1977, S.2252 and H.R. 9531.

The program is based on two primary assumptions:

-- There is no single solution to the problem of illegal immigration. Rather we must undertake a combination of related actions both within the United States and in other countries.

-- The problem is an outgrowth of stubborn social and economic forces and can therefore not be eliminated overnight. However, we must take steps now to establish control and prevent the growth of more serious problems in the future.

Overview

In brief, the major features of the program are:

-- Make unlawful the hiring of undocumented aliens, with enforcement by the Justice Department against those employers who engage in a "pattern or practice" of such hiring. Penalties would be civil -- injunctions and fines of $1000 per undocumented alien hired. Criminal penalties could be imposed by the courts against employers violating injunctions. Moreover, employers and others, receiving compensation for knowingly assisting an undocumented alien obtain or retain a job would also be subject to criminal penalties.

-- Increase significantly the enforcement of the Fair Labor Standards Act and the Federal Farm Labor Contractor Registration Act, targeted to areas where heavy undocumented alien hirings occur.

-- Adjust the immigration status of undocumented aliens who have resided in the United States continuously from before January 1, 1970 to the present and who apply to the Immigration and Naturalization Service (INS) for permanent resident alien status; create a new immigration category of temporary resident alien for undocumented aliens who have resided in the United States continuously prior to January 1, 1977; make no status change and enforce the immigration law against those undocumented aliens entering the United States after January 1, 1977.

-- Substantially increase resources available to control the Southern border, and other entry points, in order to prevent further illegal immigration and control alien smuggling rings.

-- Promote continued cooperation with the governments which are major sources of undocumented aliens, in an effort to improve their economies and their employment opportunities.

Detailed Discussion

The program consists of six major elements:

1. The Employer

The principal attraction of the United States for undocumented aliens is economic -- the availability of jobs that pay considerably more than any available in the home countries. To restrict that opportunity is to limit the flow of individuals who attempt illegal entry. The first step in this regard will be to increase enforcement of two existing laws, the Fair Labor Standards Act (minimum wage) and the Farm Labor Contractor Registration Act. To date the inability of the government to enforce fully these acts, due in part to lack of resources, has resulted in the hiring of undocumented aliens at substandard wages thereby displacing American workers.

-- The Fair Labor Standards Act, which mandates payment of the minimum wage and provides other employee protections, will be strictly enforced. Its existing civil and criminal penalties will be sought much more frequently by the government. Two hundred sixty new inspectors will be hired and targeted to areas of heavy undocumented alien employment.

-- The Federal Farm Labor Contractor Registration Act, which prohibits the recruiting and hiring of undocumented aliens for farm work, will be more tightly enforced. The Departments of Justice and Labor will work closely in exchanging information developed in their separate enforcement activities

However, existing laws alone are insufficient because the ability to hire undocumented workers without penalty, the basic pull factor, would remain. Therefore, the President has proposed new legislation to make it unlawful for employers to hire undocumented aliens. This employment bar would be implemented in the following manner:

-- Enforcement would be sought against those employers who engage in a "pattern or practice" of hiring undocumented aliens, with the Justice Department setting priorities for enforcement.

-- Penalties for violation of the employment bar would be both injunctive relief and stiff civil fines -- a maximum of $1,000 for each undocumented alien

hired by an employer. A violation of a court injunction would subject an employer to a potential criminal contempt citation and imprisonment.

-- An employer would be entitled to defend any charge of hiring an undocumented alien by proving that a prospective employee's documentation of legal residence, as designated by the Attorney General in regulations, was seen prior to employment.

-- The Social Security card would be designated as one of the authorized identification documents. Steps already being taken to make certain such cards are issued, as the law now mandates, only to legal residents will be accelerated. Those steps include requiring personal interviews of card applicants and making the cards more difficult to forge. But no steps would be taken to make the Social Security card or any other card, a national identification document.

-- Criminal sanctions would be imposed on those persons who receive compensation for knowingly assisting an undocumented alien to obtain or retain employment, or who knowingly contract with such persons for the employment of undocumented aliens. These sanctions are directed at the substantial number of individuals who broker jobs for undocumented aliens or act as agents for alien smugglers. They are not directed at those who inadvertently refer an undocumented alien to a job, such as an employment agency or a union hiring hall.

To make certain that all of these new sanctions are uniformly applied, they would preempt any existing state sanctions.

The possibility that these sanctions might lead employers to discriminate against Hispanic American citizens and legal residents, as well as other ethnic Americans, would be intolerable. The proposed employer sanctions have been designed, with their general reliance on civil penalties and "pattern or practice" enforcement, to minimize any cause for discrimination. In addition, to prevent any discriminatory hiring, the federal civil rights agencies have been charged with making much greater efforts to ensure that existing anti-discrimination laws are fully enforced.

Employer sanctions will not, by themselves, be enough to stop the entry of undocumented aliens. Measures must also be taken to increase existing border enforcement efforts. The border means both land and air ports of entry as well as those land and sea areas between authorized points of entry. While our borders cannot realistically be made impenetrable to illegal entry, greater enforcement efforts clearly are possible, consistent with preserving both the longest "open" borders in the world and our humanitarian traditions. Our enforcement strategy is one of prevention of entry of large numbers of new undocumented aliens.

The following increased enforcement measures are proposed. Some will require Congressional approval for the necessary additional resources:

-- Enforcement resources at the border will be increased substantially and will be reorganized to ensure greater effectiveness. The exact nature of the reorganization, as well as the amount of additional enforcement personnel, will be determined after the completion of border enforcement studies. It is very likely, though, that a minimum of 2000 additional enforcement personnel will be added to our enforcement programs by FY 1980.

-- INS has shifted a significant number of enforcement personnel to border areas having the highest reported rates of undocumented alien entry.

-- Anti-smuggling task forces are being established in order to seek ways to reduce the number and effectiveness of the smuggling rings which, by obtaining forged documents and providing transportation, systematically smuggle a substantial percentage of the undocumented aliens entering the country. The United States Attorneys have been instructed to give high priority to prosecuting individuals involved in alien smuggling.

-- The State Department will increase its visa issuance resources abroad to ensure that foreign citizens attempting to enter this country will be doing so within the requirements of the immigration laws.

-- Passage is being sought of pending legislation to impose criminal sanctions on those who knowingly

use false information to obtain identifiers issued by our Government, or who knowingly use fraudulent Government documents to obtain legitimate Government documents.

-- The State Department is consulting with countries which are the sources of significant numbers of undocumented aliens about cooperative border enforcement and anti-smuggling efforts.

2. Adjustment of Status for Undocumented Aliens in the United States

Although prevention of future entries is the cornerstone of our enforcement effort, we are faced with the fact that millions of undocumented aliens already reside in this country. This situation presents one of the most difficult questions surrounding the alien phenomenon. These aliens entered the United States illegally and have willfully remained here in violation of our immigration laws. On the other hand, many of them have been law-abiding residents seeking a new life and are productive members of their communities.

The President concluded that an adjustment of status is necessary to avoid having a permanent underclass of millions of persons who have not been and cannot practicably be deported, but who would continue living here in perpetual fear of immigration authorities, the local police, employers and neighbors. Their entire existence would continue to be predicated on staying outside the reach of government authorities and the protections of the law.

This part of the program is often termed the "amnesty" portion. The President rejected an amnesty, i.e., blanket forgiveness, in favor of an adjustment of status for the majority of those currently in the United States. The adjustment would be determined on a case-by-case basis and the legal status would depend on the length of time in the United States as follows:

-- Permanent resident alien status would be granted to undocumented aliens who have resided continuously in the United States from before January 1, 1970 to the present. These aliens would have to apply for this status and provide normal documentary proof

of continuous residency. United States citizenship could be sought five years after the granting of permanent status, as provided in existing immigration laws.

-- A new status, that of temporary resident alien, would be available for all undocumented aliens, including those (other than exchange and student visitors) with expired visas, who were residing in the United States on or before January 1, 1977. Those eligible would be granted the temporary status only after registering with INS; registration would be permitted solely during a one-year period. Aliens granted temporary status would be entitled to reside legally in the United States for a five-year period. Those undocumented aliens who entered the United States after January 1, 1977, would be ineligible for an adjustment of status. Similarly, those eligible for adjustment who do not apply would continue to be subject to deportation.

The first stage of relief, permanent resident alien status, is a feature of current immigration law. It would be granted through an update of the registry provisions of the Immigration and Nationality Act. The registry statute has been updated three times since 1929, with the last update in 1965, when permanent resident alien status was granted to those who had resided here prior to 1948.

The second stage of relief, that of temporary resident, was developed to preserve a decision on the final status of the majority of undocumented aliens, until more precise information about their number, location, family size and economic situation can be collected and reviewed. That information would be obtained through the registration process. A decision on their final status would be made sometime after the completion of the registration process and before the expiration of the five-year period.

Temporary resident aliens would not have the right to vote, to run for public office or to serve on juries; nor would they be entitled to bring members of their families into the United States. But they could leave and reenter this country, and they could seek employment, under the same rules as permanent resident aliens.

Unlike permanent resident aliens, temporary resident aliens would be ineligible to receive such Federal

social services as Medicaid, food stamps, aid to families with dependent children, and supplemental security income. However, the allocation formulas for revenue sharing, which are based on population, would be adjusted to reflect the presence of temporary resident aliens. The adjusted formulas would compensate states and local communities for the fact that some residents -- undocumented aliens -- are currently not included in their population counts. That undercount deprives them of revenue sharing funds which would defray expenses caused by the presence of undocumented aliens. Those receiving adjustments of status would be included in the 1980 Census, so that allocation changes would only have to be made through 1980.

In addition, the INS is eliminating its substantial backlog of applications in order to handle this program.

Those persons who would be eligible for an adjustment of status under these proposals must not be ineligible under other provisions of the immigration laws.

4. Source Countries

The proposed employer penalties and lighter border enforcement will discourage a significant percentage of those who would otherwise attempt to enter or remain in the United States illegally. However, as long as jobs are available here but not easily available in countries which have been the source of most undocumented aliens, many citizens of those countries will ignore whatever barriers to entry and employment we erect. An effective policy to control illegal immigration must include the development of a strong economy in each source country.

Unfortunately, this objective is difficult to achieve in the near future. The economies of most source countries still cannot produce, even with significant United States aid, enough jobs over the short term to match their rapidly growing workforces.

Over the longer term, however, marked improvements are achievable. Economic development efforts now being made by the dynamic and competent leaders of Mexico are impressive. To further efforts such as those, the United States is committed to helping source countries obtain assistance appropriate to their own economic needs. We are exploring with source countries means of providing

such assistance. In some cases this means bilateral or multilateral economic assistance. In others, it involves technical assistance, encouragement of private financing, increased trade, or population programs. Both the World Bank and the Inter-American Development Bank are prepared to increase significantly rural development efforts in source countries in accordance with the commitment by these countries to confront the problem of migration as a matter of high priority.

Temporary Foreign Workers

Current immigration law provides for the importation of temporary foreign workers when employers can show that domestic workers are unavailable. This program, known as the (H-2) certification program, is administered by the Department of Labor. At the President's request the Secretary of Labor will conduct, in consultation with Congress and others, a thorough review of this program. The objective is to structure the program so that it responds to the legitimate needs of employers for a needed work force and of American workers for protection of domestic employment opportunities.

Immigration Policy

The Administration is supporting pending legislation introduced by Senator Cranston to raise the annual 20,000 person per-country limit on immigration from Mexico and Canada to a combined total of 50,000 for both countries. Since Canada uses only about 8000 of its 20,000 number, this would more than double the numbers available to Mexico. This responds to the heavy demand in Mexico and encourages legal immigration.

In addition, the Attorney General and the Secretaries of Labor and State have been directed to begin a comprehensive interagency study of existing immigration law and policy. This is in recognition of the need to evaluate and reformulate existing statutes for the future.

ILLEGAL IMMIGRATION: PRESIDENT'S PROGRAM

Questions and Answers

The President's Program covers six areas: employer penalties, border enforcement, adjustment of status for those in the United States, source countries, temporary workers, and immigration policy. Since announcement of the program, there has been extensive comment in the press and by some of the affected parties. The following is a compilation of answers to the most frequently stated criticisms and questions about the program.

Employer Penalties

Q. Making it unlawful to hire undocumented aliens will simply increase employment discrimination against foreign-looking people, especially Hispanics. What will be done to prevent such discrimination?

A. The Administration was extremely sensitive to this aspect of employer penalty legislation and revised several proposals to minimize the potential for discrimination. As a result, enforcement will be by "pattern or practice" to limit it to willful violators. The Attorney General will specify in regulations what documents are to be used as acceptable identifiers of legal status for employment eligibility. When any one is presented, it would be sufficient evidence of eligibility to work. This method of establishing employment rights will minimize the potential for employment discrimination because it is based on the use of familiar documents rather than on an employer's subjective judgments regarding skin color, accent, national origin, etc. Employers will be able to defend against charges of hiring undocumented aliens by showing that they requested and saw one of the specified identifiers prior to hiring. Most employers already follow such procedures in their hiring.

Despite these safeguards, the potential for employment discrimination remains. Therefore, the President has ordered increased attention by federal civil rights agencies. Federal civil rights enforcement machinery and programs are being reorganized and a recent Civil

Rights Commission report judged efforts against discrimination to be improving under this Administration for the first time in recent years.

Q. What identifiers would be authorized?

A. Examples are driver's licenses in states where birth certificates are required to obtain them; birth/baptismal certificates; passports; immigration documents; documents to be issued to those registering for temporary resident status; and social security cards.

Q. Many of these documents, especially social security cards, can be forged. How can employers be sure?

A. Employers will only be required to request evidence of legal status. They will not be required to verify the identifier shown them. In the case of fraudulent documents, the legislation includes penalties against those who forge or obtain fraudulent government documents. In addition, tightening of social security card issuance procedures is underway. Applicants will soon have to appear in person for an in-depth interview and present verification of legal status to get cards. In addition, a major research effort is underway to assess the possibility of developing a more secure Social Security card.

Q. Doesn't this law simply make employers do the government's job of enforcing immigration laws?

A. The proposal does not make a policeman of an employer and no additional reporting or recordkeeping is required. He is simply asked to check legal status as he currently must with regard to IRS withholding, minimum wage and similar provisions of law. Leading businesses and labor executives (Labor-Management Group; Coordinator: John T. Dunlop, former Secretary of Labor) support a general identification system. A recent Gallup poll showed 72 percent of respondents favored employer penalty legislation and 65 percent favored use of a card, such as the Social Security card, for job entitlement.

Q. Can employer penalties be effective without a national identification card system?

A. A universal I.D. would insure equal treatment of all job applicants and solve the problem of forged documents. It would also be very costly and raise profound civil liberties issues. Therefore, it is not being proposed at this time.

Q. Requiring proof of legal status to obtain work takes us one step closer to becoming a police state. Why does the government want to regulate more of our lives?

A. Showing evidence of legal status to obtain work is not a radical departure. For most workers, a social security number is already essential in order to hold a job. Prospective employers must under current law submit similar information for tax withholding, insurance, retirement and related purposes. In all Western democracies but the U.S. work permits are required and used successfully without abuse. The President's proposal is a protective device for workers and employers, not a needless harrassment.

Q. Are civil penalties adequate to discourage employers who benefit from illegal labor?

A. Most employers will comply voluntarily simply because it would be the law. However, penalties have to be sufficiently strong to be effective. The bill provides for a fine of $1,000 for each undocumented alien involved. Such a penalty would be a substantial deterrent, particularly since employers of undocumented aliens are likely to have a proportionately large illegal work force. Recent experience involving enforcement of the Farm Labor Contractor Registration Act, which makes it unlawful for agricultural employers using labor contractors to hire illegal aliens and which calls for a fine of $400 for each undocumented worker, has been encouraging in that the numbers of apprehensions of undocumented workers are down in areas targeted for increased enforcement indicating increased compliance.

The bill also provides for injunctive relief in addition to fines. Thus, the bill avoids the expenses and complexities involved in setting up administrative procedures for the issuance of citations which would probably have to precede any type of criminal sanction. Injunctive relief would go to the heart of the problem and prohibit the employment of undocumented aliens. An employer who violated an injunction could be subject to imprisonment for contempt of court.

Some have advocated the use of criminal penalties against employers of undocumented aliens. However, criminal penalties are not as likely to be enforced as civil penalties simply because judges and juries may well be reluctant to impose the more severe criminal penalties on employers for this type of immigration violation. Moreover, federal criminal dockets are already overcrowded, and the use of criminal penalties would be less effective because it would result in protracted and costly court cases.

Border Enforcement

Q. Isn't increasing border resources simply an anti-Mexico move intended to close the border and hurt Mexican-Americans living in the area?

A. The strategy behind increased border enforcement is to prevent the future entry of large numbers of undocumented aliens. Therefore, resources are being concentrated at the border where preventing entries is far more efficient and humane than seeking to identify and deport individuals once they are in the country. Prevention also has the least disruptive effect on people legally in the U.S.

Our borders include not only the U.S.-Mexico land border but all air and land ports of entry to the U.S. and the land, sea and air between ports. Enforcement will be strengthened in all border programs.

We do not seek to close our borders or in any way limit or discourage legitimate flows of traffic or goods. We do have the sovereign right and responsibility to maintain our borders so they are not used for illegitimate purposes. This difficult but important balance is one we are continually striving to maintain.

Q. Announcement of an imminent amnesty has exacerbated the problem of illegal entry as evidenced by increased INS apprehensions in 1977.

A. Apprehensions in the fiscal year ending in October, 1977 rose to over 1 million compared with previous annual totals of about 800,000. There is no evidence that this increase was due to public discussion of the Administration's program. A 45 percent devaluation of the peso in

Mexico in 1976 combined with a concerted effort by the new Commissioner of INS, Leonel J. Castillo, to concentrate resources at the points of highest entry produced the increase. With the resources which will be added incrementally by FY 1980, these techniques will be improved and greater deterrence should result.

At the same time we are undertaking a major effort to thwart the organized alien smuggling and fraudulent document traffic. These are the most predatory and pernicious aspects of illegal border activity. As much as 40 percent of the crossings are very likely accomplished with the aid of professionals who presently charge from $2,400 per alien depending on whether the destination is Los Angeles or Chicago, for instance, and on what array of documents are furnished. An Office of Anti-smuggling Activities has been established in INS to oversee a new national program. We have obtained assistance from the FBI, the Drug Enforcement Administration, the United States Attorneys and foreign governments, especially Mexico. In 1977, with a limited program, we caught over 15,000 smugglers bringing in over 187,000 aliens. We expect to do much better in the future.

We are also developing a Fraudulent Documents laborabory which will be operational in FY 1979 and will be a powerful tool in identifying and prosecuting traffickers. Pending legislation, which we support, to have criminal penalties for the knowing use of false information to obtain federal identification documents would be of great assistance in this regard.

Adjustment of Status for those in the United States

Q. Why should we reward persons who have broken our laws by granting them legal status?

A. The President was very concerned about the dilemma posed by the presence of several million undocumented aliens in the United States. This concern was heightened by the fact that best estimates show that 4-6 million people are involved although we cannot be sure of those numbers. This is because by definition, these persons seek to [illegible] to the attention of authorities. The Administration was unwilling to reward undocumented aliens for their illegal action by granting them full

permanent resident alien status. On the other hand, it would be both inhumane and impractical to attempt to round up and deport them to their home countries. However, to perpetuate the status quo is to tolerate the existence of a growing underclass in this country who cannot seek the protection of our laws and institutions and are therefore subject to exploitation and abuse. Such a situation breeds serious long-run social problems for our society.

As a result the two-stage adjustment of status was developed. Permanent resident alien status under the proposed act would be granted to those who can demonstrate they have been in the United States from before January 1, 1970. About 765,000 persons are estimated to be in this category and they are generally individuals who have built up clear equities, such as marrying United States citizens, giving birth to United States citizen children, purchase of property, etc., in our society. As a nation, we have taken similar action three times in our history when faced with similar circumstances, most recently in 1965.

The majority of undocumented aliens would fall into the second group, that of Temporary Resident Alien (TRA), a new category under our immigration law. It would be granted to those who can demonstrate they entered before January 1, 1977, and would be good for five years. Registration for TRA status would be available for one year only. Decisions on the final status of these individuals would thereby be preserved until more precise information about their number, location, family size and economic situation could be collected and reviewed. TRAs could legally live and work in the United States and would be able to visit their home countries and return without fear of apprehension. However, the TRAs would not have the same rights as permanent resident aliens who may bring in their immediate relatives as legal immigrants. TRAs would also be ineligible for federal aid, including Medicaid, food stamps or welfare programs.

The Administration recognizes that the adjustment deals with the symptoms rather that the causes of the problem. However, it believes that in conjunction with the other aspects of the program, a comprehensive adjustment is the only way to overcome past failures in controlling unlawful entry.

Q. Currently there are thousands of legal would-be immigrants in this country awaiting INS action on their applications for permanent resident status. The proposed adjustment could place millions more in the waiting lines further penalizing those who have obeyed the law. How could the President be proposing such an unfair program?

A. It is true that there have been serious backlogs of applications at INS for many years with waiting periods in some cities of up to two years. At the President's direction, INS is making a major effort to become current. The effort has been a marked success with no additional resources. Through the use of traveling teams of adjudicators and service-wide authorization of overtime the backlog has been reduced to an average wait of only six weeks. A variety of other administrative changes including plans to consolidate certain forms and reduce paperwork are underway. INS will be current by the time legislation could pass. The legislation includes the resources necessary to process adjustment applications so that new backlogs are prevented.

Q. Undocumented aliens may not have accumulated documents to prove residence. Therefore, large numbers of eligible people could be excluded. How does the INS plan to evaluate "continuous residence"?

A. At the present time, Section 249 of the Immigration and Nationality Act provides that any alien who entered the U.S. prior to June 30, 1948 and has had his residence continuously in the U.S. since such entry may be granted permanent residence. In the administration of this section the burden of proof is placed on the alien to provide evidence that he had entered and remained continuously in the U.S. The proposed legislation amends section 249 to change the entry date to January 1, 1970.

In administering Section 249, and in granting temporary resident status, INS will evaluate evidence submitted on an individual case basis. INS has never required elaborate documentation in connection with a Section 249 application. One document from each year covered is generally adequate. INS has been and will be most receptive to documentation of a sort which, by its very nature, people save, particularly documentation involving a second party. Such documentation includes, but is not limited to, automotive or other insurance policies, information required to be

maintained for at least five years in connection with income tax reports, birth, baptismal, or school records of children, marriage records, divorce decrees, death certificates, and church or employment records. Affidavits will be accepted from any responsible source.

The Social Security Administration will, upon written request, provide work histories from its files which INS will also accept. For persons who have worked under an assumed name on another individual's Social Security account number, an accompanying letter of explanation from the employer will be accepted. Persons who have sent money to family members abroad may submit money order receipts or other evidence.

Residence is defined by the Immigration and Nationality Act as a person's actual dwelling place without regard to intent. This means that if a Mexican national enters the United States, travels to an interior location, secures local employment and remains in the area to pursue such employment, he is in fact residing in the United States even if his family may be in Mexico and that he himself may intend to return to them at some future date. In addition, it is anticipated that the implementing regulations supporting any legislation in this field would provide that short, innocent, temporary absences during the required residence period would not in themselves disrupt the continuity of residence. Current administrative decisions already hold to this effect.

The criteria INS will use in reviewing the documents submitted will be broad. However, to envision a program requiring no evidence or review, accepting only self-serving statements, would be to invite massive fraud, and the granting of benefits to a populace not intended in the President's program.

Q. Since illegal aliens live in fear of the authorities, how can the government assume they will come forward to register?

A. To allay the fears of those persons eligible for relief under the proposed regulations, INS will enlist the assistance of social and ethnic organizations to aid in explaining the program. INS will also undertake a major media effort aimed at encouraging undocumented aliens to register for temporary resident alien status.

The experience of those who do come forward early in the program should be reassuring to others. The Silva v. Levi case indicates undocumented aliens will come forward to take advantage of benefits. In the Silva case, it was held that the adjustment of Cuban refugees under the Act of November 5, 1966, was contrary to law and improperly contributed to the backlog of visa applicants from the Western Hemisphere. In order to be fair to those adversely affected by the Cuban adjustment, INS used the media and voluntary organizations to advise these aliens to present themselves to an immigration office where they would be given permission to remain and engage in employment. Approximately 70,000 have come forward.

Q. What benefits are there in registering for TRA status?

A. The alien is faced with a clear set of tradeoffs to assess:

-- Although the legal residency of the TRA is only five years, it is better than the alternative of being located by INS and required to depart. This danger will be heightened with the enforcement of employer penalties.

-- TRAs will be given an anti-counterfeit I.D. upon registration.

-- They will have the legal protections and labor market rights of United States workers. This gives them substantially more rights than the braceros of the last generation or today's H-2 temporary workers, because they are not tied to specific employers and are therefore in a much stronger competitive position in the labor market. Undocumented aliens generally cannot seek better, or even legal minimum wages and working conditions because they are subject to deportation if someone reports their presence. TRAs would have a documented right to work in this country, and would not be vulnerable to such pressures. Since the primary reason for being here is economic, these benefits are considerable.

