

Committee on Chicano Rights, Inc

July 22, 1979

Honorable Griffin Bell,
United States Attorney General
United States Justice Department
Constitution Avenue, 9th and 10th St.
Washington, D.C. 20510

Dear Attorney General Bell:

The Committee On Chicano Rights, Inc., The United California Mexican American Association and the Legal Aid Society of San Diego, Inc, formally request that your office initiate congressional hearings in San Diego, California.

We base our request on the violations of human, civil and constitutional rights perpetrated by the Immigration and Naturalization Service, U.S. Border Patrol and U.S. Customs Service against persons of Mexican and Latin ancestry. We are particularly upset by these law enforcement agencies' use of violence along the International Border.

Attached is our Petition for Congressional Investigations, with supporting evidence, documenting the seriousness of the situation. We hope that incidents such as the:

- (1) death of two children at the International Border at San Ysidro;
- (2) killing and wounding of two individuals while handcuffed;
- (3) shooting of an individual by a Border Patrolman from a helicopter;
- (4) shooting of individuals while detained;
- (5) deportation of a United States Citizen;
- (6) beatings and assaults of individuals by Border Patrol, Immigration and U.S. Customs;
- (7) cavity checks by Border Patrolmen at the San Onofre Inland check point;

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- (8) illegal detentions of U.S. Citizens and Legal Resident Aliens;
- (9) unlawful breaking and entering into homes, churches, schools, and
- (10) harassment at public gathering places by Border Patrol, Immigration Service and Customs Service.

will bring a prompt response to our request.

Thank you for your attention and cooperation on this very important matter.

COMMITTEE ON CHICANO RIGHTS, INC.

By: Herman Baca
Herman Baca, Chairman

UNITED CALIFORNIA MEXICAN-AMERICAN ASSOCIATION

By: Alberto R. Garcia
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P E T I T I O N

F O R

C O N G R E S S I O N A L I N V E S T I G A T I O N

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PRESENTED TO:

THE UNITED STATES SENATE

THE UNITED STATES HOUSE OF REPRESENTATIVES

THE UNITED STATES DEPARTMENT OF JUSTICE

SUBMITTED BY:

LEGAL AID SOCIETY OF SAN DIEGO COUNTY, INC.
COMMITTEE ON CHICANO RIGHTS, INC.
UNITED CALIFORNIA MEXICAN-AMERICAN ASSOC.

PETITION FOR CONGRESSIONAL INVESTIGATION

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PETITION FOR CONGRESSIONAL INVESTIGATION

INTRODUCTION

This paper and supporting documents call for congressional investigations and the development of a new policy for the humane treatment of persons affected by U.S. immigration policy and the agencies that enforce it, including the Customs Service, Immigration and Naturalization Service (INS), Border Patrol, and the Federal Protective Agency.

The central concept is:

NATIONAL IMMIGRATION POLICY SHOULD FOCUS ON THE GRAVE PROBLEMS OF BORDER VIOLENCE AND THE SYSTEMATIC ABRIDGEMENT OF THE RIGHTS OF AMERICAN CITIZENS AND IMMIGRANTS OF MEXICAN/LATIN DESCENT, INSTEAD OF THE CURRENT EXCESSIVE EMPHASIS ON UNDOCUMENTED ALIENS. THE FIRST PRIORITY OF NATIONAL IMMIGRATION POLICY SHOULD BE HONORING THE RIGHTS AND HUMAN DIGNITY OF CHICANO, MEXICAN AND LATIN-AMERICAN CITIZENS AND IMMIGRANTS.

Other applicable concepts are:

1. All known studies and available data indicate that undocumented aliens have no material negative effect on the economy or social fabric of the United States.
2. All available data indicates that the current repressive measures have little effect on the flow of undocumented workers into the U.S.
3. Nevertheless, the goal of preventing the entry of undocumented

persons is being used to justify arbitrary and brutal treatment of persons, including U.S. citizens and legal residents, when attempting to cross at ports of entry, and ruthless, unnecessary violence along the border by agents of the federal government (INS, Border Patrol, and Customs Service).

4. Attempts at detection and deportation of undocumented workers are carried out by the systematic and large-scale abridgement of the human, civil and constitutional rights of Americans of Mexican and Latin descent, combined with violence, intimidation and humiliation by agents of INS, Border Patrol and Customs.

Congress should therefore adopt this moral policy:

1. Give first priority to the humane treatment of persons who present themselves at U.S. borders and the honoring of the rights and dignity of citizens and immigrants of Mexican and Latin descent.
2. De-emphasize the goal of preventing the entry of undocumented persons and the goal of detecting and deporting undocumented workers.
3. Require U.S. government agencies, particularly the INS, the Border Patrol and Customs, to implement and live by the law and spirit of these priorities.

A series of affidavits and other materials are appended hereto, showing a cross-section of the kinds of incidents reported to our agencies and evidencing the problems suffered by the Chicano, Mexican- and Latin-American community.

Section I of this Petition is a discussion of some of these incidents and the law enforcement practices and attitudes they illustrate. Section II briefly discusses the undocumented worker problem, suggesting a perspective. Section III lists the recommendations of our agencies for a more humane and objective policy.

I.