-- TRAs will be able to visit their families in their home countries freely without having to resort to the expensive, dangerous and demeaning border crossing technique of undocumented aliens.

-- TRAs can openly accumulate Social Security benefits and take advantage of general services such as police and fire protection, schools, emergency medical treatment, etc.

Q. Undocumented aliens were willing to break the law to get here. Why wouldn't they be willing to use false documents to stay?

A. Undocumented aliens have long used various types of fraudulent documents to gain admission to, or remain in, the U.S., or to obtain other forms of relief under the immigration laws. A certain amount of this will continue. However, INS investigators have a great deal of experience and expertise in coping with this problem. An effective screening program using random in-depth investigation techniques is being developed. A new Fraudulent Documents laboratory facility will also be very helpful. Efforts in this regard will be facilitated by the passage of pending legislation to impose criminal sanctions on those who knowingly use false information to obtain identifiers issued by our government, or who use fraudulent government documents to obtain legitimate ones.

Q. What happens at the end of the five-year period?

A. The purpose of granting temporary status is to preserve a decision until more precise information about their number, location, family size and economic situation can be collected through the registration process and reviewed. However, deportation at that time would run directly contrary to the spirit of the program.

As a practical matter, most TRAs will for a variety of reasons no longer be in that status five years hence. Should a TRA marry a United States citizen, an immediate relative petition could be filed for adjustment of status to permanent resident. TRAs could also qualify for one of many immigration preference categories. Finally, some may simply leave the United States.

Q. The temporary resident proposal is a racist move to set up second-class citizenship. Full amnesty is the only acceptable solution.

A. Almost 80 percent of the American public opposes any adjustment of status for people they view as lawbreakers

responsible for unemployment and a variety of other social ills. The President has made a bold move and has treated the issue in a humane manner. More sweeping provisions are unrealistic.

Q. With our unemployment picture, why should we allow anyone illegally here to remain?

A. The proposal for adjustment of status of undocumented aliens must be viewed as one part of a comprehensive proposal. Indeed, the entire plan should be evaluated in its entirety, rather than as discreet segments.

The goal is to sharply reduce the flow of undocumented aliens to the United States. This will result from employer penalty legislation and increased border enforcement.

Adjustment of status is the only practical response to the situation we face of millions of undocumented aliens presently working and residing in the United States. These people cannot practicably be deported, and the United States must avoid having a permanent underclass of persons outside the protection of the law. The plan strikes a balance and should prevent massive future illegal immigration into the United States.

Source Countries

Q. This plan deals with the symptoms instead of the causes of the problem. The real answer is development of sending countries. Why not put all the money this will cost into developing Mexico?

A. The plan recognizes that the ultimate solution lies in economic development. The United States is prepared to support other countries in many significant ways in this regard. However, that is a very long-range proposition. The facts are that in Mexico, for example, the population is doubling every twenty years, the unemployment averages over 40 percent, and half the current population is under age 15. Faced with such pressures, we must take some immediate steps to regain control while also working on long-range approaches.

Q. Beefing up the border patrol could be interpreted as an unfriendly gesture to Mexico, implying a lack of

sensitivity to the economic situation of Mexico today. It could also bring social disruption to border areas where unemployment is already explosively high. What is the Administration's response to this concern?

A. Control of borders and the entry and exit of people is universally recognized as a fundamental element of national sovereignty. We seek to promote legitimate use of our border and control misuse of it. Mexico understands and respects that right. President Lopez-Portillo has stated repeatedly that as a matter of national policy, Mexico wishes to export goods, not people.

Temporary Workers

Q. Many United States employers depend on foreign workers. Where will they get needed workers?

A. The Department of Labor has the dual responsibility to safeguard employment opportunities at fair wages for United States workers, while assuring adequate labor supplies for employers, including farm growers to prevent crop losses. Employer groups in agriculture have complained that they risk crop losses without temporary alien workers for harvests. Public interest and migrant legal action groups have accused DOL of not setting wages at a level which attracts American workers.

Legitimate needs of employers for workers should be met and can be met through the H-2 program. It has been effective and has reduced the number of aliens admitted to the United States for farm work over the last few years, safeguarding additional jobs for Americans. It has not resulted in crop losses for farmers.

The Administration does not favor a new temporary worker or bracero-type program. They present many severe problems. The indentured nature of massive temporary employment weakens our free enterprise system where the forces of supply and demand, collective bargaining, and the free movement of workers are the main factors in determining wages and working conditions. The Bracero Program significantly depressed the wages and employment opportunities of United States farm workers. Workers under the Bracero Program suffered many abuses, e.g.,

underpayment of wages, inadequate housing, unauthorized charges for tools, unsupported deductions from workers' wages, hazardous transportation methods, inadequate work opportunities, and diversion of workers from harvest activities to jobs for which United States workers were readily available such as welders and tractor drivers. No satisfactory penalty was devised for employers who violated provisions of the Bracero Program. (Denial of workers was deemed too severe; anything less than that encouraged continued abuses.)

General

Q. Too little is known about illegal immigration. Isn't more research needed before such sweeping decisions can be made?

A. Research is always helpful. However, the need to make decisions frequently precedes full knowledge of public policy issues. Furthermore, enough research has been done to ascertain the general nature and direction of the undocumented alien situation. It is not necessary to know the exact dimensions of the problem to understand the long-range impacts and their policy implications. The impacts are predominantly in the labor market. The availability of a cheap supply of foreign workers inhibits employers from hiring legal residents; since the aliens are in the United States illegally, they are open to exploitation. Many work in substandard conditions and earn less than the minimum wage. Once an industry or firm becomes dependent on undocumented aliens, job conditions become substandard, and United States legal residents do not want these jobs. Steps can be taken to do something without knowing whether 2.5 or 5.2 million undocumented aliens are in the Nation, just as steps are taken to control speeding on the highways without exact knowledge of how many drivers break the speed limit at a given time.

ILLEGAL IMMIGRATION: CONFERENCES AND MEETINGS

February 8 and 9, 1978

A Legal Conference on the Representation of Aliens, sponsored by The Center for Migration Studies of New York, Inc.
Washington, D.C.

March 3, 1978

Georgetown University Law Center
Center for Migration Studies

March 4-7, 1978

National League of Cities, annual Congressional-City Conference
Washington, D.C.

April 5-7, 1978

Southwestern Border Law Enforcement Conference
Albuquerque, New Mexico

April 11, 1978

American Society for Public Administration
Phoenix, Arizona

ILLEGAL IMMIGRATION: BRIEFING SCHEDULE

Briefings Already Held

January 26, 1978 -- Community Relations Service, Regional Directors

January 31, 1978 -- Hispanic Administration Appointees

Briefings Currently Scheduled

March 6, 1978 -- Hispanics in the federal service

March 9, 1978 -- Senate Judiciary Committee Staff

March 10, 1978 -- Church and immigration voluntary agencies

Last week, March -- INS field personnel

Briefings to be Scheduled - (lists being developed)

1. Federal civil rights establishment
2. Non-government civil rights organizations
3. Unaffiliated Hispanic leaders and professionals
4. Population and environment groups
5. Mayors, state and local government officials
6. State and local government organizations
7. Employer groups
8. Labor union officials

FOR IMMEDIATE RELEASE AUGUST 4, 1977

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

BRIEFING BY
RAY F. MARSHALL, SECRETARY OF LABOR
GRIFFIN B. BELL, ATTORNEY GENERAL
AND
LEONEL CASTILLO, DIRECTOR, IMMIGRATION AND NATURALIZATION

THE BRIEFING ROOM

2:27 P.M. EDT

ATTORNEY GENERAL BELL: We are ready.

Q How are you going to be able to substantiate, since these people are here illegally, that they came before January 1st, 1977?

ATTORNEY GENERAL BELL: The burden will be on them to do that when they register. I think it is important to have in mind that this plan is designed to help people register. We can't deal with the question of amnesty until we know how many people we are faced with. So this temporary status means simply just that: you register. The burden is on you to show you were here before January 1, 1977, to get into this what we call temporary alien status.

Now, once we know the number involved, we can decide what to do about some more permanent status. But no one today in America knows how many people we are talking about.

Q Do you have a rough idea?

ATTORNEY GENERAL BELL: I don't. I have heard everything from 6 million to 12 million. So that would be a little too rough to use.

Q Mr. Castillo, you head the Immigration Service. What do you think?

MR. CASTILLO: About what?

Q How many illegal aliens there are in America and in each of these categories?

MR. CASTILLO: I think it would be wrong to give you guesstimates.

Q You don't have any estimate at all?

MR. CASTILLO: We have guesstimates and the Attorney General gave you the range.

Q Mr. Castillo, as you know, many Mexican Americans and other Spanish-speaking Americans are not very happy about this program because it does not give what they consider to be amnesty to enough people.

How do you personally feel about it?

MR. CASTILLO: I think the program is a --

Q Could you come up to the microphone, please?

MR. CASTILLO: I think the program is a tremendous step forward, represents action from many different interest groups on a serious issue that has been neglected for some years and it clearly is not something that is going to satisfy all of the interest groups completely, but it is a tremendous step forward, I think.

Q Your agency now has not been able -- as I understand it, you are making some progress, but you have not caught up on the paper work you already have.

How are you going to handle millions of applications from aliens who presumably have phony documentation for the amount of time they are staying here? How are you going to check all those out?

MR. CASTILLO: We expect we will be much more current by the time this actually does become legislation and we expect additional resources by that time.

Q Why do you avoid using the word amnesty for people who have been here seven years? Isn't it amnesty to make them permanent residents?

ATTORNEY GENERAL BELL: It is not amnesty. Why should we call something amnesty if it is not?

If you are an illegal alien and all you are getting is an opportunity to register and hope you will be treated fairly later, you wouldn't think that was amnesty.

Q General, if you are here prior to 1970, you become a permanent resident alien and that is legal?

ATTORNEY GENERAL BELL: That is a resident alien. That is not amnesty. That is something like amnesty, but it is the fourth time in our history we have moved the date forward. It is the law now.

Q Is it a parole on your part?

ATTORNEY GENERAL BELL: No, it would have to be done by statute. I couldn't use the parole power to do that. It has been done three times before.

Q In addition to proving you came before 1970, do you have to prove you stayed continuously? Of course I have in mind the worker who comes in and goes home and comes back and goes home.

ATTORNEY GENERAL BELL: Yes.

Q How do you do that?

Q How are you going to prove you never left?

ATTORNEY GENERAL BELL: You have to come in and swear it. That will be one way you prove it. If somebody can't disprove it then -- maybe you got some documents. There are ways to prove things, just like you people are faced with every day.

Q When you say the burden is on them, you mean the burden of proof is on them to make a sworn statement and the government has to disprove it?

ATTORNEY GENERAL BELL: Yes, but they might -- you would have to be very certain that the sworn statement carried its own validity. You just couldn't have somebody make up a case. But that is not an insurmountable thing. We deal with that every day. People have to prove they are entitled to social security, for example, all sorts of government claims every day.

Q You are trying to get these people to come out so you can identify them and document them. What are you really holding out for them five years from now if they do come out?

ATTORNEY GENERAL BELL: What we are holding out now. We are giving them legal status. They are now illegal. They can be exploited. They must live in fear that they are going to be apprehended. They are hiding out and we are saying to them come out and register and you will have a legal status in our country. And in five years time, not later than five years, we will decide what your permanent status ought to be.

Q Mr. Attorney General, aren't you really -- this refers to an underclass --

ATTORNEY GENERAL BELL: Wait a minute. This lady is ahead of you.

Q Many of these people have families back in Mexico and have legal status here. What happens to the families, do they come?

ATTORNEY GENERAL BELL: They can go see the families.

Q But can the families come here?

ATTORNEY GENERAL BELL: No, but they can go home to see their families and can come back under our plan.

Q In other words, it separates them?

ATTORNEY GENERAL BELL: Well, they are separated now. We don't separate them anymore than they are already separated.

Q They wouldn't be able to bring their families here?

ATTORNEY GENERAL BELL: No, and they can't. We are not making it worse for them. We are making it better. But we are not able to grant amnesty now because we don't know how many people we are dealing with, don't know the costs, don't know the impact on funds of the country, anything else. It is just something that has never been assessed. That is why it has taken us so long, one of the reasons, to come up with some way to get a count on the people that are involved.

Q Mr. Bell, what does the Mexican Government say about this?

ATTORNEY GENERAL BELL: You will have to ask the Mexican Government.

Q Well, you have been talking to them. Don't tell us you don't know.

ATTORNEY GENERAL BELL: I haven't talked to them.

Q Many of your people in the Carter Administration have talked to them.

ATTORNEY GENERAL BELL: Secretary Marshall knows. We have got somebody here from the State Department but Secretary Marshall knows.

SECRETARY MARSHALL: We have talked with the Mexican Government. We obviously have all the main parts of this program. When I talked with the Mexican Minister of Labor about it and other Mexican officials about it, they understood that we both had difficult problems and had to work out ours and they had to work out theirs. We didn't want to surprise them so we have had a delegation go.

I went early and have conferred with Mexican officials through time. Before I came to the government I was involved in this with people in Mexico so it wasn't something that was unexpected from them. So let me let --

Q What did they say about this program that you have? That is my question.

SECRETARY MARSHALL: Well, I expect different people in the government will say different things.

Q What is the official position on this?

SECRETARY MARSHALL: I don't know they have taken an official position on the part we have spelled out here. The thing they did say to me was that they realize they had a problem.

We expressed our interest in doing everything we could to help them deal with their development problem. We have already done that. We have had people come up from the Mexican Government to work with the Department of Labor on the kind of things that we are doing to promote development.

They know part of their problem is a rural development problem and that in terms of technical assistance we can help. They would have been very worried if we had had a mass roundup and deportation which we do not have here because that would create a lot of trouble for them.

They see that they now have a safety valve of people who come into this country that takes some of the pressure off their need to generate development and jobs and that we, working with them, will work on that problem.

We are not going to have an immediate deportation which would greatly aggravate their problem, you know,

however many we have got, if we tried to round up three or four million people and deport them to Mexico, which we are not planning, that would clearly cause some problem. We want to communicate with them we had no intention to do that.

Q Can Mr. Eizenstat tell us what the Mexican-American people told you last night about this problem?

ATTORNEY GENERAL BELL: What about letting Mr. Hansell from the Department of State tell you his conversation with the Foreign Minister of Mexico.

MR. HANSELL: I think Secretary Marshall has summarized it well.

The basic concerns of the Mexican Government were to be certain that we looked on the problem as one of economics, not of lawbreakers; that we understand that these workers who cross the border do so, obviously, in search of a job, in support of their families, in search of economic betterment; we understand the needs and motives that bring them here, including inducements by U. S. employers who offer under some circumstances inducements to these workers to come.

This, I think, was the prime concern of the Mexican Government. They do understand and accept the program and the reasons why the President has felt that it is necessary, but they do hope that we will be working with them. And we very much expect and hope to be working with the Mexicans.

Q Is it your intention to cut off the flow of workers who come over for seasonal work in the United States along the Mexican border and really shut down the border except for the small category of 50,000 you will allow?

MR. HANSELL: Temporary programs but I think the Secretary of Labor --

Q There are hundreds of thousands that come over each year for seasonal labor right now. Is that not correct?

SECRETARY MARSHALL: Not hundreds of thousands that come legally.

Q Illegally. Is it your intention to prevent that?

SECRETARY MARSHALL: It is our intention to do everything we can to first see to it that people who are in this country legally get those jobs and then if we are unable to do that, we will let people come in under the H-2 Program, the temporary worker program, but they will come in legally.

We think that is terribly important. We do think that in most situations we will be able to continue what we have been doing with that program, and that is greatly restricting the number that are coming in, because we do believe that it is possible, with systematic search, to get people in this country to do most of that work.

Now, we do believe, however, that if we are unable to do that --

Q Not at the wages paid by the farmers.

SECRETARY MARSHALL: We are going to enforce the minimum wages, too. That is right. You cannot get people -- and, of course, that is illegal already, the wages paid below the minimum wage.

Q I am sorry. I did not realize minimum wage applied --

SECRETARY MARSHALL: It does apply to agriculture and on January 1st it will be the same for agriculture as will the rest if our minimum wage passes.

In any event, it goes to $2.30, even if it doesn't pass. The differential will be eliminated January 1st. But the situation that we faced is that many employers prefer foreign workers because those workers work scared and hard, are unable to protect themselves, work for less than minimum wage. Most of our labor force is not self-enforcing. We have to rely on complaints. These undocumented workers cannot complain either about safety and health conditions or housing and wages or anything else.

The legalized process will remove that problem by making it possible for them to complain, and also to see to it that they don't work for less than minimum wage.

We think that if employers are willing to observe all the laws, that we can meet their legitimate labor demands. The thing we tried to do with this program is meet the legitimate concerns of all parties involved.

Q One of the keys to your program is this documentation in the form of a Social Security card. Now, are you going to have a problem in changing the rules on how you get it? First of all, do you have to go to Congress to ask them for a change and secondly, what do you think the public is going to say about this change in getting a Social Security card?

Q The Attorney General will answer that.

ATTORNEY GENERAL BELL: We are getting off into something here. We are not having a Social Security card as a work card for all the American people. The defense to a charge of illegality of employing someone, an illegal alien can consist of several things, the defenses would be drawn up in the form of regulations by the Attorney General under the proposed legislation.

One might be the Social Security card. If you hire a person and they show you a Social Security card, and if that is a defense, as we write up the defenses, it could be a driver's license, it could be some other kind of document, birth certificate. But we do not want you to think we are getting ready to come up with some sort of a work permit in the form of Social Security card. Now the Social Security law already requires that more care be taken in the future in issuing Social Security cards.

Q How are you going to --

SECRETARY MARSHALL: Let me add one very important part to what the Attorney General said. Not only will the Social Security card not be a work permit, it will also not be a national identification card.

We are not contemplating any sort of national identification card. The only person who has the right to see that card is the employer, the right and the obligation. No policeman has the right to stop you on the street and see your card, much as is the case now. What we contemplate with the Social Security card is simply a better enforcement of present law, that you are not supposed to be able to get that card if you are not in the country legally, but people do.

Now, if you had a Social Security card, it would be the legitimate concern of the employer, which is, that he have a defense, he could say I asked for the card, and I got it.

Q If you make them more non-counterfeitable in some way, aren't you going to have to reissue them to all the rest of us?

SECRETARY MARSHALL: Not necessarily, not if you permit a variety of forms of identification and not if you gradually move towards that.

re: social security card

ATTORNEY GENERAL BELL: We are not contemplating that.

Q How are you going to afford to pay Social Security on all these people when you can't afford to pay for the American citizens now.

ATTORNEY GENERAL BELL: I want to make an announcement, before you ask any more questions.

Q I want to get an answer to that question first, before you make an announcement.

ATTORNEY GENERAL BELL: I don't believe we are having a news conference on the national debt. (Laughter)

Q Mr. Attorney General, there is another --

ATTORNEY GENERAL BELL: I really need to make an announcement. I need to correct something. The President said that the legislation would be introduced in the House by Congressman Rodino and Congressman Eilberg. It will only be introduced by Congressman Rodino, Congressman Eilberg is the subcommittee chairman and he has agreed to hold prompt hearings, but not agreed to introduce --

Q What do you mean, this is the fourth time this has happened?

SECRETARY MARSHALL: The updating of the Register. We have done this several times in our history, the last time was 1965.

Q Mr. Attorney General, there is another aspect of the illegal aliens that has constituted the sum and substance of a fairly well-documented book and I refer to that, the Nazi war criminals that are here in the United States. I have in mind one particular one who has been indicted by the U. S. Attorney in Detroit, whom you have just removed. Now, I am just wondering, there is extensive documentation that the Immigration Service has dragged its feet for decades, are you going to really press indictments against these people, because this Archbishop Trifa has been holding it off month after month after month.

ATTORNEY GENERAL BELL: I will be glad to look into that. You know, I don't hold many press conferences at the White House. That has not been called to my attention. But Mr. Castillo said he testified on that very subject in Congress yesterday. I will be glad to look at it.

Q Could you tell us, for us laymen -- we have problems with pardon and amnesty at the White House -- could you tell us --(laughter) --

Q That is a "plain folks" device.

Q Could you tell us the difference between amnesty,

changing illegal status to legal status, and what you people are proposing to the Congress?

ATTORNEY GENERAL BELL: I think I can, yes. In the first place, amnesty would be a misnomer. It is a term that somebody just began to use when it has little application to what we are doing. Amnesty means you are forgiven of some crime you have committed. That would be of little moment to forgive these people for coming into the country illegally. That is not the problem. The problem is, what are we going to do about their staying here? That has nothing to do with amnesty.

Q Haven't they committed a crime when they came in illegally?

ATTORNEY GENERAL BELL: Yes. That is one of the hard problems about it. If that is all there was to it, we could just prosecute everybody and come in with it.

Q But isn't amnesty forgiving a crime? Isn't that what you just said?

ATTORNEY GENERAL BELL: Amnesty would be forgiving a crime but this is far more.

Q This is not only forgiving them, it is rewarding them.

ATTORNEY GENERAL BELL: That is right. (Laughter)

That is exactly right. That is why there is a difficult problem. Let me give you a --

Q One law breaker gets prosecuted, but mass law breakers get rewarded.

ATTORNEY GENERAL BELL: Do you suggest we not do anything? It is a hard problem and I don't want you to think it is amnesty or pardon of some crime. It is an adjustment of status in the sense that we are trying to get people to come and register and we will decide what to do after that. But we are not going to prosecute them for having come in if they register. We are not going to do that.

SECRETARY MARSHALL: Let me add under the present situation, even though it is illegal to come in, there are no effective penalties against it, other than deportation. You get on a merry-go-round. You deport them, they come back. They keep coming. What we are trying to do is in a pragmatic and realistic way recognize the problems with that situation and then trying to avoid a mass roundup and have a situation that would lead to two adjustments in status, one permanent resident which we have always had, and we are simply moving the date forward, and we have done it several times in our history before.

The other thing we are doing, we are saying, what do we do about these people between January 1st, 1970, and 1977. You could say, let's have a mass roundup and try to deport those people. We rejected that and said that we wouldn't do that, but we would adjust their status if they come forth and register, so that we would get some idea how many people we are talking about, and would make it possible for them to stay here.

They will not be able to get a lot of benefits that the permanent resident aliens have. They wouldn't be able to participate in social services and do a lot of other things, but they can stay here and work for that five-year period.

Q Mr. Marshall, can they join unions?

SECRETARY MARSHALL: They do join unions now.

Q Are they sure they can remain in this country without fear of deportation if they come in and register?

SECRETARY MARSHALL: If they register and they have to come forth and register within 12 months and then they will be able to stay in the country for five years.

Q Supposing they come in and register and produce a Social Security card that is forged or something. Do you then issue them a genuine Social Security card, take that away?

SECRETARY MARSHALL: I think if you know it is forged, you would be obligated to do that.

ATTORNEY GENERAL BELL: This meeting has nothing to do with issuing Social Security cards. They have to go through the Social Security Bureau to do that. We are more worried about something else: What they're doing here, and what we're going to do about it.

Q What effect is this going to have on unemployment, if any?

SECRETARY MARSHALL: I think it will have a tremendous effect on unemployment if we are successful in stopping the flow.

As the President and Attorney General Bell pointed out, we don't really know the magnitude of the problem, but we know the number here is in the millions and we know it is increasing; all the evidence points in that direction.

We also know if you look at what is happening in the country, that the long-run increase in the work force is about 2 million people a year net. Now, assume that a low estimate would be half a million net increase in undocumented workers. That is one-fourth of the growth. It might be as much as a million, nobody really knows. Now that means that it could be that between a fourth and a half of the net growth in our work force is made up of

undocumented workers coming into the country. Now, obviously, that puts pressure on our unemployment.

One of the big differences between our economy and the economies of many other industrial countries in the world, democratic industrial countries, is that our work force has actually grown fairly rapidly. We had an increase of over 10 million jobs since 1970, for example, whereas in other countries they have stagnant growth in the work force, or none, stagnant work force or declining work forces.

The thing that has made it difficult for us to get lower levels of unemployment is not necessarily just what is happening on the demand side in jobs, but what is happening on the supply side. This will undoubtedly make it a lot easier for us to move toward full employment.

Q Will this require an increase in staff?

Q .. General, I was just interested in what happens to these temporary legal aliens after five years. Can they then be deported? Is there a possibility?

ATTORNEY GENERAL BELL: That is right. They could be. We hope to work out some plan to let them convert to permanent resident alien status. We cannot promise that because we don't know what we are talking about.

Q What you are actually doing is freeing them from the fear of being deported for the next five years, and no more.

ATTORNEY GENERAL BELL: And exploitation.

Q The registration of the aliens indicates employment status, and thus the effect on employment and unemployment?

ATTORNEY GENERAL BELL: They can be employed if they register.

Q No, will it indicate their employment status?

ATTORNEY GENERAL BELL: You mean whether they are employed now or not?

SECRETARY MARSHALL: The answer is yes, that is one of the things we will learn more about from this whole process of registration, not only the dimensions of the problem, but its distribution, geographically, occupationally and industrially.

Q Given the situation that many of these people have been in, living illegally and in fear of the authorities, how do you expect to get any sizable number of people to register?

ATTORNEY GENERAL BELL: If they don't register within

12 months, and are apprehended, they will be deported. We hope they will have trust in our country. That is the only thing I know. They came here thinking we had a good country and maybe they will trust us.

Q What efforts are you going to make to communicate with people, who may not speak English, who might have a sizable problem understanding this legislation you are proposing here, to get them to walk in and register?

ATTORNEY GENERAL BELL: Mr. Castillo will answer that.

Q In English.

MR. CASTILLO: In English. (Laughter)

ATTORNEY GENERAL BELL: Are you going to answer in Spanish or English?

MR. CASTILLO: I will do this in English.

We have developed and will implement an extensive publicity outreach program to notify the various foreign national groups that we think are in this country about this program.

ATTORNEY GENERAL BELL: This man has been waiting about ten minutes.

Q Will you be able to administer this within the existing staff of the Immigration Service?

ATTORNEY GENERAL BELL: No, I doubt that. I wouldn't want to make that promise today.

Q Do you foresee any danger that the Social Security card will result in the violation of rights of your current American citizens and even though Mr. Marshall says he doesn't want it to be used that way.

ATTORNEY GENERAL BELL: I do not. We are all dedicated to the proposition we are not going to the per se system -- we are not going to have a worker card or national status card, or something like that. And we don't need that. That is not really a problem in the defense to the charge of employing an illegal alien.

Q If the current easily-counterfeitable Social Security card is going to be valid for citizens, and so on, and presuming the cottage industry in the border area in counterfeiting them doesn't wither away, how is this going to be any real damper on the flow of illegals? A lot of them now have Social Security cards. They go to an employer and they show him a card, and he says, okay, go out and pick, or whatever.

ATTORNEY GENERAL BELL: The gist of the plan is to make it illegal for an American to employ an undocumented alien. We are traveling on the assumption that Americans are law-abiding people. I believe they are. And once they realize it is now the law that you should not employe an undocumented alien, that they will follow the law. If they don't, they will be pursued; there will be remedies employed against them. That is the key to the plan. It has nothing to do with the cards.

It does put the burden on the employer to be able to prove his defense in case he is charged.

Q Mr. Bell, can we hear from Mr. Eizenstat. about the feeling of the Hispanic in this country about this question?

ATTORNEY GENERAL BELL: He is not prepared. (Laughter)

Q Prepared? What is this?

Q He talked with them yesterday a long time.

ATTORNEY GENERAL BELL: The President told the three of us to be up here and we are doing our best.

Q We can't hear about a large section of the American population who feel very keenly about this and they are not going to be represented in this?

ATTORNEY GENERAL BELL: Do you know, the head of the INS is from Texas, and he understands all about this. Let him answer it.

MR. CASTILLO: I think what we'll find will be some differences of opinion within the Latino or Hispanic communities of the United States, and there will be strong support for some elements in the package relating to adjustment status and some opposition to parts relating to employers' sanctions. But I think that overall the arguments will be over the details of the package rather than the general thrust.

Q Mr. Castillo, resident aliens now have to report to your agency every year their up-to-date address, and things of that nature. Will these people who are on non-deportable status begin to have to report their address annually, and if they do for a five-year period, aren't they running the risk that you will be able, at the end of five years, if you should decide to support them, to target them very easily and go get them?

MR. CASTILLO: Yes.

ATTORNEY GENERAL BELL: I need to make one statement, because no one has asked this.

Q Another correction?

ATTORNEY GENERAL BELL: No, it is not a correction, but it is important. That is, once they get in this temporary status, under the statute they will not get Social Security or any Federal benefits, but they now draw, they now are a burden on the states, these undocumented aliens, because they get medical care at hospitals, they have schools to attend. Once they register, we will add to the revenue sharing account base funds for the states through revenue sharing. They will be prohibited from drawing any Federal benefits.

Q Will they have voting rights?

ATTORNEY GENERAL BELL: No voting rights, no food stamps.

Q You mentioned the gist of this is preventing the employment of undocumented aliens. Will it be a crime for people to be aliens in this country without proper documentation?

ATTORNEY GENERAL BELL: It already is.

Q Then what is to prevent a law enforcement officer in Ohio from asking these people for their documentation on the street?

ATTORNEY GENERAL BELL: They do it today.

Q You told us a while ago the only people asking for it would be the employer.

SECRETARY MARSHALL: The only people asking for the Social Security card. The policeman on the street does not ask you for your Social Security card, or anybody else. But the Immigration authorities can ask you to prove you are in the country legally, a green card, a white card, whatever.

END (AT 3:00 P.M. EDT)

ASSOCIATE
ATTORNEY GENERAL

Office of the Attorney General
Washington, D.C.

August 4, 1977

Mr. Peter Schey
Executive Director
National Center for the Study of
Alien's Rights
University of San Diego
School of Law
Alcala Park
San Diego, California

Dear Mr. Schey:

Attached for your information is President Carter's policy message on undocumented aliens. It has been transmitted to the Congress and draft legislation will follow in September of this year.

The legislation will be sponsored in the Senate by Senators Eastland (D.- Miss.) and Kennedy (D.- Mass.) and in the House by Congressman Rodino (D.- N.J.). Hearings will be scheduled in the respective Judiciary committees during the fall and we hope for early enactment.

Thank you for your continued interest in this important issue.

Sincerely,

Doris M. Meissner

Doris M. Meissner
Deputy Associate Attorney General

Attachment

EMBARGOED FOR RELEASE UNTIL
AFTER THE BRIEFING

August 4, 1977

Office of the White House Press Secretary

UNDOCUMENTED ALIENS
FACT SHEET

SUMMARY OF THE PRESIDENT'S PROPOSALS

The President's proposals cover these areas: employer sanctions, border enforcement, adjustment of status, foreign policy, temporary workers, and immigration policy.

1) Employer sanctions:

-- A law is proposed which would prohibit the hiring by any employer of an undocumented alien. Enforcement would be limited to employers who engage in a "pattern or practice" of hiring undocumented aliens. The law would provide for injunctive relief and civil fines up to a maximum of $1,000 per alien. An employer who violates any injunction would be subject to a possible contempt citation.

-- The Attorney General will establish a list of identification documents, by regulation, which will be accepted as proof of legal status. An employer would be entitled to defend any charge of hiring an undocumented alien by proving that he has seen identification documents as designated by the Attorney General. The employer would not be required to verify the authenticity of the identification document, or to keep records of the documents seen.

-- The Attorney General will designate the Social Security card as one of the authorized identifiers, and the Secretary of the Department of Health, Education and Welfare will take steps to make the card a more reliable indicator of lawful residence status.

-- Criminal penalties will be applied against persons convicted of receiving pay for knowingly assisting an undocumented alien to obtain or retain a job.

-- The Federal Government will increase enforcement of the Fair Labor Standards Act and the Federal Farm Labor Contractor Registration Act, and both civil and criminal penalties for FLSA violations would be used more frequently.

-- Cooperation and information exchanges between the Immigration and Naturalization Service (INS) and the FLSA enforcement personnel will be improved.

-- The Federal Government will strongly oppose discrimination against Mexican-Americans and other ethnic Americans that might result from the undocumented alien program, and federal civil rights agencies will be ordered to assure that existing anti-discrimination laws protecting Hispanic Americans and other ethnic Americans are fully enforced.

-- The proposed new federal law on employer sanctions would pre-empt state and local laws which prohibit the hiring of undocumented aliens.

more

Questions and Answers on Employer Sanctions

Q: How would the Secretary of HEW make the Social Security card a more reliable indicator of lawful resident status?

A: Proof of legal residence, as well as a personal interview would be required before a Social Security card could be issued.

Q: Would the Social Security card be used as a national identification card?

A: No. The President is not proposing a national identification system.

Q: What type of documentation do you propose that employers require of aliens they plan to hire?

A: The Attorney General will establish a list of permissible identification documents, for example: Social Security card, birth certificate or immigration document.

Q: Secretary Marshall is on record as favoring a secure work card as part of the undocumented alien package. Why is no such card included in this proposal?

A: The judgment was that the enormous financial and civil liberties costs of creating such a card outweighed its potential benefits at this time.

Q: Why impose criminal penalties on people who receive compensation for knowingly assisting an undocumented alien in obtaining or retaining employment?

A: This is aimed at persons who knowingly "broker" jobs for undocumented aliens and is meant to make it easier to prosecute those who act as agents for smugglers. It also is aimed at individuals in supervisory positions who sometimes threaten to report undocumented aliens unless they are given a fee from every paycheck.

Q: Why would the proposed federal law pre-empt state and local laws?

A: At present, three cities and 12 states have passed laws prohibiting the hiring of undocumented aliens, and 15 states and some cities have legislation pending. The measures differ widely. It is felt the Federal Government must pre-empt existing law in order to avoid confusion and uncertainty and to insure a uniform employer sanction policy.

---

2) Border Enforcement

--Enforcement resources at border areas having the highest rates of undocumented alien crossings will be increased.

more

--After the on-going border enforcement studies have been completed, it is likely that 2000 new enforcement officers will be placed on the border.

--The State Department will strengthen its visa issuance procedures abroad to provide for better pre-screening. This will include an increase in anti-fraud action and screening procedures and a new system of issuing more secure visas.

--An anti-smuggling Task Force will be formed within the Administration to determine ways to reduce alien smuggling rings.

--The Administration will urge the passage of legislation which is presently pending to establish criminal penalties for persons who knowingly use false information to obtain federal identification documents and who knowingly possess fraudulent federal or state documents that would be used to obtain any federal documents.

Questions and Answers on Border Enforcement

Q: Why is such strong stress being placed on border enforcement?

A: Although statistics are difficult to come by, it is reliably estimated that an overwhelming majority of the undocumented aliens in the United States have come here via crossings on the Southwest border.

Q: In Fiscal Year 1976, some 1,700 of the Immigration and Naturalization Service's 2,000 officers were located in the Southwest border area. Isn't that enough?

A: No. The numbers look impressive, but when these men are stretched out over a long border area it comes down to 200 men per shift or one patrolman per every 10 miles.

- - -

3) Adjustment of Status

--Temporary Resident Alien. All undocumented aliens, including ones whose legal stays have expired, residing in the United States on or before January 1, 1977, and who register with the Immigration and Naturalization Service, will be granted a new temporary resident alien status for a 5-year period.

--Persons granted temporary resident alien status can remain in the United States for at least five years; during that period a final decision will be made about the legal status of these residents.

--Those granted temporary resident alien status would be allowed to work and would have one year to apply for the new status. However, they would not have political or civil rights to vote, be able to run for office or serve on a jury and could not bring in family members from abroad.

more

(OVER)

--Those with temporary resident alien status would not be eligible for Medicaid, food stamps, the Aid to Families with Dependent Children (AFDC) program, or the SSI program. State and local governments could provide general assistance if they chose.

--Permanent Resident Alien Status. All undocumented aliens who have been continuously in the United States since January 1, 1970, can apply for permanent resident alien status. This status can lead to full citizenship in 5 years. This will be done by updating the registry provisions already contained in the Immigration and Naturalization Act. Presently, those who entered before 1948 can adjust their status.

Questions and Answers on Adjustment of Status

Q: Could persons who are granted temporary resident alien status re-enter the United States if they depart during the five-year period?

A: Yes. They will be bound by the same re-entry governing travel by permanent resident aliens.

Q: What about the current backlog of applications for adjustment of status?

A: The backlog is estimated currently at over 240,000 and the President's plan calls for the INS to improve its administrative procedures and additional personnel to reduce this.

Q: What is the incentive for an undocumented alien to step forward and register?

A: First, those who register will be issued immigration documents which will permit them to work.

In addition, those who entered before 1970 would be granted the privileges of permanent resident alien status and would eventually be eligible for citizenship.

Those who entered after 1970, but before 1977, would gain the protection of wage and hour regulations; when these are combined with sanctions against employers for hiring undocumented persons exploitation of workers becomes less likely.

Q: Some Federal funding programs are based wholly or partially on population. What effect would the adjustment of status proposals have in this area?

A: Funding allocations for Revenue Sharing would be altered by changing the programs' formulas to include those in the temporary resident alien status. These measures would be temporary since the 1980 census would reflect the total population, including those in the new temporary resident alien status.

Q: Why was the date January 1, 1977 chosen for the new non-deportable status?

A: We needed a date which preceded the announcement of the policy so as not to encourage additional entries.

Q: Why was the date January 1, 1970 chosen for the update of the Registry?

A: Most of those who have been here for such a substantial length of time have built up equities, have jobs, and have established a home and community ties.

Q: How do you propose that undocumented workers prove that they have been in this country seven years?

A: Under current immigration laws, certain people are already eligible to apply for adjustment of status. The Immigration and Naturalization Service already has established procedures which must be followed. Accordingly, residence will be established through the use of documents such as employer affidavits, rent receipts, payroll slips, cancelled checks, bills and other records.

It is true that it is often hard to produce these documents, especially if one has worked for many employers and has used assumed names. But, the Immigration and Naturalization Service deals with this situation on a daily basis, and is flexible enough to evaluate various kinds of proof.

Q: Presently, each country is permitted a quota of 20,000 legal immigrants to the United States per year. How will these quotas be affected by the adjustment of status?

A: The adjustment of status will not affect the quotas. Everyone who is entitled to adjustment of status will be adjusted, regardless of his country of origin.

Q: There are reports that aliens are entering the country in increasing numbers in order to benefit from the adjustment of status. How does the policy affect these people?

A: Anyone who entered the country illegally after January 1, 1977 will be deported upon apprehension. Those who entered without inspection are also subject to criminal penalties for illegal entry.

4) Foreign Policy

--Negotiations will be held with Mexico and other countries which are sources of undocumented aliens regarding the nature and extent of their participation in border enforcement and anti-smuggling work.

--A number of steps will be considered including stimulation of labor intensive projects through multilateral lending institutions and financial assistance for the major source countries. Population education programs for those who request such assistance will also be made available.

--Increased trade with the sending countries, with emphasis on labor intensive products, will be explored -- consistent with the objective of not losing U.S. jobs.

Questions and Answers on Foreign Policy

Q: How much and what kind of assistance are you extending to each of these countries -- and for what purposes?

A: This will be decided only after ongoing consultations with each of the countries involved. Each of them has a somewhat different domestic economic situation.

Q: Have Mexico and other major source countries been consulted about your proposals? If so, what was their reaction? Have they opposed the plan? The President of Mexico has been quoted publicly as saying that the problem is a U.S. problem. How then can we expect the cooperation of Mexico and other countries in border enforcement when they clearly do not see it as in their interest?

A: The governments of Mexico and other source countries have been advised of this program. Undocumented aliens come here from a number of countries, most of them highly valued friends and allies of the U.S. The great importance of continued warm and friendly relations with those source nations has been given full consideration in development of this program. The governments consulted have indicated their understanding of the problems caused by undocumented aliens; and they have expressed a desire to be cooperative.

5) Temporary Workers

--The Secretary of Labor is directed to conduct, in consultation with Congress and other interested parties, a comprehensive review of the current temporary foreign worker (H-2) certification program. The program must be structured so that it responds to the legitimate needs of both employees, by protecting domestic unemployment opportunities, and of employers, by providing a needed work force.

Q: Will the review of the temporary workers program result in a new bracero program?

A: No. The President has stated unequivocally that he is not considering a reintroduction of a bracero-type program for the importation of temporary workers.

6) Immigration Policy

--There will be a comprehensive interagency study of immigration policy and laws.

--The Administration will support legislation to increase the current 20,000 person limit on annual Mexican and Canadian immigration to a combined 50,000.

more

Background Questions and Answers on Undocumented Aliens

Q: How many undocumented aliens are there in the United States?

A: Estimates range from 2 to 12 million, these are educated guesses at best. These figures are based on apprehension statistics; last year nearly 900,000 undocumented aliens were apprehended and deported.

Q: What is the correct terminology for these persons?

A: The most commonly used one is illegal aliens. The announced policy uses undocumented aliens because of sensitivity to criminal connotations that some people associate with the term illegal aliens. Other terms used include illegal immigrant, visa abuser, undocumented worker, clandestine migrant, unauthorized worker.

Q: What are the undocumented aliens like?

A: Generalizations are difficult and, again, the lack of accurate data makes this question difficult to answer. It is further complicated by the fact that the United States has two broad categories of undocumented aliens -- those who cross in great numbers over the borders in the Southwest, and those who come from other countries by other means. The vast majority of undocumented aliens in the United States come from Mexico and what information we have indicates the following characteristics of the average alien: a young adult (most are males), badly educated, primarily a farmworker from rural area, economically motivated, employed at or near the bottom of the U.S. labor market, and inclined to send a major portion of earnings to dependents in his or her homeland, outside the U.S. The typical Mexican worker comes for short periods of time, up to 6 months at a time.

Q: Besides Mexico, what are the countries where undocumented aliens originate?

A: There are undocumented aliens here from nearly every country in the world. It is believed that at least 60 countries are significant regular "source" countries, some of the largest outside of Mexico being the Dominican Republic, Haiti, Jamaica, Guatemala, Colombia, Peru, Ecuador, Philippines, Korea, Thailand, Greece, India, Iran, and Nigeria.

Q: What are the main causes for these large immigrations of undocumented aliens?

A: Generally, most undocumented aliens come from countries with rapid economic expansion, a high population growth rate and close links with the United States. These factors comprise the so-called "push" factor, or incentive for persons to leave.

Second, they come to the United States because of available jobs and the low risk of detection. This is the "pull" factor. Also, it is believed that employer willingness to hire undocumented aliens is a cause.

Q: It is charged that undocumented aliens drain our tax dollars through social services.

A: This charge is difficult to document. Undocumented aliens are excluded from coverage under three major public assistance programs by law. These are the Supplemental Security Income for the Aged, Blind and Disabled, Aid to Families with Dependent Children, and Medicaid. Most public assistance programs are required by regulation to have a screening process for citizenship status. This, plus the fact that undocumented aliens tend to shy from exposure and government identification, basically means they are not now a major drain on public assistance programs paid for by taxpayers.

# # # #

viii. H.R. 4138 (Ketchum, R.Cal.): Provides that no alien, lawfully or unlawfully in the United States, may receive Social Security benefits.

ix. H.R. 4844 (Richmond): Excludes undocumented workers from eligibility in Food Stamp Program.

x. S. 1048 (Chile-Stone): Deletes 5-year residency requirement for alien participation in Medicare and extends program to Refugees.

The above represents a very partial list. Anyone wanting the complete list of legislation pending, or a more in-depth description of the substance or current status of any bill, please contact me.

Note:

Recent enactment: Public Law 95-28 (May 13, 1977) Amended Local Publics Works Capital & Development Act to prohibit grants to state and local governments not certifying that they do not hire undocumented workers.

Employer-sanction law in our Region:

Las Vegas, Nevada, has enacted a City Ordinance (Chapter 13, Section 6-13-2) penalizing employers for hiring undocumented workers.

Regulations:

Leonel Castillo, Commissioner of Insurance, has invited me to draft proposed regulatory changes for INS, particularly in areas concerning the exercise of administrative discretion. This is a crucial task and I would like to encourage people to work with me on this project. If you are interested, please contact me.

Carter's Proposed Immigration Plan:

Attached is a copy of Carter's proposals. I am in the process of drafting an analysis for the National Immigration Coalition, which is spear-heading the efforts to block the plan or improve its terms. If you have any suggestions, please write to me. If you're interested in receiving a copy of the analysis, please contact me and a copy will be forwarded to you.

I am hoping to meet with Attorney General Griffin Bell and some key Congress people in September. It would therefore be necessary for me to get your suggestions in the next few weeks.

Brief Bank:

I would like to develop a legal services brief bank on alien related issues. If you are involved in any relevant litigation, I would appreciate receiving copies of key pleadings. In a couple of months I will prepare a catalogue (describing the briefs on file) and mail it out to all legal services people in our region. This will hopefully facilitate research in this area of the law.

I hope that this package provides people with a general over-view of current events in immigration law. Again, I urge people to contact me with suggestions.

I would appreciate it if each Legal Services Project in this Region would provide me with a name, address, and phone number of the person(s) with whom you would like me to maintain contact.

El Plan de Amnistia de Carter: Una Poliza "Ilegal"

El 4 de agosto de 1977 el presidente Carter mandó al Congreso el proyecto de ley sobre inmigración. La comunidad mexicana/chicana, que será la más afectada por este proyecto está llamando a derrotarlo, por los efectos represivos que tendrá.

Al presidente le gustaría que nosotros creyéramos que sus propuestas tratan de solucionar los problemas del desempleo y de los altos impuestos y al mismo tiempo, que tratan a la comunidad mexicana/chicana de una manera humana. Para nuestra gente el "problema" de los llamados "extranjeros ilegales" no es más que un intento de la Administración de Carter para culparnos a nosotros, cuando en realidad este países capaz de satisfacer las necesidades de su pueblo.

La fuente del desempleo, de los altos impuestos y de los malos servicios sociales, es un sistema político y económico controlado por las enormes corporaciones. Mientras el gobierno está controlado por las corporaciones, sus ganancias son más importantes que las necesidades humanas, que el trabajo decente y que las condiciones decentes de vida. Es por esa razón que el gobierno ataca los derechos de nuestro pueblo en lugar de atacar los derechos de las corporaciones trans-nacionales.

A continuación damos una descripción, punto por punto, de los peligros de la propuesta de Carter. Los pasajes que se citan son tomados del texto del mensaje del presidente al Congreso:

Reajuste de la Situación Legal

4. *"Ajústese la situación legal de los extranjeros sin documentos que han residido en los Estados Unidos (E.E.U.U.) sin interrumpción desde antes del primero de enero de 1970 hasta el presente y que soliciten del Servicio de Inmigración y Nacionalización (INS) categoría legal de extranjero residente*

reunirse con sus familias mientras estén en este país, ni beneficiarse de los servicios sociales por los cuales están pagando.

Estos trabajadores estarían obligados a darse a conocer y a inscribirse en las oficinas del INS para vender su alma por el "privilegio" de estar sujetos a deportación en cinco años (1982). Es ridículo pensar que ellos se van a presentar para transformarse así, voluntariamente, en titeres de la policía.

C. "No se haga ningún cambio de situación legal y aplíquese la ley de inmigración contra aquellos extranjeros sin documentos que entren al país despues del primero de enero 1977.".

El sistema actual de inmigración y

El sistema actual de inmigración ya ha ocasionado violaciones de los

derechos de la gente en nuestra comunidad. Esta propuesta pretende que esta comunidad acepte más y más violaciones.

II. Sanciones del Empleador

"Una extensa revisión del actual programa de certidicación para trabajador extranjero temporal (Visa H-2)." El programa estaría estructurado "de modo que responda, por un lado, a necesidades legítimas de los empleados, protegiendo las oportunidades domésticas de trabajo, y a los patrones o empleadores, proporcionando una fuerza de trabajo que se necesita".

Esta propuesta prueba que la administración Carter está trabajando para proteger los intereses del área de negocios. Permitiría la importación de trabajadores extranjeros para llenar las necesidades de los negocios de este país.

Esto no es más que un "Programa de Braceros" disfrazado, como el que sirvió para explotar a miles de Mexicanos en los años 50.

IV. Aplicación de la Ley en la Frontera. *Los recursos necesarios para aplicar la ley en la frontera serán aumentados substancialmente y serán también reorganizados...un número de 2,000 será agregado al*

controlado por las corporaciones, las ganancias son más importantes que las necesidades humanas, que el trabajo decente y que las condiciones decentes de vida. Es por esta razón que el gobierno ataca los derechos de nuestro pueblo en lugar de atacar los derechos de las corporaciones trans-nacionales.

A continuación damos una descripción, punto por punto, de los peligros de la propuesta de Carter. Los pasajes que se citan son tomados del texto del mensaje del Presidente al Congreso.

I. Reajuste de la Situación Legal

A. "Ajústese la situación legal de los extranjeros sin documentos que han residido en los Estados Unidos (EE.UU.) sin interrumpción desde antes del primero de enero de 1970 hasta el presente y que soliciten del Servicio de Inmigración y Nacionalización (INS) categoría legal de extranjero residente permanente.

Este proyecto es un engaño. Las leyes de INS que existen en la actualidad dicen que las personas que han vivido en este país por siete años, pueden solicitar categoría de residente permanente. No se está ofreciendo, nada nuevo. El Departamento del Trabajo sabe que la gran mayoría de los trabajadores sin documentos ha estado en este país por no más de dos años. Hay algo más: será extremadamente difícil para que ese pequeño número de personas afectadas por el nuevo programa, pruebe su permanencia sin interrupción en los EE.UU. Un gran riesgo al solicitar la nueva situación legal es la posibilidad de deportación.

B. "Se crea una nueva categoría de inmigración: extranjero residente temporal, para personas que han residido en los EE.UU. sin interrupción desde antes del primero de enero de 1977."

Esta propuesta crearía una fuerza laboral controlada y vigilada por la policía, sin protección constitucional ni de los EE.UU. ni de México. Los trabajadores extranjeros estarían obligados a pagar impuestos que ayudan a un gobierno que no les permitiría votar, ni tener representación alguna, ni

derechos de la gente en nuestra comunidad. Esta propuesta pretende que esta comunidad acepte más y más violaciones.

II. Sanciones del Empleador

"Declárase ilegal el empleo de extranjeros sin documentos, e instrúyese a que el Departamento de Justicia aplique la ley correspondiente contra los patrones que contraten trabajadores 'en estas condiciones u otras similares'. La pena sería civil--mandatos y multas de $1.000 dólares por cada extranjero sin documentos contratado."

Este proyecto parte de la base que se puede tener confianza en que los patrones respeten los intereses de los trabajadores de los EE.UU. La propuesta haría cada patrón empleador un agente del INS. La manera más facil de responder a esto, por parte de los patrones, sería de negarse a contratar a cualquiera persona de antepasados mexicanos.

Esta sanción no ataca la raíz del problema; ataca, por el contrario, a nuestra comunidad. Si la administración de Carter estuviera verdaderamente interesada en el bienestar de la gente trabajadora, aplicaría vigorosamente en todas las areas, todas las leyes que existen sobre salario mínimo, salud y seguridad, beneficios del trabajo, etc.

III. Trabajadores Temporales

IV. Aplicación de la Ley en la Frontera. *Los recursos necesarios para aplicar la ley en la frontera serán aumentados substancialmente y serán también reorganizados...un número de 2,000 será agregado al personal y colocado en la frontera con México".*

En Mayo de 1977, 100 patrulleros más fueron agregados al personal del puerto de San Diego. Artículos recientes en los periódicos indican que el aumento de personal no ha tenido en realidad efectos considerables en parar el flujo de inmigración. No hay razón para creer que dos mil oficiales de inmigracion más, van a resolver un problema político, económico e internacional. Lo que esta propuesta hace en realidad, es aumentar la intensidad del estado policíaco dentro de nuestras comunidades. Si el INS continúa sus históricos modos de acción, el aumento de oficiales patrulleros resultará en un aumento en la violación de los derechos civiles y constitucionales de nuestro pueblo.

Una cosa queda en claro: ninguno de los puntos específicos del plan de Carter es aceptable. Lo que no está claro es cuales son las implicaciones de este plan en el futuro y a largo plazo. Sin embargo, es muy importante darse cuenta que el gobierno y los grandes negocios piensan en el plazo de los próximos 10 a 15 años. Controlando el futuro es, justamente, como se mantienen en el poder.

El futuro que el gobierno y los

Continúa en la página 10

August 5, 1977

UNDOCUMENTED ALIENS

MEMO FOR: EDITORS, NEWS DIRECTORS

FROM: The Media Liaison Office
The White House

The President has announced Administration proposals for dealing with the problem of undocumented aliens in the United States.

This background report discusses the proposals and the complexities of the issue. This report may be useful to you in forming an evaluation and keeping the public up-to-date. Please direct further questions to Patricia Bario or James Purks, Media Liaison Office, 202/456-6623 or 2947.

I. SUMMARY OF THE PRESIDENTS'S PROPOSALS

The President's proposals cover these areas: employer sanctions, border enforcement, adjustment of status, foreign policy, temporary workers, and immigration policy.

1) Employer sanctions:

-- A law is proposed which would make unlawful hiring of undocumented aliens. Enforcement would be limited to employers who engage in a "pattern or practice" of hiring undocumented aliens. The law would provide injunctive relief and civil fines up to a maximum of $1,000 per alien. An employer who violates any injunction would be subject to a contempt citation and imprisonment.

-- The U. S. Attorney General would be authorized to establish identification standards for prospective employees. Under the law, employers who show that they examined any of the designated identifiers would not be liable, nor would they be required to verify the authenticity of the identification.

-- Social Security cards would be designated as one of the authorized identifiers, and the Secretary of the Department of Health, Education, and Welfare will take steps to make the card a more reliable indicator of lawful residence status.

- More -

-- Criminal penalties could be applied for receiving pay for knowingly assisting an undocumented alien obtain a job.

-- The Federal Government would increase enforcement of the Fair Labor Standards Act (FLSA) and the Federal Farm Labor Contractor Registration Act, and both civil and criminal penalties for FLSA violations would be used more frequently.

-- Cooperation and information exchanges between the Immigration and Naturalization Service (INS) and the FLSA enforcement personnel would be improved.

-- The Federal Government would oppose strongly discrimination against Mexican-Americans and other ethnic Americans that might result from the undocumented alien program, and federal civil rights agencies would be ordered to assure that existing anti-discrimination laws protecting Hispanic Americans and other ethnic Americans are fully enforced.

-- The proposed law on employer sanctions would pre-empt state and local laws prohibiting the hiring of undocumented aliens.

Questions And Answers On Employer Sanctions

Q: How would the HEW Secretary make the Social Security card a more reliable indicator of lawful residence status?

A: Proof of legal residence, as well as a personal interview would be required before a Social Security card could be issued. Also, the cards would be made more difficult to forge.

Q: Would the Social Security card be used as a national identification card?

A: No. The President is not proposing a national identification card.

Q: Why the criminal penalties for knowingly assisting an undocumented alien in obtaining employment?

A: This is aimed at "brokers" for undocumented aliens and is meant to make it easier to prosecute agents for smugglers. It also is aimed at supervisors who sometimes threaten to report undocumented aliens unless they are given a fee from every paycheck.

- More -

Q: Why would the proposed federal law pre-empt state and local laws?

A: Three cities and 12 states have passed laws prohibiting the hiring of undocumented aliens, and 15 states and some cities have legislation pending. The measures differ widely. The pre-emption would eliminate confusion and uncertainty and insure a uniform and comprehensive policy.

---

2) Border Enforcement

--Enforcement personnel at border areas having the highest rates of undocumented alien crossings will be increased by 2,000.

--The State Department will strengthen its visa issuance procedures abroad to provide for better pre-screening. This will include an increase in anti-fraud action and screening procedures and a new system of issuing more secure visas.

--An anti-smuggling task force will be formed within the Administration to reduce alien smuggling rings.

--The Administration will support legislation which is presently pending to establish criminal penalties for knowingly using false information to obtain federal identification documents and for knowingly possessing fradulent documents that would be used to obtain any federal documents.

Questions and Answers On Border Enforcement

Q: Why is such strong stress being placed on border enforcement?

A: Although statistics are difficult to come by, it is estimated that a large majority of the undocumented aliens in the United States have come here via crossings on the Southwest border with Mexico.

Q: In Fiscal Year 1976, some 1,700 of the Immigration and Naturalization Service's 2,000 officers were located in the Southwest border area. Isn't that enough?

A: No. The numbers look impressive, but when the personnel is stretched out over a long border area it comes down to 200 per shift or one patrol person per every 10 miles.

---

3) Adjustment of Status

--Permanent resident alien status. Will be granted to all undocumented aliens who have resided continuously in the Untied States from before January 1, 1970 to the present. These aliens would have to apply for this status and provide normal documentary proof of continuous residency. If residency is maintained, U.S. citizenship could be sought five years after the granting of permanent status, as provided in existing law.

--The permanent resident alien status would be granted through an update of the registry provisions of the Immigration and Nationality Act. The registry statute has been updated three times since 1929, with the last update in 1965, when permanent resident alien status was granted to those who had resided here prior to 1948. Presently, anyone who came before 1948 can apply for permanent resident alien status.

--Temporary resident alien status. All undocumented aliens, including ones whose legal stays have expired, residing in the United States on or before January 1, 1977, and who register with the Immigration and Naturalization Service, would be granted a new temporary resident alien status for a 5-year period.

--Persons granted temporary status could remain in the United States for at least five years, and during this time a decision could be made to extend the permitted staty, to grant permanent resident alien status, or to deport upon expiration of the five years.

--Those granted temporary resident alien status would be allowed to work and would have one year to apply for the new status. However, they could not have political or civil rights to vote, run for office or serve on a jury and could not bring in family members from abroad.

--People on temporary alien status would not be eligible for Federal Social Services such as Medicaid, Food Stamps, Aid to Families with Dependent Children (AFDC), or Supplemental Security Income. State and local governments could provide general assistance if they chose.

--For undocumented aliens who entered the United States after January 1, 1977, there would be no adjustment of status. The Immigration laws would still be enforced against those undocumented aliens. They would be subject to deportation.

--Those undocumented aliens who are eligible for adjustment of status, but do not apply, would continue to have the immigration laws enforced against them.

Questions and Answers on Adjustment of Status

Q: Could persons who are granted temporary resident alien status re-enter the United States if they depart during the five-year period?

A: Yes.

Q: What about the current backlog of applications for adjustment of status?

A: The backlog is estimated currently at more than 240,000, and the President's plan calls for the INS to improve its administrative procedures to reduce this. INS will begin immediately. It is expected that the INS will have reduced the backlog by the time legislation is enacted.

Q: Some Federal funding programs are based wholly or partially on population. What affect would the adjustment of status proposals have in this area?

A: Funding allocations for certain Federal programs such as revenue sharing would be altered by having the U.S. Census Bureau include temporary resident aliens in population figures supplied to the programs. These measures would be temporary since the 1980 census would reflect the total population, including those in the new non-deportable status.

---

4) Foreign Policy

--The United States would be committed to helping source countries obtain assistance appropriate to their economic needs and would explore with them bilateral or multilateral assistance. In other cases, technical assistance, or encouragement of private financing, enhanced trade or population programs would be involved.

5) Temporary Workers

--The present temporary foreign worker (H-2) certification program would be thoroughly reviewed to guarantee that employers always have an available labor supply. Efforts would be made to improve the efficiency of the program. The President will not recommend a bracero-type program for the importation of temporary workers.

6) Immigration Policy

--There will be a comprehensive interagency study of immigration policy and laws.

--The Administration will support legislation to increase the current 20,000 person limit on annual Mexican and Canadian immigration to combined 50,000.

II. QUESTIONS AND ANSWERS

(These questions and answers deal primarily with the background of the problem. For more information on the President's proposals, beyond the summary report, contact the Media Liaison Office.)

Q: How many undocumented aliens are there in the United States?

A: Estimates range from 2 to 12 million. These figures are based on apprehension statistics; last year nearly 900,000 undocumented aliens were apprehended and deported.

Q: What is the correct terminology for these persons?

A: The most commonly used one is illegal aliens. The announced policy uses undocumented aliens because of sensitivity to criminal connotations that some people associate with the term illegal aliens. Other terms used include illegal immigrant, visa abuser, undocumented worker, clandestine migrant, unauthorized worker.

Q: What are the undocumented aliens like?

A: Generalizations are difficult and, again, the lack of accurate data makes this question difficult to answer. It is further complicated by the fact that the United States has two broad categories of undocumented aliens -- those who cross in great numbers over the borders in the Southwest, and those who come from other countries by other means. The vast majority of undocumented aliens in the United States come from Mexico and what information we have indicates the following characteristics of the average alien: a young adult (most are males), badly educated, primarily a farmworker from a rural area, economically motivated, employed at or near the bottom of the U. S. labor market, and inclined to send a major portion of earnings to dependents in his or her homeland, outside the U. S. The typical Mexican worker comes for short periods of time, up to six months at a time.

Q: How do the undocumented aliens get here?

A: Most come across the borders from Mexico in the Southwest. There is a second group of undocumented aliens who generally enter the U.S. with valid documents and disappear into the job markets of our larger cities and cannot be located after their visa period expires.

Q: Besides Mexico, what are the countries where undocumented aliens originate?

A: There are undocumented aliens here from nearly every country in the world. It is believed that at least 60 countries are significant regular "source" countries Some of the largest sources outside of Mexico are the Dominican Republic, Haiti, Jamaica, Guatemala, Colombia, Peru, Ecuador, Phillipines, Korea, Thailand, Greece, India, Iran, and Nigeria.

Q: What are the main causes for these large immigrations of undocumented aliens?

A: Generally, most undocumented aliens come from countries with a high population growth rate and close links with the United States. These factors comprise the so-called "push" factor, or incentive for persons to leave.

Second, they come to the United States because of available jobs and the low risk of detection. This is the "pull" factor. Also, it is believed that employer willingness to hire undocumented aliens is a cause.

Q: It is charged that the undocumented aliens take away lower level jobs that would be occupied otherwise by Americans, especially minority groups who therefore are in the unemployment ranks. Is this true?

A: Again, there is lack of accurate data. However, a 1976 Department of Labor study indicated that undocumented aliens appear to increase the supply of low-wage labor and thus compete with disadvantaged U. S. workers. Most undocumented aliens identified by the Labor Department study held jobs in the secondary sector of the U. S. labor market -- low-wage, low-skill and low-status jobs. A word of caution about generalizations: there is a difference in impact between Mexican and non-Mexican undocumented aliens. Often the non-Mexican aliens who come in via visitor permits or visas and then disappear tend to go into higher-ranking employment areas, and thus represent yet another factor in this complicated picture.

- More -

National Council of La Raza

Raul Yzaguirre
National Director

National Office

1725 Eye Street, N.W.
Suite 210
Washington, D.C. 20006
(202) 659-1251

MEMORANDUM

TO : NCLR Executive Committee and Legislative & Public Policy Analysis Committee
Ad Hoc Coalition on Immigration
NCLR Affiliate Organizations
Hispanic Advisory Committee on Immigration and Naturalization
Forum of National Hispanic Organizations

FROM : Raul Yzaguirre, National Director

DATE : August 18, 1977

RE : President Carter's Announced Policy on Undocumented Aliens

As you know, on Thursday, August 4, 1977, President Carter delivered a message to Congress detailing the essence of his proposal, "to help markedly reduce the increasing flow of undocumented aliens in this country and to regulate the presence of the millions of undocumented aliens already here".

Enclosed please find the President's message to Congress and some related materials that should be of interest to you.

In general, the National Council of La Raza has taken a supportive position on the overall thrust and intent of what the President has proposed to Congress. The NCLR would commend the President for recognizing the need for a comprehensive approach in dealing with such a complex issue. We all agree that there is no single solution to the problem.

Nevertheless, the NCLR is very much concerned over the fact that certain aspects of the announced policy, in many instances, lacks specificity and depth. In short, it provides a framework from which to work, but in our opinion, does not go far enough and does not adequately address the root cause of the flow of undocumented aliens to the United States.

Programs Office

114 W. Adams
Suite 719
Phoenix, Arizona 85003
(602) 252-7101

Programs Office

American Southwestern Plaza
2403 San Mateo Blvd. N.E.
Suite S14
Albuquerque, New Mexico 87110
(505) 268-2421

For example, in the event the proposed civil sanctions provision against employers who engage in a "pattern or practice" of hiring undocumented aliens were to become law, the "safeguards" to insure Hispanics and other minorities would not be discriminated against by potential employers would be inadequate.

Additionally, while we applaud the recognition of granting legal status to those undocumented aliens currently in the United States who have built up equities in our society, the adjustment of status criteria would exclude most of those for whom the provision is supposedly designed to provide relief. Only those persons who have resided in the U.S. continuously from before January 1, 1970 would be eligible to apply for permanent resident alien status.

Campanion bills of the Administration's proposal will be introduced when Congress returns from its Labor Day recess (probably September 7, 1977). On the Senate side, it is understood that Senators James O. Eastland (D.Miss.) and Edward M. Kennedy (D.Mass.) will introduce and co-sponsor the Administrations's proposal. Senator Eastland is Chairman of the Senate Judiciary Committee. He is also Chairman of Subcommittee on Immigration. Senator Kennedy is a member of the Judiciary Committee and the Subcommittee on Immigration.

On the House side, Congressman Peter W. Rodino (D.N.J.), Chairman of the House Judiciary Committee, will introduce the Administration's proposal as a matter of protocal. It is understood that Congressman Rodino will not sponsor or co-sponsor the proposal.

Hearings will be held on the Senate side first. The House will await complete Senate action before taking any action of its own. The First Session of the 95th Congress is scheduled to adjourn around the middle of October and will not reconvene until January 1978.

In the meantime, NCLR will be meeting with other organizations in an attempt to obtain a consensus and unified position on how to best deal with the undocumented alien situation in a fair and humane manner.

I hope the enclosed information proves useful to you.

National Council of La Raza

Raul Yzaguirre
National Director

National Office

1725 Eye Street, N.W.
Suite 210
Washington, D.C. 20006
(202) 659-1251

MEMORANDUM

TO : Raul Yzaguirre

FROM : Cosme J. Barcelo, Jr.

DATE : August 5, 1977

SUBJECT: Meeting with Congressman Edward Roybal, regarding his Reaction to the Presidents Proposal on Undocumented Aliens.

Today, at 5:00 p.m., I participated in a meeting with Congressman Roybal, Chairman of the Hispanic Caucus for the purpose of obtaining his reaction to President Carter's proposal.

Present at the meeting were Frank Moreno of Ser-Jobs for Progress, Al Perez of MALDEF, Leo Miranda of LULAC, Gloria Lopez Hernandes of MANA, Roselia Roman of ASPIRA, Joe Hernandes of the Hispanic Lawyers, Tom Amparano (observer) of the Governors Office of Arizona, Ricardo Gutierrez of AYUDA showed up but could not stay for the entire meeting. The Congressman's Legislative Assistant, Manuel Tijerina and Nancy Naylor, Staff Assistant were also present at the meeting.

The Congressman started out by saying that he was not speaking in behalf of the Hispanic Caucus. He admitted that the Caucus itself had differing views of the varying proposals being circulated and each member had to take into consideration the constituencies they represented. The members of the Caucus with farming communities have tended to support employer sanctions and a limited amnesty program.

Programs Office

114 W. Adams
Suite 719
Phoenix, Arizona 85003
(602) 252-7101

Programs Office

American Southwestern Plaza
2403 San Mateo Blvd. N.E.
Suite S14
Albuquerque, New Mexico 87110
(505) 268-2421

His entail reaction to the Presidents proposal were as follows:

1. He found the Presidents proposal of allowing aliens who entered the country on or before January 1, 1977 to be eligible to apply for temporary alien status for five years too unrealistic and even "offensive". In his view it amounts to a Bracero program. More specifically it does not concern unification of family provision and prohibits these people from qualifying for human services supported by Federal funds, e.g., Food Stamps, Medicade.

2. He stated he did not like the term amnesty and perferred the use of a different term, e.g., an equity program for persons who have established roots in this society and who have made contributions to this society.

3. Although the employer sanctions provision appears to be minimul, (the Department of Justice would act only against employers who engage in a "pattern or practice" of hiring undocumented aliens), it opens up the door for stronger amendments to the proposal. For example, Congressman Rodino will strongly attempt to get his pet project, criminal sanctions into any final proposal, his efforts will undoubtedly be joined by Congressman Eilberg.

4. Although the Presidents package does not reccommend expansion of the H-2 program it does seek to make it a more expeditious process. Roybal feels the H-2 program will not be significantly changed if it is changed at all. If it is expanded it would be a contradiction because on the one hand this society is concerned about jobs being taken away from Americans and on the other we bring in foreign labor to fill temporary jobs.

5. Referring back to the temporary worker proposal, Roybal stated that, "It is not designed to help these undocumented aliens but to exploit them. Furthermore, it will be difficult to resolve what to do with this group once their 5 years temporary residency status has expired and INS knows who and where they live.

6. With respect to Mexican U. S. Relations he stated that nothing is really going to be effectively accomplished until Mexico and the U. S. really sit down and try to do something about it in a meaningful way. He is of the opinion that Mexico and the U. S. do not want to do anything about curbing the flow of undocumented aliens because on the one hand it helps Mexican economy and reduces the number of persons without income or who have minimal incomes. On the other hand, many industries in the U. S. rely on cheap labor to produce goods in an economical manner. In the end, the producers of goods and the consumer benefit.

7. Roybal was very concerned over Mexicos apparent unwillingness to accept direct economic aid from the United States. In essence, although Mexico doesn't like to admit it, they are receivers of aid from the U. S. First of all, undocumented aliens from Mexico take monies earned in the U. S. back to Mexico, this helps the economy of Mexico and is, therefore, economic aid. Secondly, Mexico takes low interest loans from international lending agencies, at a low 1.5% interest rate. However, the U.S. must borrow the money lent to Mexico at the prime world market rate of up to 10 or 11% in order for the World Bank to lend the money to Mexico; this is economic aid to Mexico in Roybal's opinion.

   According to Roybal, Mexico has to realize that its people are starving in its own country and that is why they come to the U. S. Therefore, one of the problems is the vanity and pride of Mexican officials which presents an obstacle for the U.S.'s ability and willingness to provide economic aid to Mexico. According to the Presidents proposal, economic aid and technical assistance will be available if Mexico decides they want it.

8. Roybal, in closing the discussion, pointed out that Eilberg may support giving those aliens who came here between 1970 and 1977 a better break than the one proposed by the President.

9. When talking about strategy, Roybal said he and his collegues need support. They need letters and phone calls. In short he indirectly expressed his frustation with the lack of an organized lobbying effort or organization owned and controlled by Hispanics, staffed by competent and dedicated persons, who could speak authoritively on issues and one that has paid members and a consitituency that is real. An organization the Hill will listen to.

   He mentioned that NALADO is attempting to organize such an effort.

10. Another point on strategy would be to call together a meeting of National Hispanic organzations to addres the issue. He would be glad to participate and felt Congressman Badillo would be willing to lend his name to such an endeavor as well but could not commit the Hispanic Caucus.

11. He stated that what is needed now is follow through. He would like to be able to receive 1,000 letters on the matter from Hispanics. He would also like to see folks out in the field send letters to their Congressman.

    He would like to see appropriate committee members receive letters as well. In short he would like to see a campaign on this issue. We cannot go on talking to ourselves and to other liberals, we have to go out and speak to Congressman with sizeable Hispanic constituencies, he concluded.

There were numerous other topics discussed at the meeting but I feel this memorandum has covered the main points raised by Congressman Roybal that require our serious consideration; especially the calling together of Hispanic Organizations to meet on this issue. This should happen within the next 90 days.

House Committees, 95th Congress, First Session

Judiciary

Phone: 225-3951

D 23 - R 11

Peter W. Rodino (D N.J.), chairman

Jack Brooks (Texas)	*Robert McClory (Ill.)*
Robert W. Kastenmeier (Wis.)	*Tom Railsback (Ill.)*
Don Edwards (Calif.)	*Charles E. Wiggins (Calif.)*
John Conyers Jr. (Mich.)	*Hamilton Fish Jr. (N.Y.)*
Joshua Eilberg (Pa.)	*M. Caldwell Butler (Va.)*
Walter Flowers (Ala.)	*William S. Cohen (Maine)*
James R. Mann (S.C.)	*Carlos J. Moorhead (Calif.)*
John F. Seiberling (Ohio)	*John M. Ashbrook (Ohio)*
George E. Danielson (Calif.)	*Henry J. Hyde (Ill.)*
Robert F. Drinan (Mass.)	*Thomas N. Kindness (Ohio)*
Barbara C. Jordan (Texas)	*Harold S. Sawyer (Mich.)*
Elizabeth Holtzman (N.Y.)	
Romano L. Mazzoli (Ky.)	
William J. Hughes (N.J.)	
Sam B. Hall Jr. (Texas)	
Lamar Gudger (N.C.)	
Harold L. Volkmer (Mo.)	
Herbert E. Harris II (Va.)	
Jim Santini (Nev.)	
Allen E. Ertel (Pa.)	
Billy Lee Evans (Ga.)	
Anthony C. (Tony) Beilenson (Calif.)	

STAFF

		Building	Room	Direct Dial
Parker, Alan A.	General Counsel	RHOB	2137	225-8088
Cline, Garner J.	Staff Director	RHOB	2137	225-7709

SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP & INTERNATIONAL LAW

Joshua Eilberg (D—Pa.), Chairman

MAJORITY: (5 D.) Representatives Eilberg, Holtzman, Hall, Harris and Evans (Ga.).

MINORITY: (2 R.) Representatives Fish and Sawyer.

Cline, Garner J.	Counsel	RHOB	2137	225-770[illegible]
Endres, Arthur P.	Counsel	RHOB	2137	225-572[illegible]
Cook, Alexander B.	Associate Counsel	RHOB	2137	225-650[illegible]

Senate Committees, 95th Congress, First Session

Judiciary

Phone: 224-5225

D 11 - R 6

James O. Eastland (D Miss.), chairman

John L. McClellan (Ark.)	*Strom Thurmond (S.C.)*
Edward M. Kennedy (Mass.)	*Charles McC. Mathias Jr. (Md.)*
Birch Bayh (Ind.)	*Bill Scott (Va.)*
Robert C. Byrd (W.Va.)	*Paul Laxalt (Nev.)*
James Abourezk (S.D.)	*Orrin G. Hatch (Utah)*
James B. Allen (Ala.)	*Malcolm Wallop (Wyo.)*
Joe Biden (Del.)	
John C. Culver (Iowa)	
Howard M. Metzenbaum (Ohio)	
Dennis DeConcini (Ariz.)	

STAFF		2226 DSOB	Direct Dial 224-5225
Rosenberger, Francis	Chief Counsel & Staff Director	Drotos, Bertha	Staff Asst.
		Gray, Beatrice M.	Staff Asst.
Argetsinger, J. C.	Prof. Staff Mbr.	Marion, Barbara A.	Staff Asst.
Dixon, David M.	Prof. Staff Mbr.	Matera, Rebel	Staff Asst.
Singletary, Britt	Prof. Staff Mbr.	Mathews, Vivian C.	Staff Asst.
Thelen, Dennis C.	Prof. Staff Mbr.	Moorcones, Dawn	Staff Asst.
Wambach, Richard F.	Prof. Staff Mbr.		

SUBCOMMITTEE ON IMMIGRATION
James O. Eastland (D—Miss.), Chairman

MAJORITY: (3 D.) Senators Eastland, Kennedy and Abourezk.
MINORITY: (1 R.) Senator Laxalt.

		Building	Room	Direct Dial
Loughran, Edward A.	Staff Director	DSOB	2306	224-2347
Rawitz, Sidney B.	Special Counsel	DSOB	2306	224-2347
Hazard, Mark G.	Prof. Staff Mbr.	DSOB	2306	224-2347
DeGooyer, Franzetta R.	Clerk	DSOB	2306	224-2347
Junghans, Sherry L.	Clerk	DSOB	2306	224-2347

A national campaign to "turn the illegal alien issue into a human rights issue" was launched by a coalition of Chicano activists Leaders of Chicano groups from Los Angeles, San Diego and San Bernardino counties said they have joined with activists from Texas and other states to mount a campaign against antialien legislation pending in the Congress and the Carter Administration. They said the antialien sentiment reflected by that legislation is in contradiction to President Carter's concern for human rights in the Soviet Union and other foreign countries. 7 - 24-77 Times

SATURDAY, AUGUST 6, 1977

The Washington Post

AN INDEPENDENT NEWSPAPER

Tackling Illegal Immigration

THE CARTER proposals on illegal, or "undocumented," aliens are, as critics charge, "a patchwork compromise that attempts to respond to a range of opposing points of view." Most social policies are—and that's as much a strength as a weakness. In fact, the proposals represent, as the President states, Cabinet-level study (by successive administrations) and the groundwork laid by the key legislators Reps. Rodino and Eilberg and Sens. Eastland and Kennedy. The country has never had an explicit, comprehensive set of policies meant, in Mr. Carter's words, "to help markedly reduce the increasing flow of undocumented aliens in this country and to regulate the presence of the millions of undocumented aliens already here." Now it can choose.

Not everyone wants to reduce the flow: employers seeking cut-rate labor, for instance, and Hispanic Americans welcoming kin. But two groups that do are those troubled by labor competition from aliens and those concerned about overhead costs. Mr. Carter would tighten enforcement at the Mexican border and lesser entry points. He would seek source-country cooperation, especially Mexico's, even though few expect Mexico either to close its border (and raise its already disastrous unemployment level) or to conduct the social revolution needed to give its people jobs.

He also proposes to put civil penalties on employers of illegal labor, hoping thereby to tarnish the lure. Such legislation is needed, but it faces formidable opponents: civil libertarians alarmed (unjustifiably, in our view) by the specter of a national ID system; Hispanic Americans fearful (with more reason) of getting caught in the illegal-alien dragnet; employers claiming the new controls would be too heavy; law-enforcement zealots and no-growth proponents claiming the controls would be too light.

Even more controversial are the proposals affecting illegals already resident. We think Mr. Carter had to propose, as he did, that illegal aliens who have been here over seven years be given permanent-alien status, affording eligibility for federal benefits and for eventual citizenship. It is in the nature of amnesty to excuse—if not in fact to reward—law-breaking. But it would be hard to dig out and deport the "over-sevens." If the figure sounds arbitrary, any cutoff would be.

The "under-sevens," almost certainly a much larger group, would be granted a new temporary-alien status and assured of not being deported for five years, during which time they would be counted and registered (but not given federal benefits) and their eventual fate decided; meanwhile new illegals, if caught, would be thrown out. This is a disquieting proposal. It creates a new legal class of second-class citizen. It is an incentive both for new illegal aliens to sneak in and for old under-seven illegal aliens to cheat their way into the over-seven group. The position of the already aggrieved Hispanic-American community could be complicated. We nonetheless lean to supporting the concept. It represents a game effort to catch hold of a problem that otherwise will lurch even further out of control. We have seen no more sensible alternative suggested by the critics.

Illegal aliens are the ultimate international status symbol. If the United States were a police state—if it were not, in fact, a mecca in the eyes of millions—it would not have the problem. This is a nice thought—but the problem remains entirely real. The Carter proposals won't by a long shot solve it. But they will engage the political system with it. Given past neglect, that's major progress.

Opposition Stalls Carter Alien Plan

By GEORGE RAMOS
Staff Writer, The San Diego Union

LAS CRUCES, N.M. — The unveiling of the Carter administration's alien package has been stalled by opposition to several of its provisions, the Immigration and Naturalization Service director said yesterday.

INS director Leonel J. Castillo, attending yesterday's session of the Organization of U.S. Border Cities here, said resistance has been primarily aimed at two key issues:

— Sanctions against U.S. employers who knowingly hire illegal aliens.

— A so-called amnesty program that would allow certain aliens to remain in the United States if they have resided in the United States for a certain period of time.

"There are still some unresolved matters before it can be presented to Congress," said Castillo.

The Carter package, seen as meeting growing public concern over the flow of illegals from Mexico, was to have been presented several months ago, Castillo admitted. He indicated that it may not be sent to Congress until late this summer.

Some of the delays come from President Carter's personal insistence that various groups — including the Mexican government — be consulted before the package is introduced.

Castillo said he recently went to Mexico City to brief Mexican President Jose Lopez Portillo on the package.

"He listened politely and received it," Castillo said.

The official Mexican government response, to be sent to Mr. Carter and Secretary of State Cyrus Vance, will be that Mexico will not accept the package as a true solu-

(Continued on A-6, Col. 1)

S.D. Union
7-16-77

Carter Alien Package Stalled

(Continued from Page A-1)

tion to the illegal flow of immigrants into the United States.

"They are interested in more trade," Castillo said.

OTHER ELEMENTS

The other elements of the widely-discussed package include more INS manpower, stricter enforcement of minimum wage laws, an overhaul of INS laws and policies and some type of economic aid for Mexico.

The employer sanctions have been criticized by numerous Chicano and Hispanic activist groups, contending that the sanctions will inadvertently lead to job discrimination against U.S. citizens of Latin descent.

Others are not sold on the idea of an amnesty for illegals, many considered lawbreakers by some U.S. citizens, Castillo said.

Also, there still is debate on the cutoff date that would be applied in order to decide how many illegal immigrants could remain in the United States.

Castillo recently said that an amnesty proposal may cover only about 500,000 persons in the United States.

A temporary guest worker program, possibly the key to the Carter proposal, received considerable attention from the mayors along the Rio Grande Valley at yesterday's meeting.

Texas farmers in the valley, who rely on Mexican labor to help harvest area crops, recently persuaded President Carter and Castillo to allow 800 Mexican laborers to pick crops in the Presidio, Texas, area.

Said Mayor Othal Brand of McAllen, Texas: "We need those workers very badly."

However, Castillo, Brand and others were sued by a Texas civil rights group over the decision. Chicano activist Herman Baca of National City has been critical, also calling Castillo a "coyote" for U.S. agribusiness interests.

Coyote is a term used to describe smugglers who help illegals enter the United States.

Sen. James Eastland, D-Miss., has rejected employer sanction legislation twice before as chairman of the Senate's Judiciary Committee because it lacked provisions for temporary guest workers.

AID DISPUTED

Castillo admits that Eastland's support will be crucial to the Carter administration's chances of passage for its alien package.

At the meeting, several mayors complained to Castillo that more money should be spent to bolster the Mexican economy. Mayor Paul Pierce of Alpine, Texas, said substantial aid for Mexico should be approved in view of past U.S. economic aid for Vietnam and Israel.

Later, however, Mayor Manuel Quevedo Reyes of Ciudad Juarez — across the border from El Paso — answered:

"I don't think that's the solution to the problem. We don't want more money. We need better trade, we need a just way to deal business with the United States.

"Then we can do very well on our own."

The observation drew prolonged applause from those attending the border cities meeting.

San Diegan Nominated

San Diego Union Staff Dispatch

LAS CRUCES, N.M. — Jesse Ramirez, executive director of the Chicano Federation of San Diego County, Inc., has been nominated to serve on a U.S. immigration advisory group made up of prominent Hispanics, it was learned here yesterday.

An Immigration and Naturalization Service spokesman said Ramirez was selected to fill one of two vacancies on the 21-member INS Hispanic Advisory Committee. Houston immigration agency official Hector Garcia has been nominated to fill the other vacancy.

The two men are undergoing routine security checks before the appointments become final, the spokesman said.

The advisory group, mostly made up of Chicanos, was formed last year by former INS director Leonard F. Chapman as a liaison between the INS and the nation's Spanish-speaking communities.

The current INS director, Leonel Castillo, is a former member of the advisory committee.

At present, there are no San Diegans on the committee.

Pat Murphy

Phoenix Gazette Sunday Aug. 7, 1977

Amnesty Plans Bringing Flood Of Aliens

YUMA — If you look at the raw statistics, and listen to the hunches of this border town's wizened oldtimers, President Carter's amnesty plan for illegal aliens is no solution.

Instead, it will only create a larger uncontrollable flow of more Mexican illegals looking for the good life.

In fact, the rush is already on, touched off by rumors weeks ago in the Mexican press that Carter would grant amnesty to hundreds of thousands of Mexican illegals working and living in the U.S.

Of dozens of official control points along the Mexican border, stretching from Texas, through New Mexico and Arizona, to California, Yuma now ranks third in monthly apprenhensions, and is being characterized as the new "soft spot" by federal law enforcement officers.

* * *

THE CHIEF of the U.S. Border Patrol's enforcement sector in this area, Armand Hysette, flipped through his statistical sheets, and found that in July this year his thin force of officers apprehended 5,378 Mexican illegals — a whopping 54 percent increase over the previous July, and at a time when agricultural work is slow.

If the rate of apprehensions vs. illegal crossings holds true (that is, how many of the total are caught), then another 10,000 illegals slipped through the Yuma sector in July without notice.

Hysette has 97 officers on duty, round the clock—but 20 vacancies which Washington doesn't think can be funded for another year.

Severe drought in the Mexican state of Sonora, and an unemployment rate of 40 per cent in nearby Mexican areas, has undoubtedly encouraged some of the upsurge in crossings.

But another factor is that the border at Yuma is easier to cross than in California. A new 100-officer task force of Border Patrol officers has squeezed California border openings tight, apprehending 38,000 illegal aliens in the Chula Vista area just last month.

"They're moving eastward, looking for an easy spot to cross," Hysette said.

Yuma is comparatively easy. The Colorado River below the Morelos Dam is dry, for one thing, and illegals just march across throughout the day and night.

* * *

IF, AS THEY SAY in Yuma, Carter's amnesty will only encourage more crossings, then it means big days are ahead for the alien smugglers.

Hysette said that in March alone, the Border Patrol made 150 alien smuggling arrests. The smugglers—some of them illegals themselves—can collect $200 a head to smuggle friends across, meaning as much as $4,000 for a small load of 20 persons. If caught, and convicted, most of them can expect a lenient fine, and maybe 45 to 60 days in jail.

Then back to smuggling.

While federal law enforcement officers here avoid talking about the Carter amnesty plan, or offering any expert opinions on it, the publisher of the Yuma *Daily Sun*, Sen. Jones Osborne is less reticent.

"The Carter plan will just encourage more (aliens) to come northward. These are desperate people. The money they send home," Osborne said, "is reported to be the fourth largest source of income in Mexico today."

What will complicate enforcement of the President's plan, one law enforcement officer told me, is that there is no fool-proof method of determining whether an alien has been in this country for a week, a year or even 10 years.

"They've used false documents in the past. Why not now?" he asked. "They have ways of borrowing water bills or other documents to prove they've lived here long enough to be eligible for amnesty."

He said this ability to obtain false documents and to establish a history of residency will simply encourage the new flow of illegals.

Osborne says the town and county of Yuma cannot treat the problem of illegal aliens with the same detached academic air that other parts of the country can.

He cited, for example, police and sheriff statistics which show that crime in the area has surged upward—at least 40 per cent of the crimes are perpetrated by aliens, Osborne said.

President Carter missed carrying Yuma County by 1,326 votes in 1976. If feeling about his amnesty plan is of any importance, his popularity has plunged even farther.

CARTER PLAN

MALDEF

STATEMENT OF POSITION

REGARDING THE ADMIN.

ADMINISTRATION'S

UNDOCUMENTED ALIEN

LEGISLATIVE PROPOSAL

MEXICAN AMERICAN LEGAL DEFENSE EDUCATIONAL FUND

1028 CONNECTICUT AVENUE, SUITE 716 / WASHINGTON, D. C. 20036 / (202) 659-5166

Statement of Position Regarding the Administration's Undocumented Alien Legislative Proposal

September 26, 1977

NATIONAL OFFICE
VILMA S. MARTINEZ
PRESIDENT AND GENERAL COUNSEL
145 NINTH STREET
SAN FRANCISCO, CA 94103
(415) 864-6000

REGIONAL OFFICES

250 W. FOURTEENTH AVENUE
DENVER, COLORADO 80204
(303) 893-1893

5455 WILSHIRE BLVD., SUITE 1403
LOS ANGELES, CALIFORNIA 90036
(213) 936-5145

PETROLEUM COMMERCE BLDG.
201 NORTH ST. MARY'S STREET
SAN ANTONIO, TEXAS 78205
(512) 224-5476

1028 CONNECTICUT AVENUE
SUITE 716
WASHINGTON, D.C. 20036
(202) 659-5166

MEXICAN AMERICAN LEGAL DEFENSE EDUCATIONAL FUND

1028 CONNECTICUT AVENUE, SUITE 716 / WASHINGTON, D. C. 20036 / (202) 659-5166

September 26, 1977

MEMORANDUM

TO: Interested Parties

FROM: Mexican American Legal Defense and Educational Fund/ Al I. Perez

RE: Statement of Position Regarding the Administration's Undocumented Alien Legislative Proposal

Enclosed for your information and review is a copy of MALDEF's "Statement of Position Regarding the Administration's Undocumented Alien Legislative Proposal." For the past several weeks, MALDFF has been in the process of closely analyzing President Carter's Message of August 4, 1977, which proposed actions both to reduce the flow of undocumented aliens into this country and to regulate the presence of such persons already here. The enclosed statement is a detailed presentation of MALDEF's views concerning the legislative action proposed by the Administration.

In general, we are greatly disappointed by the legislative package outlined in the President's Message. We feel that the need for the proposed legislation was not well considered, and that the legislation itself is poorly conceived.

Specifically, we think that three of its major shortcomings deserve particular mention. The first relates to the factual void in which the Administration's proposal is made; the second and third deal respectively with the employer sanction and change of alien status elements of the proposal.

With regard to the first point, we oppose the Administration's proposal because it is not premised on any reliable factual data or analysis regarding the impact of undocumented aliens upon our society. In our view, the accumulation of such data and its analysis are a necessary predicate to the rational formulation of any undocumented alien proposal, and informed consideration of that proposal by Congress. Because this required first step did not precede the drafting of the Administration's proposal, we feel it is fundamentally deficient.

NATIONAL OFFICE
VILMA S. MARTINEZ
PRESIDENT AND GENERAL COUNSEL
145 NINTH STREET
SAN FRANCISCO, CA 94103
(415) 864-6000

REGIONAL OFFICES

250 W. FOURTEENTH AVENUE
DENVER, COLORADO 80204
(303) 893-1893

5455 WILSHIRE BLVD., SUITE 1403
LOS ANGELES, CALIFORNIA 90036
(213) 936-5145

PETROLEUM COMMERCE BLDG.
201 NORTH ST. MARY'S STREET
SAN ANTONIO, TEXAS 78205
(512) 224-5476

1028 CONNECTICUT AVENUE
SUITE 716
WASHINGTON, D.C. 20036
(202) 659-5166

As to the second point, we oppose the employer sanction element of the Administration's proposal because we feel that its implementation will inevitably lead to employment discrimination against Mexican Americans. If enacted, some employers would be overzealous in enforcing their understanding of the provision, and would refuse to hire anyone distinguished by their skin color or accent as possibly being of foreign origin. Other employers, to avoid any possibility of being brought under governmental scrutiny for violating the provision, would do the same. And some employers, who harbor prejudices against Mexican Americans and other ethnic Americans, would use the provision as justification for their discriminatory hiring practices. To avoid the possibility of spawning such employment discrimination against Mexican Americans, MALDEF is unalterably opposed to the Administration's employer sanction proposal.

Finally, MALDEF considers the change of alien status element of the Administration's proposal to be fundamentally objectionable. By offering permanent resident status only to those undocumented persons who have been continuously residing in this country prior to 1970, the proposal wrongfully denies such status to persons who have built up substantial equities in our society. Persons not continuously resident in the United States prior to 1970 (but who have been resident prior to January 1, 1977) are offered instead only a five-year nondeportable status in which they would be afforded only few of the constitutional and statutory rights guaranteed permanent residents and citizens, and would in effect be cast into an institutionalized subclass of legally resident alien laborers. We are opposed to creation of the nondeportable class, and believe that permanent resident status should be afforded to all persons who have resided continuously in the United States since an appropriate, substantially more recent date than January 1, 1970 -- for example, the Bicentennial date of July 4, 1976 or January 1, 1977.

The above summary gives you a broad overview of MALDEF's views on the Administration's undocumented alien proposal. We refer you to the enclosed statement of position for a significantly more detailed articulation of our views. We urge you to review the statement closely, and we solicit both your comments, and hopefully, your support.

TABLE OF CONTENTS

MEXICAN AMERICAN LEGAL DEFENSE AND EDUCATIONAL FUND

Statement of Position Regarding the Administration's Undocumented Alien Legislative Proposal.

On August 4, 1977, President Carter announced that he would be submitting a multi-faceted legislative proposal to the Congress designed, in his words, "to help markedly reduce the increasing flow of undocumented aliens in this country and to regulate the presence of the millions of undocumented aliens already here."[1/] In summary, the Administration's proposal would: (1) make unlawful the hiring of undocumented workers and authorize the Attorney General to seek civil penalties and injunctive relief against employers who engage in a "pattern or practice" of such hiring; (2) step up border enforcement efforts, particularly along the Mexican border; (3) provide for cooperation with and assistance to source countries in eliminating the economic and social factors generating unlawful immigration into the United States; and (4) provide a procedure whereby undocumented persons "residing continuously" in this country prior to January 1, 1970 could apply for permanent resident status, and undocumented persons not meeting

---

1/ Message from the President of the United States Proposing Actions to Reduce the Flow of Undocumented Aliens in this Country and to Regulate the Presence of those Already Here, H.R. Doc. No. 95-202, 95th Cong., 1st Sess. at 1 (Aug. 4, 1977) (cited as "President's Message"). To date, the Administration has not submitted actual draft legislation to the Congress. Accordingly, this statement of position is formulated based only on MALDEF's understanding of the legislative program broadly outlined in the President's Message.

this criterion but "residing continuously" in this country before January 1, 1977 could apply for temporary nondeportable status good for five years.

The Mexican American Legal Defense and Educational Fund ("MALDEF") has closely analyzed the Administration's legislative proposal, and believes it to be seriously deficient in a number of fundamental respects. Perhaps the most pervasive of these deficiencies is that the proposal is founded on little more than speculation as to how our society is affected by the presence of undocumented aliens. The woeful inadequancy of available data is illustrated by the fact that there are no reliable estimates as to the precise number of undocumented persons in the United States, and there is no clear-cut evidence as to whether their presence imposes a net burden upon our society, or provides a net benefit. The Administration's proposal is the product of a perceived need 2/

2/ The Administration's proposal is more the result of mindless legislative momentum than detailed analysis. This legislative momentum began to build with Representative Peter W. Rodino's introduction of an undocumented alien bill in the second session of the Ninety-second Congress. See H.R. 16188, 92d Cong., 2d Sess. (1972). Since that time, undocumented alien bills have been introduced repeatedly in both houses of Congress, but no bill has ever been enacted into law. Although a substantial number of congressional hearings have been held on the undocumented alien matter, and various Executive branch reports have been prepared thereon, there have been few governmental attempts to accumulate detailed factual data and to analyze those data in a systematic way. In our view, these latter steps must be taken before any undocumented alien legislative package is considered by the Congress.

that has no factual basis. For this reason, MALDEF considers the proposal to be premature, and urges that no legislative action be taken until the undocumented alien question receives substantially more study and analysis.

Apart from our opposition to the Administration's proposal on grounds that it lacks factual foundation, we have serious policy and constitutional objections to constituent elements of the proposal. This statement of position reviews each of the major elements of the Administration's proposal, identifies the deficiencies (and in some cases the strengths) believed by MALDEF to be associated therewith, and explains the various considerations supporting MALDEF's views.

A. Employer Sanction

The Administration's proposal would make it unlawful to hire an undocumented alien, and would authorize the Justice Department to seek injunctive relief and civil penalties ($1,000 per undocumented worker hired) against employers who engaged in a "pattern or practice" of such hiring. Employers would be provided a statutory defense if they could prove that their employees had been required to produce documentation of their legal residence prior to being employed. The social security card would be one document that could be relied upon

by employers as adequate proof of legal residence; the Attorney General would prescribe by regulation other such documents..

In conjunction with the employer sanction proposal, the Administration calls for imposition of criminal sanctions on persons receiving compensation for knowingly assisting an undocumented alien to obtain or retain employment, or who knowingly contract with such persons for the employment of undocumented aliens; increased enforcement of the Fair Labor Standards Act and the Farm Labor Contractor Registration Act; and preemption of state and local employer sanction legislation.

Each of the above elements of the Administration's employer sanction proposal will be discussed individually.

1. Employer Sanction Per Se

The employer sanction proposal is inherently unsatisfactory for a broad range of policy reasons. Moreover, both on its face and in application, there are serious questions regarding its constitutionality.

(a) Policy Considerations. Considering first the policy implications of the proposal, MALDEF believes that its adoption would unavoidably lead to widespread employment discrimination against ethnic Americans in general, and Mexican Americans in particular. Faced with a statute making it illegal to hire undocumented workers, some employers would be

overzealous in their actions, and would refuse to hire anyone whom they suspected of unlawful entry, however unfounded the suspicion and regardless of the proof of legal residence provided. Other employers would react in a like manner out of a desire to avoid all risk of a Justice Department lawsuit, with its attendant complications, financial costs, and adverse publicity. Finally, still other employers, preferring not to hire Mexican Americans because of personal prejudices, would find the employer sanction provision a convenient excuse for denying employment to otherwise qualified Mexican Americans. Because such employment discrimination would be an inevitable by-product of the employer sanction proposal, MALDEF considers the proposal to be fundamentally unacceptable.

The Administration as much as concedes that employment discrimination will flow from its proposal, and attempts to mitigate this indisputable fact in a variety of ways.

First, it contends that since its recommendation is limited to penalties and "pattern or practice"[3/] enforcement, the by-product of employment discrimination would be diminished. Even if the Administration is correct that its proposal promises less employment discrimination than would a proposal adopting criminal penalties and "one time hiring" enforcement (a conten-

---

3/ Note that "pattern or practice" is not defined in the legislative proposal, and could be subject to widely varying interpretations.

tion concerning which we have serious doubts), the fact remains that employment discrimination flowing from the civil penalty and "pattern or practice" enforcement provisions of the Administration's proposal would be substantial.

Second, the Administration suggests that adoption of a statutory defense premised on employer review of a job applicant's documentation of legal residence would diminish employment discrimination.[4/] However, even if we assume for the sake of argument that a tightly drawn statutory defense might eliminate some employment discrimination (although, in our view, an employer sanction statute would generate significant employment discrimination even in the presence of such a well-crafted statutory defense), unfortunately, the statutory defense

---

4/ The Administration's proposal provides that the social security card will be adopted as one type of "documentation of legal residence." For fear of the civil liberties implications inherent in creating a document which could evolve into a national identification card, work permit, or internal passport, the Administration has chosen not to embrace Labor Secretary Marshall's recommendation favoring implementation of a "secure" social security card system. However, recommendations contained in the Administration's proposal suggest that the social security card could be headed in the direction favored by Secretary Marshall. The Administration states that it will "accelerate the steps already being taken to make certain that such cards are issued, as the law now mandates, to legal residents," including requiring personal interviews of applicants and making the cards more difficult to forge. President's Message at 2. This appears to be yet another advance in the historical trend of using the social security number and social security card in areas completely unrelated to the social security program, and should be a matter of serious concern to all persons who value their civil liberties, and wish to see them preserved.

recommended in the Administration's proposal is far from tightly drawn. Not only does it not reduce the threat of employment discrimination, but it in fact raises the specter of yet a new form of discrimination against Mexican Americans. Because the proposed statutory defense does not require an employer to seek documentary proof of legal residence from all job applicants, it leaves the employer free to select those persons from whom he will request such proof. Obviously, in such a setting the employer could simply require documentation from persons whose legal status may appear suspect because of their skin color or accent, and not require documentation from persons who are not so distinguished. To enact legislation which in application would require Mexican Americans and other ethnic Americans alone to carry proof of their legal residence in order to obtain employment would be intolerable.[5/]

Finally, the Administration states that "to prevent any discriminatory hiring, federal civil rights agencies will be charged with making much greater efforts to ensure that existing antidiscrimination laws are fully enforced." President's

---

5/ MALDEF would also object to a statutory defense that would require all job applicants to produce proof of legal residence, but leave an employer discretion to demand more documentary proof from Mexican Americans than from others. A statutory defense, if one is to be enacted, should be framed to require all job applicants to produce a single quantum of proof of legal residence, and should give the employer no discretion to require additional proof. Employers discriminating against Mexican Americans by demanding comparatively more extensive proof of their status should forfeit the statutory defense.

Message at 3. No better example of closing the barn door after the horse has run away could be imagined. We are frankly surprised that the Administration seriously argues that enforcement of antidiscrimination laws would cure the employment discrimination generated by its own employer sanction proposal; given the well-known difficulty in detecting such discrimination in the first place (often because the target of discrimination lacks sophistication and organization, or is afraid to bring the fact of job discrimination to the attention of proper authorities), the limited resources available to enforcement agencies, and the delays which inevitably accompany resolution of an employment discrimination charge, the compounded discrimination generated by the proposal would never be remedied.

(b) Constitutional Considerations: The policy grounds upon which we oppose the Administration's employer sanction proposal relate closely to our view of its constitutional shortcomings. We have examined the Administration's proposal in light of well-established constitutional precedent dealing with equal protection and due process rights, and delegation of legislative authority, and conclude that the proposal is deficient in each of these areas.

Considering first the equal protection guaranties provided by the Fifth Amendment, we think it clear that the employment discrimination against Mexican Americans which would be spawned by the employer sanction proposal would violate

those guaranties. A brief review of equal protection law demonstrates conclusively a prima facie case.

Private discrimination is, of course, not actionable under the Fifth Amendment. However, the discrimination against Mexican Americans that would be precipitated by the Administration's proposal would be far more than mere private discrimination. Employers engaging in employment discrimination would, in effect, be serving as agents of the Federal Government in enforcing the immigration laws,[6/] and the Government would be unofficially countenancing the discrimination regardless of its official condemnation of such conduct. See Reitman v. Mulkey, 387 U.S. 370 (1967). In these circumstances, such employment discrimination would constitute state action plainly subject to the Fifth Amendment.

Because this discrimination would be premised on race, alienage or national origin, a court reviewing the constitutionality of the proposal would apply a "strict scrutiny" standard of review. See Graham v. Richardson, 403 U.S. 365 (1971); Yick Wo v. Hopkins, 118 U.S. 356 (1886). The provision would be allowed to stand only if the reviewing court found that it was justified by a "compelling state interest,"

6/ "Where private individuals or groups are endowed by the State with powers or functions governmental in nature they become instruments of the State and subject to the same constitutional limitations of the State itself." Baldwin v. Morgan, 287 F.2d 750, 755 n.9 (5th Cir. 1961).

and that there was no reasonable way to achieve Congress's goal by means less intrusive upon Mexican American rights. See Dunn v. Blumstein, 405 U.S. 330, 342-43 (1972); Loving v. Virginia, 388 U.S. 1, 11 (1967); McLaughlin v. Florida, 379 U.S. 184, 192-93 (1964).[7/] The employer sanction proposal could not possibly meet the strict scrutiny test.

First, there is no clear-cut "compelling state interest" supporting the proposal. Such an interest cannot be found in the supposition that undocumented workers are currently holding jobs that presently unemployed legal residents would otherwise hold. There today exists no empirical evidence which plainly supports such a proposition; at best, the evidence is contradictory. On the other hand, there is substantial support for the opposite view that, if undocumented workers were removed from the labor market, many jobs they now fill would go unperformed.[8/]

7/ This statement of position hereinafter discusses the compelling state interest test at length. We do not address the equally important point as to whether the employer sanction provision constitutes the least restrictive alternative for effecting what Congress seeks to accomplish. We think that the provision does not meet that test, and that inadequate attention has been given to legislative alternatives. However, before such alternatives can be rationally formulated and weighed, additional data, not presently available, are necessary to determine what social problems, if any, undocumented aliens are causing, and how best to cure those problems.

8/ See generally Illegal Aliens: Analysis and Background, 95th Cong., 1st Sess. (Comm. Print No. 5, June 1977).

Neither can the employer sanction proposal be supported by a claim that undocumented aliens are the source of a serious drain on tax-supported services and programs. The clear weight of the evidence on this issue demonstrates conclusively that only a very small percentage of undocumented aliens take advantage of such social services as welfare and Medicaid, while the large majority of such persons do pay the income and social security taxes which support these programs.[9/]

Constitutionally, the employer sanction provision cannot be premised on mere surmise that it will aid in eliminating both unemployment and a supposed drain on social services. To find that legislation serves a "compelling state interest" requires far more than unsupported speculation as to the need for, and effects of, such legislation.

Apart from the equal protection problems it presents, the employer sanction provision is also at odds with the Fifth Amendment Due Process Clause. The provision, in effect, would delegate to employers the governmental function of ascertaining which workers and job applicants are in this country in an undocumented status. Persons believed by an employer to be in such a status would be denied employment in

---

9/ See D. North & M. Houstoun, The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study (Mar. 1976) (study prepared by Linton & Co., Inc. for the U.S. Department of Labor).

an effort to encourage them to return to their homelands. In such circumstances, employees and job applicants would be entitled to certain due process rights before they were denied employment,[10/] just as the Immigration and Naturalization Service ("INS"), whose function employers would be displacing, must afford persons certain due process rights before those persons may be deported. See Wong Yang Sung v. McGrath, 339 U.S. 33 (1950). Since the employer sanction proposal fails to provide employees or job applicants with a right either to present proof of legal residence to employers, or to demand a hearing, or to seek review of the employer's decision by some higher authority, it fails to provide them with those due process rights to which they are entitled under the Fifth Amendment.

Lastly, the employer sanction provision proposes an invalid delegation of congressional authority to individual employers. Pursuant to Article I, Section 8 of the Constitution, Congress is given plenary authority to regulate immigration and naturalization into the United States. Although such authority is properly delegable to governmental agencies (for example, the INS), it may not be delegated to private citizens.

10/ See Hall v. Garson, 430 F.2d 430 (5th Cir. 1970); Cockerel v. Caldwell, 378 F. Supp. 491 (W.D. Ky. 1974). See generally Hampton v. Mow Sun Wong, 96 Sup. Ct. 1895 (1976).

See Carter v. Carter Coal Co., 298 U.S. 238 (1935).[11] Moreover, the delegation is constitutionally improper because it fails to articulate any standards for employers to follow in identifying undocumented aliens. Each employer is left uncontrolled discretion to fashion his own standards, or to decide the legal status of each job applicant on a totally ad hoc basis. For the Congress to subject employees and job applicants to an employer's idiosyncratic interpretation of the employer sanction provision, and thereby to endorse arbitrary and capricious enforcement of the law, is constitutionally intolerable. See Papachristou v. Jacksonville, 405 U.S. 156 (1972); Holmes v. New York City Housing Authority, 398 F.2d 262 (2d Cir. 1968); K. Davis, Administrative Law of the Seventies (Supplementing Administrative Law Treatise), §§ 2.00-2.17 (1976).[12]

For the foregoing reasons, MALDEF is strongly opposed to the Administration's employer sanction proposal. We believe that it both poses an ominous threat to the civil rights of

---

11/ See also Washington ex rel Seattle Title Trust Co. v. Roberge, 278 U.S. 116 (1928); Eubank v. Richmond, 226 U.S. 137 (1912); United Citizens Party of South Carolina v. State Election Comm'n, 319 F. Supp. 784 (D. S.C. 1970); Blumenthal v. Board of Medical Examiners, 57 Cal.2d 228, 368 P.2d 101, 18 Cal. Rptr. 501 (1962).

12/ See generally A.L.A. Schechter Poultry Corp. v. United States, 295 U.S. 495 (1935); Panama Refining Co. v. Ryan, 293 U.S. 388 (1935).

Mexican Americans (and other ethnic Americans as well), and proceeds by methods violative of the Constitution. Under no circumstances could its adoption by the Congress be justified.

2. Criminal Prosecution of "Coyotes" and Persons Knowingly Contracting With Them.

We generally support the Administration's proposal that criminal sanctions be imposed upon persons either receiving compensation for knowingly assisting an undocumented alien to obtain or retain employment,[13/] or knowingly contracting with such persons for the employment of undocumented aliens.

"Coyotes," with their highly developed means for evading border enforcement officials and well established employer contacts, appear to be responsible for a substantial portion of the unlawful Mexican immigration into the United States. Yet the service provided by "coyotes" to their clients is often not that which was originally bargained for. In numerous reported cases, undocumented aliens employing "coyotes" have been charged exhorbitant fees only to be crowded like cattle into a bus or truck, denied food and water during the three-or-four day journey required to reach their destination in this country, and then abandoned in a major American city without funds or the job originally promised them. By subjecting "coyotes" to

---

13/ In the vernacular, such persons are often referred to collectively as "coyotes," and they will be so characterized here.

criminal prosecution, in one stroke the Congress could eliminate both a known source of unlawful immigration and a human smuggling system which has exploited, and in many instances subjected to personal abuse, the persons who are its only commodity.

Having expressed our general support for this discrete provision of the Administration's proposal, we are compelled to add one caveat: Criminal prosecution of "coyotes" and employers knowingly dealing with them must not be allowed to chill the rights of brokers who legitimately arrange for the employment of Mexican Americans, employers contracting with such brokers, and Mexican Americans wishing to obtain work through such brokers. Job brokers have traditionally arranged for the employment of substantial numbers of Mexican Americans (particularly in agricultural areas), and any unwarranted interference with their operations could seriously impair the ability of many Chicanos to obtain employment. In order to protect brokers from unjustified prosecution, and at the same time to ensure that their efforts to avoid all risk of prosecution would not cause them to discriminate against Mexican Americans in their hiring practices, we would propose that a statutory defense, somewhat analogous to, but more tightly drawn than (i.e., with a requirement that a set quantum of proof of legal residence be required of all prospective employees), the documentary defense proposed by the Administration

for employers generally, be added to the Administration's "coyote" prosecution proposal.

3. Preemption of State and Local Employer Sanction Legislation

MALDEF strongly favors federal preemption of state and local employer sanction legislation. Such legislation, depending upon the enforcement scheme it adopts, suffers from many of the same policy and constitutional impediments discussed above relative to the Administration's employer sanction proposal. Indeed, such legislation is in some cases even more objectionable than the Administration's proposal because it is enacted in a political and social setting where the civil rights of Mexican Americans are not even so much as considered in fashioning the sanction scheme, and where the persons responsible for enforcement of the sanction legislation have little or no appreciation for such rights.

We believe that Congress and the Administration should speak out in strong opposition to this state of affairs, and that federal preemption is the appropriate vehicle for such an expression of opposition. Whatever this country's response to the presence of undocumented persons within its borders is to be, that response should be national in scope and uniform in application.

Although we endorse the concept of federal preemption of state and local employer sanction legislation (and all other

state and local legislation intended to police the hiring or presence in this country of undocumented aliens), we do not wish such preemption to be effected in the context of enactment of a federal employer sanction statute. Under no circumstances do we believe that federal employer sanction legislation would be appropriate.

However, we think it is quite possible that, after additional collection of data and analysis, Congress might conclude that an undocumented alien legislative package is called for. Provisions that might appropriately be considered as candidates for incorporation in such legislation would include a broadly-defined right to adjustment of status and amnesty, prosecution of "coyotes," and financial aid to source countries of undocumented aliens. It is in the context of passage of such a legislative package that we believe state and local undocumented alien legislation should be preempted.

4. Increased Enforcement of FLSA and FLCRA

We support the Administration's proposal to increase enforcement of the Fair Labor Standards Act ("FLSA")[14/] and

---

14/ 29 U.S.C. § 201 et seq. (1970), as amended.

the Farm Labor Contractor Registration Act ("FLCRA").[15/] In some areas of the country, it has become almost an accepted practice for employers to subject their undocumented workers to abuses clearly proscribed by these acts. Such exploitation of undocumented aliens must not be allowed to continue.

The wage, hour, and working condition protections afforded by provisions of the FLSA and the FLCRA should extend fully to documented and undocumented workers alike, and we endorse the Administration's proposal to strengthen enforcement activities aimed at ensuring that employers and others do not disregard their responsibilities under these statutes. Further, we support increased enforcement of other labor protection statutes, for example the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 et seq. (1970), and the National Labor Relations Act, 29 U.S.C. § 151 et seq. (1970), and believe that the Administration's proposal should not be limited only to the FLSA and the FLCRA.

15/ 7 U.S.C. § 2041 et seq. (1970), as amended. Note that only an isolated provision of the FLCRA relates to the hiring of undocumented workers (7 U.S.C. § 2045(f), as amended), and that the broad purpose of the Act is directed toward regulation of the activity of "certain irresponsible contractors for the services of the migrant agricultural laborers who exploit producers of agricultural products, migrant agricultural laborers, and the public generally." 7 U.S.C. § 2041(a), as amended.

B. Border Enforcement

The Administration proposes "to significantly increase existing border enforcement efforts" (President's Message at 3), to include: (1) increasing the size of border enforcement resources, and reorganizing those resources; (2) shifting a significant number of INS enforcement personnel to border areas reporting high rates of undocumented entry, particularly the Mexican border; (3) establishing an anti-smuggling task force to be given the mission of reducing the number and effectiveness of smuggling rings bringing undocumented persons into this country; (4) increasing State Department visa issuance resources abroad to ensure that persons attempting to enter this country are not doing so in violation of the immigration laws; and (5) seeking passage of legislation that would impose criminal sanctions on persons knowingly using false information to obtain identification documents issued by the Federal Government, or knowingly using fraudulent government documents to obtain legitimate government documents. MALDEF has serious questions regarding the propriety of proposals (1) and (2) relating to intensified activities by border enforcement personnel.

We recognize that it is necessary to have border controls along the Mexican border to ensure compliance with the immigration laws, and we do not question the continued existence of those controls per se. However, we feel it imperative

that the implementation of such controls not be allowed to infringe upon the civil rights of Mexican Americans residing in, or visiting, border areas.

Time and again, Chicanos have been subject to intolerable and unjustifiable harassment and abuse at the hands of border enforcement officials. Without reason (other than their physical and speech characteristics), Mexican Americans are stopped on the streets and highways for questioning; they are forced to produce identification; their automobiles (and often times their persons) are subject to physical search -- actions which border officials never take against members of the Anglo community. The infringement upon the civil rights of Mexican Americans resulting from such conduct by border enforcement personnel, together with the chilling effect resulting from a Chicano's knowledge that his rights could be subject to such interference at the slightest whim of a border official, raise constitutional questions of the gravest magnitude.

Yet, in its proposal to increase border enforcement activities, the Administration evidences no awareness that its recommendation poses a threat of the direst nature to Mexican American civil liberties. MALDEF feels that this is not so much the result of callousness on the part of the Administration, as a lack of perception concerning the implications of its border enforcement proposal on the Chicano community -- a lack

of perception, we might add, which permeates the Administration's proposal as a whole.

We believe that increased border enforcement activities should only be implemented after completion of a governmentally-sponsored study having the dual object of identifying the ways in which existing border enforcement methods infringe upon the rights of Mexican Americans, and recommending revised methods designed to eliminate, or at least minimize, such infringement. Further, we urge the INS to initiate a program that would educate its personnel as to the rights of Mexican Americans, and sensitize them to the necessity of respecting those rights.

C. Cooperation With Source Countries

The Administration proposes to offer aid and assistance directed toward increased economic development in those countries which are the principal source of undocumented immigration into the United States. The Administration's goal is to assist in improving the conditions (unemployment and comparably low wages) which are primarily responsible for undocumented immigration. MALDEF fully supports this proposal and believes that, in the long run, economic development of source countries will be the only viable means of controlling undocumented immigration.

It is generally agreed that undocumented immigration is prompted by a combination of the unemployment and low wages in

source countries, and the availability of employment and relatively high wages presently existing in this country. We are of the view that attempts, like the Administration's employer sanction proposal, to eliminate these latter factors should be foresaken because, first, such efforts would severely threaten infringement of Mexican American rights, and second, they would be ineffectual. Rather, we feel that the principal focus of any proposal to reduce undocumented immigration should be upon elimination of conditions in source countries prompting such immigration.

The Administration has specifically mentioned provision of bilateral and multilateral economic assistance, technical assistance, encouragement of private financing, and enhanced trade and population programs. We would add, with regard to Mexico specifically, allowing products produced or manufactured in Mexico greater access to U.S. markets by means such as substantial tariff reductions, and stimulating Mexico's tourist industry by increasing the amount of duty-free goods U.S. citizens are permitted to bring back from Mexico.

D. Adjustment of Status

MALDEF objects strenuously to the Administration's adjustment of status proposal for the following important reasons: (1) by extending legal resident status only to

those persons continuously residing in this country prior to January 1, 1970, the proposal would wrongfully deny such status to hundreds of thousands of undocumented persons who have built up substantial equities in our society; (2) by offering only nondeportable status to persons continually resident in the United States prior to January 1, 1977, but not prior to January 1, 1970, the proposal would institutionalize a subclass of lawful residents having uncertain, but clearly limited, constitutional and statutory rights, unjustifiably exploit the persons assigned such status, and inflict serious injury not only upon the Mexican American community but also upon the fabric of American society; and (3) by failing to provide clearly defined amnesty for persons applying for adjustment of status and their families, the proposal would leave federal officials free to prosecute such persons for outstanding violations of the immigration laws. We address each of these points, and related matters, in the following discussion.[16/]

16/ Two integral parts of the Administration's proposal will not be discussed in great detail. These relate to immigration policy and temporary foreign workers. Briefly, we applaud the decision, in answer to a long-neglected need, to undertake a comprehensive inter-agency study of our immigration laws and policies, and fully support the Administration's resolve to support pending legislation to increase the annual limitation on legal Mexican and Canadian immigration to a total of 50,000 (to be allocated between the countries based on demand). We also endorse the Administration's decision to conduct a

[Footnote continued next page]

1. Amendment of INA Registry Provisions

The Administration proposes to amend Section 249 of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1259 (1970), to allow persons who have "resided continuously" in the United States from before January 1, 1970 to the present to qualify for permanent resident status. These persons would have to apply for such permanent resident status, and present "normal documentary proof" of the necessary continuous residence. Under existing immigration laws, persons granted permanent resident status could apply for U.S. citizenship five years after attaining that status.

In our view, the Administration's proposal is far too niggardly in its adoption of January 1, 1970 as the cut-off date for qualification for permanent resident status.[17/] Under the

---

[Footnote continued from page 21]

comprehensive review of the present temporary foreign worker certification program. In particular, we think two considerations should figure prominently in that review: (1) the Labor Department should make greater efforts than those made at present to ensure that domestic labor is unavailable before the importation of temporary foreign labor is authorized; and (2) under no circumstances should a bracero-type program (or any program sharing common chracteristics with the bracero program) be reinstituted.

17/ Others have endorsed substantially shorter residence requirements, and with good reason. For example, Representative

[Footnote continued next page]

Administration's standard, hundreds of thousands of undocumented persons who have made substantial contributions to American society, and who have developed binding ties to their local communities, would be denied legal resident status, and would instead be shunted into the netherworld of nondeportable resident status. To this, we are unalterably opposed.

We are cognizant that the United States, if it is to preserve its present economic and social structure, cannot adopt a policy of allowing unlimited immigration, even from countries with a contiguous border, and this we do not ask. What we do urge is that undocumented persons who have resided in this country for a substantial length of time, members of their immediate families, and persons constituting special hardship cases, all be deemed eligible for permanent resident status.

In our view, undocumented persons who have resided continuously in the U.S. since an appropriate recent date such as the Bicentennial date, July 4, 1976, or January 1, 1977, should qualify for permanent resident status. These persons, as a

---

17/ [Footnote continued from page 24]

Edward R. Roybal's bill adopts January 1, 1977 (H.R. 6093, 95th Cong., 1st Sess. § 101 (1977)), and Representative Herman Badillo's bill adopts July 4, 1976 (H.R. 4338, 95th Cong. 1st Sess. § 2(a)(1) (1977)). Indeed, Labor Secretary Marshall, in his Interdepartmental Task Force Report to the President (April 27, 1977), recommended adoption of a five-year residency requirement.

class, have been gainfully employed in occupational pursuits important to this country's economic health (often in bottom strata jobs that might have gone unperformed absent their willingness to work), have faithfully paid state and federal taxes, and have committed portions of their income back to the American economy -- all basic marks of good citizenship in which these undocumented persons are indistinguishable from lawful residents of this country. In these circumstances, it would be totally arbitrary to adopt a registry date of January 1, 1970, and thereby turn our collective backs on persons who have thus proven their worth to our society.

Similarly, persons residing in this country who are the spouse, child, parent or sibling of a citizen or lawful resident (including persons qualifying for permanent resident status under the registry amendment discussed above) should qualify for permanent resident status. This fact, which was generally recognized in Secretary Marshall's Interdepartmental Task Force Study, appears to have been overlooked by the Administration. To disrupt the family unit by denying these persons permanent resident status would be unconscionable. Moreover, these family members should properly be credited with the equities in our society built up by their resident relatives.

Finally, provision should be made for the person who, because of his or her exceptional circumstances, should be

accorded permanent resident status. Other undocumented alien legislative proposals have recognized this fact, and we believe a provision specifically addressed to it would be appropriate.

Accordingly, MALDEF would offer as an alternative to the Administration's adjustment of status proposal, that Section 249 of the INA be amended to allow the following undocumented persons to qualify for permanent resident status: (1) persons who have resided continuously in this country since an appropriate date such as July 4, 1976 or January 1, 1977; (2) persons who have resided continuously in this country since January 1, 1977 and who are the spouse, child, parent, or sibling of a U.S. citizen or legal resident (including those qualifying for legal resident status under (1) above); and (3) persons whose departure from this country would, in the opinion of the Attorney General, present an undue hardship.

Separate from the issue of what standards should govern qualification for permanent resident status are technical questions related to interpretation and administration of the status adjustment proposal. Two questions in particular stand out: What specifically constitutes "continuous residence," and how may an undocumented person prove such residence?

We assume that the term "continuous residence" is precisely synonymous with the term "residence" as defined in Section 101(a)(33) of the INA, 8 U.S.C. § 1101(a)(33) (1970).

That section provides that residence

> means the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent. Residence shall be considered continuous for the purposes of sections 1482 and 1484 of this title where there is a continuity of stay but not necessarily an uninterrupted physical presence in a foreign state or states or outside the United States. [Id.]

Sections 1482 and 1484 deal with loss of U.S. citizenship by persons of dual citizenship or naturalized citizens where such persons "reside continuously" for a set number of years in a foreign state. Applying inverse reasoning, "continuous residence" in the United States under the change of status proposal should not require uninterrupted physical presence in this country. A person who leaves the United States temporarily, but nonetheless maintains his "principal, actual dwelling place in fact" in the United States, should be deemed to be continuously resident for purposes of qualifying for permanent resident status.

Regarding proof of continuous residency, we are greatly concerned that undocumented persons qualifying for adjustment of status will have difficulty amassing the necessary documentary proof of that fact. As a class, they have lived purposefully low-profile lives to avoid identification. Such a life-style generates few indicia of residence. Further, undocumented

persons would have had no reason to accumulate documents of the type that might prove continuous residence since, not being prescient, they would have had no way of predicting that in the summer of 1977 change of status legislation with a set qualification date would be introduced.

Regulations governing administration of the registry provisions of Section 249 of the INA require applicants for permanent resident status to provide documentary evidence of continuous residence prior to June 30, 1948. 8 C.F.R. § 249.2 (1977). Specifically, they provide that

> [d]ocumentary evidence may include any records of official or personal transactions or recordings of events occuring during the period of claimed residence. Affidavits of credible witnesses may also be accepted. [Id.]

In the past, the INS has accepted as evidence of residence a broad range of documents.[18/] Moreover, we understand that in some cases, applications for permanent resident status supported by as few as two affidavits,[19/] and no additional documentation, have been granted. We trust that, at a minimum, established

---

18/ These include bank records, leases, deeds, installment contracts, driver's or other licenses, school records, employment records and certificates of birth or marriage. 2 C. Gordon & H. Rosenfield, Immigration Law and Procedure § 7.6d (rev. ed. 1976).

19/ Section 249 affidavits must be of either a citizen or a permanent resident.

regulatory practice vis-a-vis documentary proof of residence would extend to any amendment of the registry provisions of Section 249. However, we strongly favor promulgation of more specific regulations regarding proof of residency so that applicants for a change of status can be reasonably certain that they have adequate documentation of their term of residency before they present themselves and their applications to the Immigration and Naturalization Service ("INS").[20/] Applicants for permanent resident status should not be required blindly to assume the risk that the INS might find their documentation inadequate and, having identified them through the application process, use that information to effect their deportation.

2. Five-Year Temporary Resident Alien Status

The Administration proposes to accord a five-year temporary resident alien status to those persons residing in the United States before January 1, 1977, but who do not meet the residency requirements for permanent resident status.[21/] To

---

20/ For example, the INS could provide by regulation that two affidavits of credible persons alone would be sufficient to demonstrate the necessary legal residence. Similarly, types and numbers of alternative documentation could be specified by regulation.

21/ A decision regarding the ultimate status of these "nondeportable persons" would be made sometime between completion of the registration process and termination of the five-year grant of legal status. That decision could be to grant them permanent resident status, to extend their temporary alien status, or to deport them.

obtain such status, the undocumented person would have to register with the INS within one year of the proposal's enactment. Persons accorded such status would not be entitled to bring their families into the United States, nor would they be eligible for such federal social service benefits as Medicaid, food stamps, aid to families with dependent children, and supplemental security income. The announced program does not specify whether temporary resident aliens would qualify for unemployment insurance or workmen's compensation benefits; in the absence of specific provision, we assume that they would be denied.[22/]

The avowed purpose of this widely applicable grant of temporary status "is to preserve a decision on the final status of these undocumented aliens, until much more precise information about their number, location, family size, and economic situation can be collected and reviewed." President's Message at 5. It is assumed that such information would be collected through the registration process.

22/ To compensate state and local communities for the fact that undocumented aliens residing there are probably not included in census data, allocation formulas for revenue sharing would be adjusted to reflect the presence of such persons. The Administration's proposal thus appears to contemplate that persons afforded temporary alien status may be eligible for state social service and other like benefits. Indeed, it would be unconstitutional for a state to deny such benefits to a person solely on the grounds of his alien status. See In re Griffiths, 413 U.S. 717 (1973); Sugarman v. Dougall, 413 U.S. 634 (1973); Graham v. Richardson, 403 U.S. 365 (1971).

MALDEF vigorously opposes the Administration's temporary resident alien status proposal. On its face, the proposal advocates creation of a subclass of persons who, in exchange for only minimal constitutional and statutory protections and at the sacrifice of family ties, would be allowed to pursue employment as agricultural laborers, domestic servants and the like. With regret, we must invoke the inevitable comparison. The proposed formalization of a nondeportable subclass of residents sounds strangely like that other "peculiar institution" -- slavery -- which has so tarnished the history of our country and left vestiges that plague us even today.

What are the nondeportables promised? Only the right to remain in this country for five years and the right to work. And even the right to work may be illusory since it is unclear whether such right would carry with it any assurance of equal employment opportunity in light of the Supreme Court's decision in Espinoza v. Farah Manufacturing Co., 414 U.S. 86 (1976). There, the Court held that job discrimination on the basis of alienage was not actionable under Title VII of the Civil Rights Act of 1964.

A listing of what the nondeportables would or could be denied is substantially longer. As noted above, the Administration's proposal specifically denies them the right to bring their families into this country and eligibility for such federal social service benefits as Medicaid, food stamps, aid

to families with dependent children, and supplemental security income.

On a state level, the Administration's proposal suggests (in disregard of Supreme Court precedent clearly holding that such action would violate the Equal Protection Clause of the Fourteenth Amendment) that states might have the option of denying aliens assigned nondeportable status participation in educational, welfare, and other like state-administered social service programs.

Finally, from a constitutional perspective, the proposal is ominously silent with regard to whether nondeportables would be afforded a right to own and enjoy property, freedom of speech and religion, a right to organize, a right to privacy, and a right of access to the courts and political bodies. Questions regarding nondeportables' entitlement to these and other constitutional protections abound; none are answered.

The foregoing describes the exchange that would be afforded the nondeportables -- persons who would be expected to work, pay taxes, abide by the law, and generally live as constructive, contributing members of society. We submit that the exchange would at best be unconscionable, and more likely, in many circumstances, unconstitutional.

Our opposition to the nondeportable status proposal is founded not only upon our complete disapproval of the inequities it would inflict upon persons assigned that status, but also

upon the impact that the existence of such a status would have on the Mexican American community in general.

First of all, it would be inevitable that the subclass of resident aliens which would be created under the Administration's proposal, the majority of whom would be Mexican, would come to be regarded as persons whose place in our society is rightfully at the bottom rung. Since hundreds of thousands of persons in this subclass would be indistinguishable in terms of physical and speech characteristics from Mexican Americans, we fear that this same sentiment would soon begin to overlap into a consensus regarding the place of Mexican Americans in our society. And on a related point, Mexican Americans themselves might well begin to question their own status in our society given the obvious discrimination against their Mexican brothers sanctioned by the nondeportable status proposal. Cf. Brown v. Board of Education, 347 U.S. 483, 494 (1954). We think it clear that the nondeportable status proposal would be a catalyst for heightened discrimination against the Mexican American community, and would directly result in a diminished sense of self-esteem among the members of that community.

What makes the Administration's nondeportable status proposal even more objectionable is that its adoption would threaten all the consequences discussed above while its application would be no more than an exercise in frustration. The proposal's design would totally thwart its purpose.

The Administration contends that it is necessary to offer only nondeportable status to the vast majority of persons presently in this country in an undocumented status in order to obtain "precise information about their number, location, family size, and economic situation." Only after this information is obtained and analyzed, asserts the Administration, can an intelligent decision be made about the status which should ultimately be assigned these people.

What the Administration apparently overlooks is the fact that few persons will take advantage of the nondeportable status offer knowing that at the end of the five-year road they could be deported. The only protection from deportation that undocumented persons currently have is their anonymity, and the Federal Government's inability to pierce that anonymity. It would be foolhardy for an undocumented person to surrender his anonymity in exchange for the slender benefits offered by nondeportable status (the rights to remain in this country and to work, which are in reality available to him without registering), and the vague hope that by assuming such status he might eventually qualify for permanent resident status.

In summary, a substantial number of the undocumented persons in this country would surely choose to remain in that status even if offered formal nondeportable status. Hence, to the extent that the extra-legal existence of this silent class of

persons is a source of problems in our society, those problems would not be cured by the Administration's proposal. To the extent that undocumented persons do take advantage of the nondeportable status proposal, they would become an institutionalized subclass with all the attendant evils associated therewith. Consequently, we see the Administration's temporary alien status proposal as presenting a no-win situation, and consider it unquestionable that the proposal should be rejected outright.[23/]

3. Amnesty for Immigration-Related Offenses.

For the past several years, during which time the Congress and the White House have had before them numerous pieces of draft legislation designed to deal, in one way or another, with undocumented persons residing in this country, the term "amnesty" has been employed as a generic description for the adjustment of status concept that has been incorporated into several of those legislative proposals. Unfortunately, use of the word "amnesty" to describe adjustment of status has been conceptually misleading. In strictly legal terms, when a person is granted

---

23/ Secretary Marshall appears to be in complete agreement with our position. In his Interdepartmental Task Force Report, he flatly rejected the proposed creation of a nondeportable status on basically the same grounds as those we have enumerated.

"amnesty" by either the President or Congress, he is immunized from prosecution for past crimes. The Administration's adjustment of status proposal, like all prior such proposals, would not offer undocumented persons (or their families) amnesty from prosecution for having violated the immigration laws, but instead would provide them only with an opportunity to exchange their extra-legal status for a status recognized by law.

By failing to exempt persons applying for a change of status and their families from criminal prosecution under the immigration laws, and thus failing to promise "true amnesty," the Administration, either unconsciously or consciously, has left an unexposed trap on the road to the documented residence it offers. Since the Administration's intent is assertedly benign,[24/] its proposal should not ask persons wishing to change their status to assume the risk that by registering they could be making themselves and their families targets for criminal prosecution.[25/] "True amnesty" for immigration-related offenses must be made a part of the Administration's proposal.

24/ Attorney General Bell stated in an August 4, 1977 briefing that the Justice Department would not prosecute undocumented persons if they came in to register. But if this is the Administration's intent, there exists no reason why it should not be spelled out as part of the proposal.

25/ Indeed, without an amnesty provision, it seems quite likely that many persons would simply refuse to register for change of status, preferring to remain in undocumented status rather than risk prosecution.

The criminal provisions of the INA are varied. With respect to the undocumented person himself, those of particular concern to us are the provisions making it a criminal offense either to enter the country without inspection by the immigration authorities,[26/] or to fail to register as an alien when required to do so.[27/] Regarding the undocumented person's family, the provision making it illegal to harbor an undocumented alien gives us great pause.[28/]

26/ Section 275 of the INA, 8 U.S.C. § 1325 (1970), makes it a crime to enter the country at other than designated points of entry, to elude examination and inspection by the INS, or to procure entry by either concealment or false representation of a material fact. A first offense is punishable as a misdemeanor ($500 fine or six months' imprisonment, or both). A subsequent offense is punishable as a felony ($1,000 fine or two years' imprisonment, or both). Conviction under this section may be obtained only if the Government presents affirmative proof of illegal conduct in connection with the alien's entry; violation may not be presumed from mere unauthorized presence in the country. United States v. Doyle, 181 F.2d 479 (2d Cir. 1950); cf. United States v. Oscar, 496 F.2d 492 (9th Cir. 1974).

27/ Section 266 of the INA, 8 U.S.C. § 1306 (1970), makes willful failure to register and be fingerprinted as required by law a misdemeanor, punishable by a fine of up to $1,000 or six months' imprisonment, or both. (All aliens who have been in this country for more than thirty days must be registered and fingerprinted annually if this was not done at the U.S. consulate in the nation of origin when the alien applied for an entry visa. See 8 U.S.C. § 1302.) An alien acts "willfully" for purposes of this section if he was "fully aware that he was . . . required to register but purposely and wrongfully refused to do so." United States v. Zeid, 281 F.2d 825, 826-27 (3d Cir. 1960).

28/ Section 274 of the INA, 8 U.S.C. § 1324 (1970), makes it a felony to bring in or harbor an undocumented alien, to transport him within the United States with knowledge of his illegal status,

[Footnote continued next page]

Although each of these offenses is subject to the general federal statute of limitations, which bars prosecution beyond five years after commission of the crime, 18 U.S.C. § 3282 (1970), that statute would preclude only very few of the criminal cases which could potentially be mounted against registering undocumented aliens and their families. In considering the bar to prosecution created by the statute of limitations, one must distinguish between crimes that are isolated in time and those of a continuing character. For isolated single-occurrence offenses (e.g., entry without inspection), the statute would begin to run at the time the conduct occurred. Accordingly, an offender guilty of entry without inspection who had resided here more than five years would be beyond the prosecutor's reach at the time of registration. But for such continuing offenses as willful failure to register or harboring an illegal alien, the statute would start running only when the illegal conduct had terminated; that is, when the undocumented person applied for a change of status. Thus, undocumented persons and their families could be prosecuted for these continuing offenses for as long as five years after registration.

28/ [Footnote continued from page 38]

or to encourage or induce his illegal entry. The maximum penalty is a fine of $2,000 or five years' imprisonment, or both, for each offense (i.e., for each alien harbored, transported or induced to enter).

The Administration's failure to incorporate an amnesty provision into its adjustment of status proposal should not be permitted. At a minimum, a specific bar to prosecution for violation of the three criminal offenses discussed above -- entry without inspection, failure to register, and harboring -- must be provided by statute to all undocumented persons applying for a change of status and their families.[29/] Anything less would make the Administration's adjustment of status proposal, which is benevolent on its face, potentially malevolent in application.

E. Conclusion

In MALDEF's view, the Administration's proposal has not been carefully conceived; it is, in fact, an attempt to resolve problems which, considering the limited data available at this

---

29/ We also strongly favor adoption of a bar to prosecution for violation of Section 276 of the INA, 8 U.S.C.A. § 1326 (1970), which makes it a felony to reenter the United States after deportation without the prior approval of the Attorney General (punishable by a fine of $1,000 or two years' imprisonment, or both). We are cognizant that some persons guilty of violating Section 276 are more culpable than others, and that by granting all registering undocumented aliens amnesty from prosecution under this provision, a few "bad" people will escape criminal liability. However, we think it clear that the large majority of persons potentially subject to prosecution under Section 326 are innocent of any conscious desire to break the law, and were motivated to reenter this country after deportation by precisely the same personal and economic factors that motivated entry by persons guilty only of violating the criminal provisions discussed in the text. Accordingly, we believe that all these persons should be covered by the same grant of amnesty.

time, are highly speculative in nature. Our objections to it, however, are not based wholly on the unproven need for the Administration's proposed solution, but extend equally to the fact that the proffered solution would have a substantial adverse impact on both the Mexican American community and the undocumented persons presently in this country.

To recount only a few of the general points previously discussed, we think it clear that the employer sanction proposal would unavoidably generate widespread employment discrimination against Mexican Americans. Also objectionable is the fact that increased border enforcement, as described, promises more and intensified official harassment of Chicanos residing and travelling in border areas. Finally, the nondeportable status proposal would so denigrate persons of Mexican heritage as to seriously undermine society's view of the Mexican American community, and Mexican Americans' own sense of self-esteem.

Our opposition to the Administration's proposal is further grounded in our objection to its treatment of the undocumented persons themselves. It would afford the vast majority of undocumented persons -- persons who have built up substantial equities in our society -- only a tenuous nondeportable status with no guarantee that that status could ever lead to permanent residence or citizenship. Moreover, the rights offered those persons willing to assume such a status would either be so

limited, or so poorly defined, as to cast them into a governmentally sanctioned subclass of residents for which there is but one precedent in our long history -- slavery. Of even broader scope, since it relates to all undocumented persons, is our objection to the fact that the Administration's proposal fails to include a specific grant of amnesty for violation of immigration-related criminal offenses, and thus would leave all persons registering for a change of status and their families open to prosecution for violation of the immigration laws.

In sum, MALDEF believes that the Administration's proposal is deficient in so many fundamental respects that it cannot be salvaged with minor amendments or slight changes in emphasis. The questions of employer sanction, border enforcement, nondeportable status, and amnesty must be entirely reconsidered. Much additional data regarding the characteristics of the undocumented population in this country, and their effects on society, must be amassed and analyzed. Only after these major issues are reviewed in light of this further data can rational decisions be made regarding how the presence of undocumented persons in this country should be approached from a legislative perspective.

On the Line

Stop the Carter Plan!

Position Statement by Herman Baca, Committee on Chicano Rights

On October 29, 1977 the community joined by Chicano leaders from throughout the nation, marched to demonstrate their anger and ran the KKK out of the Chicano community. Since that day no public appearances or statements have been made by the KKK. But the threat posed by the immigration crisis still exists.

During the last seven years, we have struggled against the systematic violation of the liberties of the Chicano community. We have seen law enforcement agents come into our homes, our churches, and our schools looking for "illegal aliens." Our people have been harassed in parks and airports, and on the streets. Our rights have been challenged when we register to vote or apply for sccial services. We are blamed for everything from unemployment and high taxes to forest fires and social diseases. Whether we were born here or in Mexico, we are all, or will soon be victims of the Carter Administration's approach to the so called "illegal alien" problem. And, now to make a bad situation even worse, the Carter Administration is proposing to sanctify these illegal and unconstitutional acts by making them laws.

Fifteen million Chicano/Latino/Mexicanos in the U.S. must now understand that the "Carter Immigration Proposal" is in fact a loaded gun pointed at our heads. Statements by the Carter Administration that so called "illegal aliens" will get amnesty, that employers will be fined and that positive changes in the Immigration policy will be proposed are false.

In our opinion the three most dangerous proposals in the Carter package are:
(A) The establishment of a para-military solution in the border area. The proposal would call for more fences, sensors, dogs, and helicopters and a tripling of the border patrol to 6,000 personnel! (B) The establishment of a semi-slave class of people under the sugar-coated title of "temporary resident alien." This is part of the so-called amnesty program which will allow persons to adjust their status. Persons who have entered the U.S. between January 1, 1970 to December 31, 1976 will be allowed to remain in the U.S., work and pay taxes under INS surveillance, but they will not be allowed to unite with their families, or to collect any of the services which their taxes have paid for. (C) The establishment of punishment for employers who hire so-called "illegal aliens", this proposal will in fact increase the unemployment in the Chicano/Latino/Mexicano community because employers will simply refuse to hire any persons of Mexican or Latin anscestry. This proposal doesn't punish employers, it punishes our people.

It should be obvious by now that we have no one to turn to for solutions except ourselves. It is for these reasons that we are now unifying a national campaign to stop the Carter Immigration Proposal. Failure to act now will ultimately effect our basic right to exist as a people. The proposals are now before Congress and hearings will commence next February. We must act now! Stop the Carter Plan!

CCR NEWSLETTER

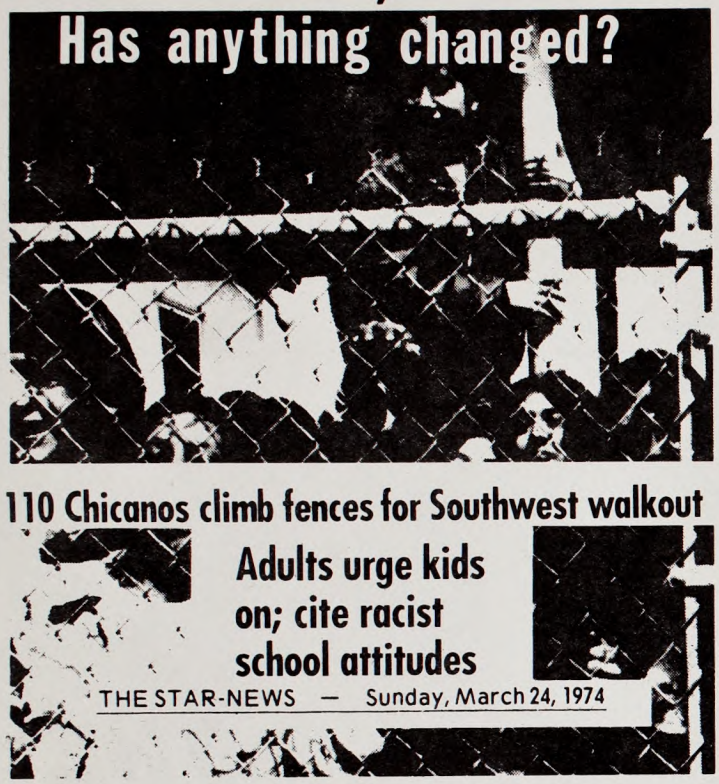
Committee on Chicano Rights, Inc.

Vol. I, No. 1

THE SHAM AND SHAME OF CARTER'S IMMIGRATION PLAN

CCR Response, page 4

READING, 'RITING and RACISM...



A coalition of Chicano and Black organizations are preparing and will soon be filing a lawsuit against the Sweetwater Union High School District in either Federal or State Court.

This action came about due to numerous complaints from parents and various organizations and also the district's failure to provide adequate educational opportunities of Black and Chicano students as required by Federal and State Law.

For example, the present minority student population is quickly approaching 50% (12,109), yet the school district employs only 102 minority teachers out of 1,018.

There are presently no programs that comply with Lau vs. Nichols, the U.S. Supreme Court decision holding that a child must be taught in the language he or she understands.

In meeting with the School District Superintendent, Earl Denton, the coalition discussed bilingual education, affirmative action, and the censorship of a Cinco de Mayo display by Sweetwater High School Principal William Darton. Rather than dealing with concrete solutions, Denton spoke in the abstract and continually laid the blame elsewhere.

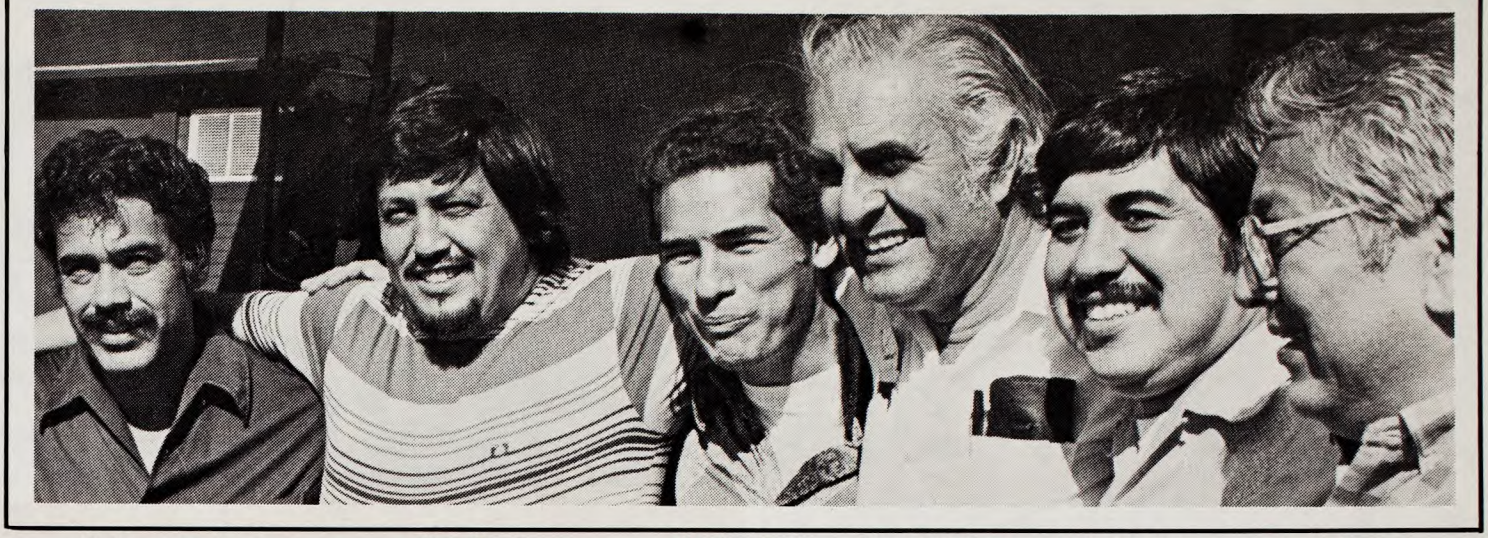
Denton felt the large number of undocumented aliens in the district was one cause of the problem, yet under repeated questioning he could not substantiate his statement. He also cited the effort by a few teachers to learn Spanish yet totally discounted the cultural differences between anglo society and the Chicano community -- differences which contribute strongly to a 25% drop-out rate.

The coalition also met with Palmer Jackson from the Office of Civil Rights when it was learned that his office would be investigating the school district. Jackson's response was exemplified when the organization requested information of his investigation and he responded with "I'm not your investigator" but he suggested that the coalition obtain what ever it needed by way of the Freedom of Information Act.

Since the meeting with Jackson, a letter has been sent to John Palomino of the Office of Civil Rights requesting an on-the-site full-fledged investigation. As of yet the coalition has not received a response.

The decision to file the suit came about due to the charges of failure to implement a workable affirmative action plan, violation of students constitutional rights including equal protection and due process, and inadequate assessment process for identifying non or limited English speaking national origin minority students. The district is also accused of deliberately failing to apply for Emergency School Assistance Act Funds (ESAA) which provide bilingual and special counseling programs to assist students relocated as part of desegregation effort. This resulted in the loss of $600,000 for the school district and consequently a lower quality of education for minority students.

The cost of maintaining the lawsuit is estimated to be at least 3000 dollars according to Rafael Arreola, coordinating attorney for the case. He suggests that anyone wishing to contribute or having complaints against the school district, should contact the Committee on Chicano Rights Inc., at 474-8195.



Corky Gonzales Abe Tapia Mario Cantu Bert Corona Herman Baca Jesse Ramirez

Chicano Leaders Support Declaration of...

Self-Determination!

The national Chicano leaders who participated in the San Diego Unity March agree completely that it must be the Chicano/Mexicano community that will decide the tactics for stopping the Carter Immigration Plan. These leaders have worked with the issue of immigration long before it became a fashionable topic of national attention. But now that it is a national issue, opportunistic organizations and certain naive leaders have attempted to use the concerns of the Chicano community to further their own hidden agendas.

They have created confusion and division at a time when our very survival is at stake. But they have now been exposed.

Throughout its history the Chicano people have produced the type of leadership that is willing to fight to protect the community's civil, constitutional and human rights. These legitimate leaders who have dedicated their lives to establishing a political voice for our people have united in their denunciation of opportunistic organizations and individuals. They have stated firmly that our sacred right to self-determination will not be violated by anyone.

DECLARATION OF CHICANO SELF-DETERMINATION SAN DIEGO COUNTY, CA

When it becomes self-evident over a long period of time that certain specific individuals, groups, or organizations become detrimental to the progress and principles of our people and to our movement, then it becomes not only our responsibility but our duty to publicly confront and denounce the perpetrators who have committed these acts against the best interest and welfare of our community.

We the undersigned of this declaration which comprise the major Chicano organizations of San Diego County hereby declare to our communities and our people that: (1) We accuse the Socialist Workers Party (SWP) and the Young Socialist Alliance (YSA) of violating the Chicano Community's sacred principle of "self determination" by: (a) Disrespecting the political positions of Chicano Community Organizations. (b) Calling Chicano individuals and organizations to a community meeting under false pretense. (c) Using Chicano individuals and organizational names under false pretense and without their permission. (2) We accuse the SWP of attempting to undermine the confidence of the Chicano Community to further their own aims at the expense of our people by the above acts. (3) We accuse the SWP of using devisive actions designed to attempt to discredit and subvert the local Chicano leadership of San Diego County by labeling them violent, reactionary, and revisionist. (4) We accuse the SWP of continually ignoring the request of the Chicano Community through the organizations to cease in their attempts at manipulation and co-optation of issues which effect our communities. (5) We accuse the SWP of acting in a patronizing, opportunistic manner, and with a colonialist mentality which presumes that the Chicano Community is incompetent and incapable of determining its' own destiny.

Therefore, let it be known here and now and by all, that we the undersigned condemn the Socialist Workers Party and their affiliate the Young Socialist Alliance, not for their philosophy or ideology, which they have a right to, but for the unprincipled political acts which have been carried out against the San Diego County Chicano Community. We hereby, also declare that because of these acts we will not work with, support or will we allow the SWP or the YSA to participate officially with our organizations or with any of our activities here in San Diego County.

On September 27, 1977 all major Chicano/Mexicano organizations in San Diego County took part in denouncing the involvement of the SWP and YSA in the political concerns of the Chicano community. All of the Chicano leaders pictured above have signed the Declaration of Self-Determination.

CCR

Committee on Chicano Rights, Inc.

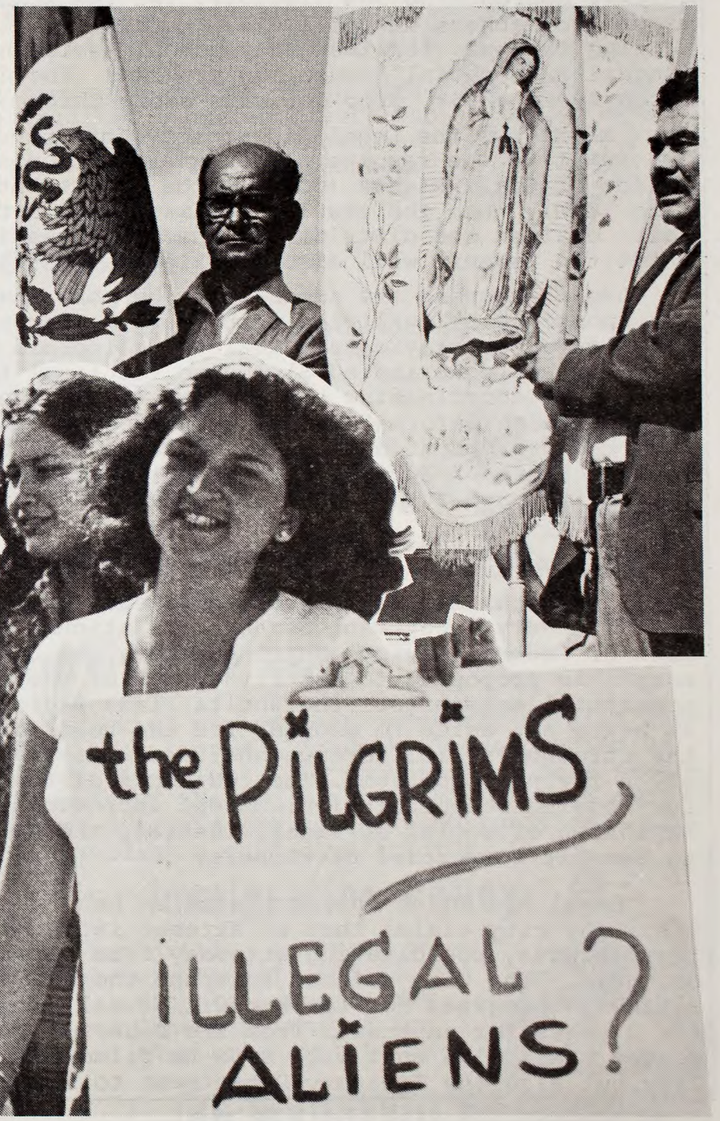
NO!

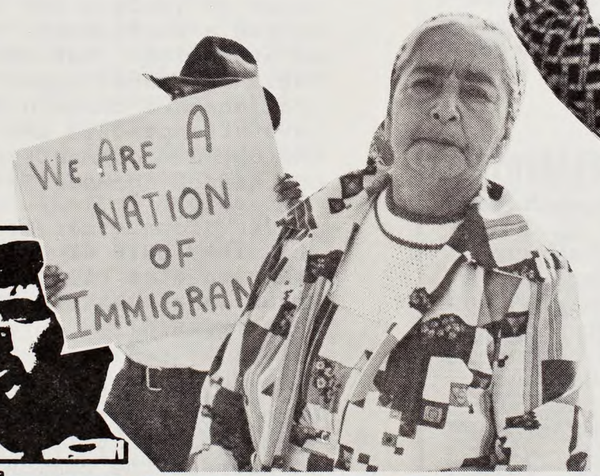
Vietnamization of San Diego

Stop the Carter Plan!

UNITY MARCH!

SAN DIEGO, OCTOBER 29, 1977





Mario Cantu

Corky Gonzales

Bert Corona

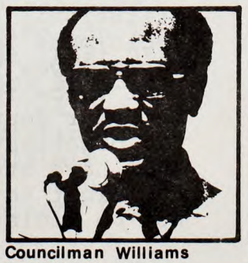
Herman Baca

Councilman Haro

Abe Tapia

Vernon Sukumu

Greg Akili



Councilman Williams

Ester Estrada

the PILGRIMS

ILLEGAL ALIENS?

CCR PROGRESS REPORT

Legal Action Against Sweetwater District Moves Forward

A coalition of Chicano and Black organizations, which was formed during the summer of '77, is continuing to organize and raise funds in an effort to force the Sweetwater Union High School District to provide adequate educational opportunities for Black and Chicano students. The action results from the school district's failure to implement a workable affirmative action plan. The present minority student population is quickly approaching 50% (12,105), yet the school district employs only 102 minority teachers out of 1,018. The district is also accused of deliberately failing to apply for Emergency School Assistance Act Funds which provide bilingual and special counseling programs. The district's failures contribute strongly to a 25% drop-out rate among Chicano Students.

Right now the Legal Aid Society Attorneys working with the coalition are awaiting the results of an investigation of the school district by the Office of Civil Rights (OCR) of the Department of Health, Education and Welfare (HEW). When the results are made public the attorneys will file a lawsuit against the district. If the OCR investigation supports the school district the lawsuit will also be filed against the OCR.

Legal expenses are expected to be more than $3,000. A series of fund raisers sponsored by coalition members (G.I. Forum, San Diego chapter of LULAC, California Democratic Association, California Chicano Caucus and Mesa College MECHA) has contributed $1,100 to the legal fund. According to a CCR spokesman who is coordinating the coalition, the fundraisers provide an atmosphere for spreading information about the issue. "The organizations and individuals involved are prepared to make the sacrifices necessary to insure justice for their children." It is expected that the effort will continue well into next year. Five more fundraisers are scheduled in the near future.

National City — $1,000,000 For Developers, Potholes For Residents

The Legal Aid Society of San Diego, Inc, has filed a complaint with the U.S. Treasury Department because of National City's proposed use of $1.3 million of Federal Revenue Sharing Funds. The City, (which is 40% Spanish-surnamed) is proposing to use $1,000,000 of the funds to prepare a sight for a commercial enterprise--the Bonita Plaza Regional Shopping Center. Only $5,500 is being set aside to provide for the needs of National City's West Side--the Chicano Barrio. Revenue sharing funds are designed to improve a community's living conditions. The residents of the West Side could use the funds for housing rehabilitation, street improvements, building of a min-park and expansion of social services, Instead, the City wants to use taxpayer's money to benefit commercial developers.

Legal Aid filed the complaint on behalf of West Side individuals and the CCR. The city claims that an attempt is being made to cut-off the funds. But Ignacio Cota, coordinating attorney from Legal Aid, states that, "We are not bad guys. The City refuses to spend the money equitably. It refuses to establish programs for the benefit of all persons". The community has waited for 2 years for an answer from the Department of Treasury. CCR attorneys have stated that a law suit will soon be filed not only against the city of National City,but also the Treasury Department to stop the discrimination.

"CARTER'S IMMIGRATION PLAN"

Adjustment of Status (Amnesty)

Adjusts the immigration status of undocumented aliens who have resided in the U.S. continuously from before JANUARY 1, 1970 to the present and who apply with the Immigration and Naturalization Service (INS) for PERMANENT RESIDENT ALIEN STATUS; b). Creates a new immigration category of "TEMPORARY RESIDENT ALIEN" for undocumented aliens who have resided in the U.S. continuously prior to JANUARY 1, 1977; c). Makes no status change and enforces the immigration law against those undocumented aliens entering the United States after JANUARY 1, 1977.

Employer Sanctions

Makes unlawful the hiring of undocumented aliens, with enforcement by the Justice Department against those employers who engage in a "pattern or practice" of such hiring. Penalties would be civil--injunctions and fines of $1,000 per undocumented alien hired.

Border Enforcement

Substantially increase resources available to control the Southern border; (2,000 additional border patrolmen) and other entry points, in order to prevent illegal immigration.

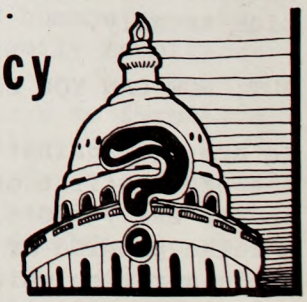
Cooperation With Source Countries

Promote continued cooperation with the governments which are major sources of undocumented aliens, in an effort to improve their economies and their controls over alien smuggling rings.

Temporary Foreign Workers

A comprehensive review of the current temporary foreign worker (H-2) certification program. To control the problem of undocumented aliens. It is possible to structure this program so that it responds to the legitimate needs of both employees, by protecting domestic employment opportunities, and of employers, by providing a needed work force.

Immigration Policy



A comprehensive review of existing immigration laws and policies by the Secretary of State, Attorney General, and Secretary of Labor. Support pending legislation to increase the annual legal limitation of Mexican and Canadian immigration to a total of 50,000 allocated between them according to demand.

CCR POSITION →

HERMAN BACA
Chairperson

CCR INTERVIEW

"WE ARE AGAINST THE FALSE PROMISE OF AMNESTY"

On August 4th the Carter Administration announced it's long awaited "Comprehensive Immigration Plan." Reaction by the Chicano Community and other Latino communities throughout the U.S. was that the proposed plan had nothing to offer and that it should be politically defeated. Because of the numerous requests for information by individuals and organizations it was decided by the CCR membership that our Chairperson Herman Baca state our position on the proposals. (Editor)

WHAT'S YOUR REACTION TO THE CARTER IMMIGRATION PLAN?

We feel that it is inhumane, unrealistic, unworkable and unenforceable. In essence a reaction instead of an action. A sham and a shame.

THE LOCAL SAN DIEGO NEWS MEDIA REPORTED ON YOUR MAY TRIP TO WASHINGTON D.C. DOESN'T THE CARTER PROPOSAL CONTAIN SOME OF THE VERY SAME RECOMMENDATIONS YOU MADE IN THE CAPITAL WHEN YOU MET INS COMMISSIONER CASTILLO AND ATTORNEY GENERAL BELL?

No. Not in any form that we recognize. What we were recommending then and what they are talking about now are totally different things. We reject and denounce the Carter plan totally.

BUT, HOW CAN YOU BE AGAINST AMNESTY?

We are not against amnesty. In fact we were one of the first organizations to propose it in the early '70's. What we are against is a false promise of amnesty. It is the Carter administration which is against amnesty.

WHAT DO YOU MEAN THE AMNESTY IS A "FALSE PROMISE"?

The Carter proposal does not talk about "amnesty." It outlines an "adjustment of status" for undocumented persons who entered the country before 1970. Such adjustment is not anything new--it already exists in the form of INS statute 8USC 1254. This statute provides that an alien with seven years of continous residency and equity (job, property, family, etc.) can petition for permanent resident status. Very few will benefit for two reasons. First, a 1976 Department of Labor study found that few of the undocumented apprehended by the INS have been in the country for longer than two years. Therefore, the vast majority of the undocumented will be unaffected. Second, right now the INS' incompetence and racism has resulted in a seven year waiting period. It will be years before anyone benefits.

IN REGARDS TO THE EMPLOYER SANCTIONS PROPOSAL--HOW CAN THE CCR OPPOSE PUNISHING EMPLOYERS WHO HIRE AND EXPLOIT UNDOCUMENTED ALIENS?

That's easy. The proposal is phony as a three dollar bill. We don't oppose punishing employers, we oppose punishing our people. The result of the proposal would be that--punishment by discrimination at the hands of employers who will simply refuse to hire any person of Mexican or Latin ancestry. If Carter and Castillo were sincere about penalizing employers they would enforce all existing laws designed to protect workers, laws dealing with wages, health and safety, social security, etc. What Carter is now proposing is at best nothing but a slap on the hand of big business.

IF YOU DON'T STOP THE ILLEGAL IMMIGRATION BY CUTTING OFF THE SOURCE OF JOBS, THEN ISN'T THE ONLY RECOURSE TO INCREASE THE BORDER PATROL?

Isn't that rather simplistic. Everyone agrees that the immigration problem is caused by social, economic and political factors. The solution is not to be found in law enforcement. On top of this the Border Patrol has worked with business interests. see p. 6

AREN'T THE UNDOCUMENTED WHO WILL BE ALLOWED TO REMAIN IN THE U.S. FOR 5 YEARS RECEIVING A KIND OF AMNESTY?

No! We feel that the cruelest and most contradictory part of the Carter plan is the creation of a "temporary resident alien" status. Individuals who entered the U.S. between 1970 and 1976 will be allowed to remain and work and required to pay taxes. They will not be allowed to receive the social services they have paid for. They will have no vote and no political voice. This is "taxation without representation." The inhumaneness of this proposal is that it forbids the "temporary resident alien" to be reunited with their families while within the U.S. borders. After five years they will be subject to deportation.

WHAT WILL BE THE EFFECT OF CARTER'S ADJUSTMENT OF STATUS PROPOSALS?

The result will be the creation of a captive labor force that will work hard, cheap and scared. It is our feeling that the real motive behind the so-called amnesty is to entice people without proper documentation to step forward in order that they can be targeted for later deportation proceedings. When these workers are no longer profitable they will be discarded with minimum effort by the INS.

YOU ATTACKED THE PRESIDIO ACTION AS A RETURN TO A BRACERO PROGRAM. THE CARTER ADMINISTRATION DENIES ANY PLANS FOR SUCH A PROGRAM. ISN'T THE CCR BEATING A DEAD HORSE ON THIS ISSUE?

No, the horse isn't dead as we can see by Carter's "Temporary Foreign Workers" proposal. It is our feeling that the H-2 certification program will be liberalized and expanded and under this cover a new bracero program will emerge.

BUT, THE CARTER PLAN INCLUDES AN EFFORT TO HELP IMPROVE THE ECONOMIES OF COUNTRIES WHICH ARE MAJOR SOURCES OF UNDOCUMENTED ALIENS, ISN'T THAT AN ATTEMPT TO DEAL WITH ECONOMIC FACTORS?

This raises more questions than answers. We can't even resolve the unemployment problem in this country let alone other countries. The Carter proposal suggest MILLIONS of dollars in foreign aid to these countries to improve their economy, but nothing is mentioned of the BILLIONS of Profit monies the Multi-National Corporations are taking out of these same countries.

WHAT ABOUT THE IMMIGRATION POLICY CHANGES BEING PROPOSED?

It has very little to offer in substance. It appears that instead of performing the major surgery which is needed the proposal is applying a bandaid.

WHAT DOES THE CCR PROPOSE?

For openers we are proposing:

1) A workable and humane amnesty program, with emphasis on family reunification.

2) National Hearings to formulate a just humane immigration policy.

3) An executive order stopping all deportations until Congress has developed through national hearings a comprehensive realistic immigration policy.

In ending, we propose that the Chicano Community organize itself to defeat this dangerous proposal.

We are a... non-government funded, community-based non-profit volunteer organization

Our aim is... to protect and promote the civil, constitutional and human rights of the Chicano community

The CCR is presently conducting a campaign to expose the Carter Immigration Plan. If you agree with our position, we urge you to:

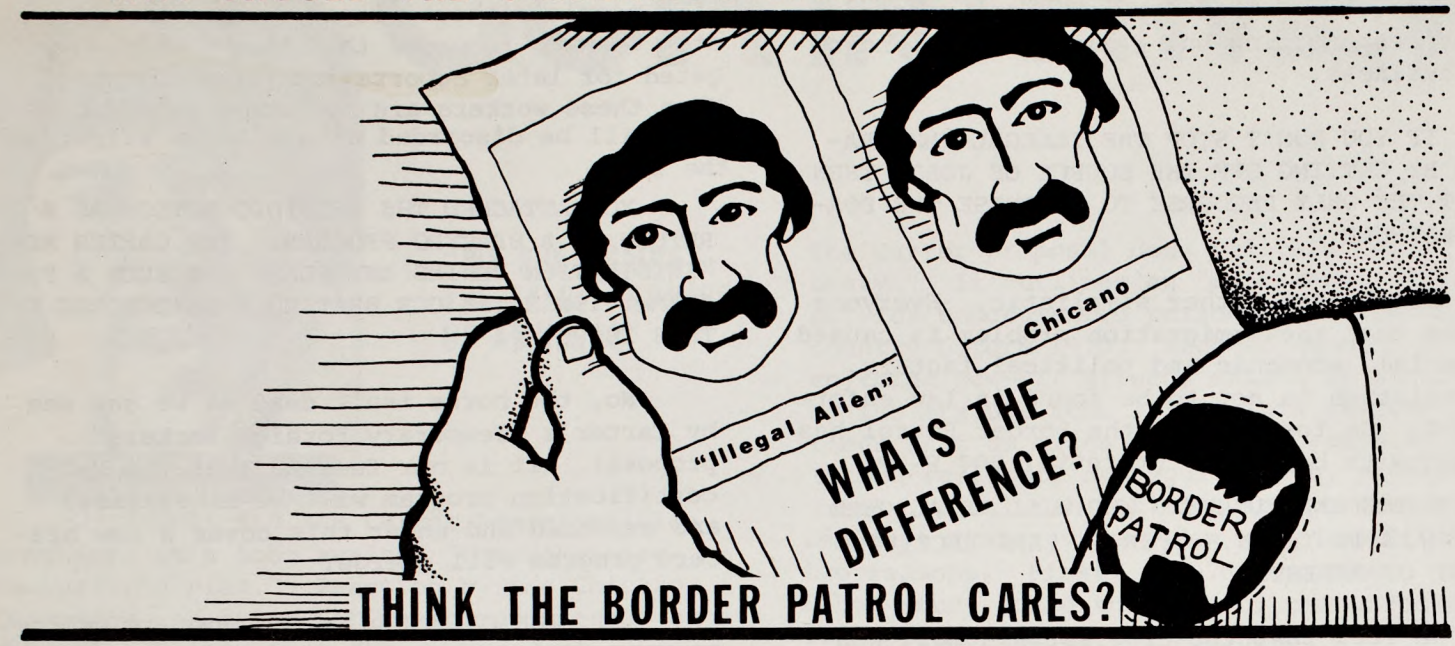
1) Write you congressional representatives demanding a stop to all deportations until national hearings on immigration are conducted.

2) Spread the information about the false promise of Carter's Plan.

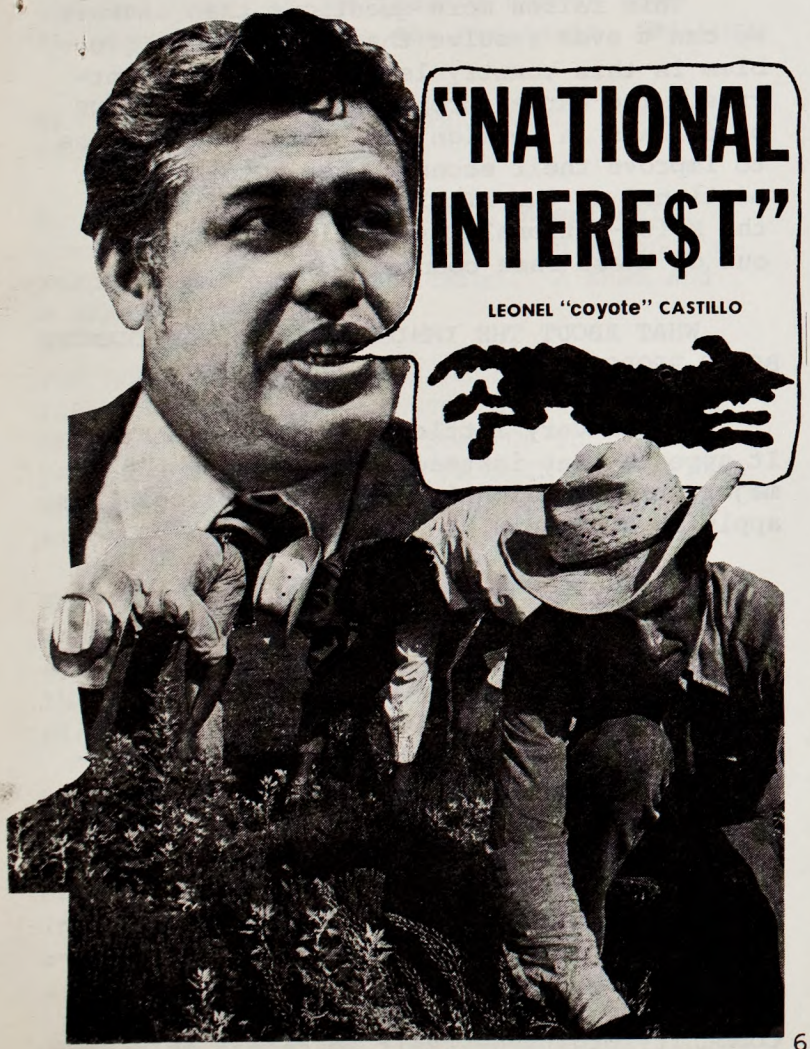
3) Support us in our efforts to organize; we need your endorsement, as well as moral and financial support.

Contact us at the CCR, 1837 Highland Ave., National City, CA 92050, (714) 474-8195.

WHY SHOULD THE CHICANO COMMUNITY BE CONCERNED?



Double Talk in Texas



The Carter Administration has once again shown what the "National Interest" is in intervening on behalf of the Presidio, Texas growers by importing 881 Mexican Nationals to this country to harvest the growers' 6 million dollar onion and cantaloupe crop.

The U.S. Department of Labor in refusing to certify the Mexican workers stated that the action was taken because the growers had not complied with regulations requiring that they provide housing for the workers and pay the $2.89 an hour minimum wage which the Department of Labor had determined would not have an "adverse" effect on the wage level of U.S. citizens.

I.N.S. Commissionor Leonel Castillo stated that the action was taken in the "National Interest." The fact is that Castillo thru his action has now become a "coyote" for the growers in Presidio.

This return to a Bracero type program with its substandard wages and housing proves that the Carter Administration is not interested in solving the Immigration problem, that is effecting our communities, but instead continues the traditional policy of preserving the "status quo" for those in agribusiness and other economic interest which are profiting from the immigration situation.

212

YOU ARE CORDIALLY INVITED

CCR

Committee on Chicano Rights, Inc.

"EL GRITO DE DIES Y SEIS DE SEPTIEMBRE"

FUND RAISER

Music by...

AMOR LATINO NOMAS

SUNDAY, SEPT. 11

"THE SOUTH FORTY"
285 PALM AVENUE
IMPERIAL BEACH, CA 92032

2-7:00 p.m. **Donation $2.50**

CCR

Committee on Chicano Rights, Inc.
1837 Highland Avenue
National City CA 92050
(714) 474-8195

BULK RATE
U.S. POSTAGE
PAID
Permit No. 16
National City, Ca.