FACT SITUATIONS ILLUSTRATING PROBLEMS INFLICTED
ON THE LATIN-AMERICAN COMMUNITY BY THE
ARBITRARY ADMINISTRATION OF IMMIGRATION POLICY

A.

Arbitrary Refusal to Allow a U.S. Citizen
to Pass Where Urgent Need of Medical Treatment;
Failure to Process or Permit
Humanitarian Paroles Under 8 USC 1182 (d) (5)

1. INS practice is at odds with INS policy and regulations.

Title 8 USC 1182 (d) (5) authorizes the Attorney General to prescribe conditions under which alien applicants may be given entry to the U.S. in a parole status "for emergent reasons." INS regulations contained in 8 CFR 212.5 (a) and the corresponding Operations Instructions of INS, OI 212.5 (a), further confirm the policy of allowing parole "for emergent or humanitarian considerations."

There is strong evidence that, while the regulations and avowed policy of INS encourage the granting of paroles for medical

and humanitarian reasons, the actual practice of INS personnel who deal with applicants at the border is to arbitrarily refuse or discourage them, leaving applicants with the feeling that there is no recourse.

The actual practice of the agency is exemplified in two situations where young children died this year as the result of the effective denials of parole in emergencies.

2. The case of Manolo ALBERTO (Appendix A).

On June 13, 1979, two U.S. citizens, both women, approached the U.S. border at San Ysidro, California with a U.S. citizen baby named Manolo ALBERTO. The child was dehydrated, malnourished and comatose.

The two women were passed through customs and then interrogated by an agent of the INS named Mrs. BURNS. They explained that the child was a U.S. citizen, and presented a certified copy of his birth certificate and social security card. They further explained that the child's mother, Mrs. ALBERTO, was unable to cross with the baby because she had no legal status in the U.S.; that the mother was desperate to get the child to a U.S. hospital because recent treatment in El Salvador had failed to help; that the family had contacted these two citizens to take the child Manolo to a hospital in the U.S.

The conduct of INS agent Mrs. BURNS was as follows:

(a) She said that the child was not critically ill or an emergency, just sick.

(b) She said that, in her opinion, the child was four years of age, not the age represented by the two women.

(c) She said she would not allow the baby to pass because "the birth certificate could have been bought in Tijuana."

(d) With respect to the baby's condition, she said that "we cannot let sympathy enter into our job."

(e) She failed to summon an ambulance or any medical help, failed to initiate any medical parole for the child (under 8 CFR 212.5 (a)), failed to advise the women that such a parole is possible, and did not advise them that they could appeal her decision to deny entry to the child.

(f) When the two women cried and said the child was dying and persisted in showing the birth certificate and asking for help, INS agent BURNS said that if they did not leave, their car would be confiscated for "attempting to smuggle the baby." (See Appendix A, affidavit of Lupe ALONZO.)

The two U.S. citizen women returned to Tijuana and the baby was checked into the General Hospital there. Doctors in Tijuana attempted to effect a transfer of the child to a hospital in San Diego, where better facilities for the specialized care required were available. Red tape prevented this transfer. The child, Manolo ALBERTO, died three days later. He was denied the medical care in a U.S. hospital that might have saved his life.

Based on the experience of our agencies' clients, it appears that individual agents in the INS are encouraged to "play God" at the border and render arbitrary decisions regarding the validity of a human being's citizenship or the state of his health. (Please see affidavits, articles and medical reports collected in Appendix A.)

3. The Case of Mario CAÑEDO (Appendix B).

In March of 1979 a four-year-old child, Mario CAÑEDO, was taken from Tijuana to the U.S. border by his aunt. The child had had open-heart surgery at a hospital in San Diego and the aunt had a letter from the attending physician. Although the child was obviously ill, the aunt was forced to leave her car to go to a waiting room where she was told to "take a number." The child died during the wait in the waiting room while INS personnel ignored the aunt's pleas for help. (See Appendix B.)

Our investigation reveals that repeated efforts were made by the aunt and by the hospital to process a medical parole and provide a multiple entry visa to the child to facilitate crossing of the border in case of need. Each time that the aunt went to the INS office at the border and asked to apply for a medical visa or parole, she was told by office personnel that it couldn't be done. Therefore, she was reduced to presenting letters from doctors each time she tried to cross the border to take the child to the hospital, with the time-consuming, and in this case fatal, red tape, frustrations and delays.

4. Prevalent INS Practices Exemplified by These Cases

(a) Border agents are insensitive to medical emergencies or human needs.

Regulations under 8 USC 1182 (d)(5) provide for agents to take action in medical emergency or humanitarian need, and there is a system for paroling medically needy persons to hospitals in the U.S. pending verification of their documents or status. However, in practice the agents take the exact attitudes shown by the

agents in the cases of these two children. They do not initiate a parole, they do not tell the applicants that such a parole is available, and they tell people in severe emergencies to either "go back to Tijuana" or to "take a number and wait."

(b) Each individual INS agent makes his own arbitrary decisions regarding the validity of a citizen's or immigrant's status.

There is no standard for what documents or how many documents are required to prove one's status as a citizen or resident immigrant at the border. One agent may permit entry to a citizen presenting a certified copy of his birth certificate. Another agent may refuse entry to the same citizen because he doesn't like the citizen's attitude or because that agent personally likes to see a driver's license.

The prevalent attitude in the INS appears to be that anyone of Mexican or Latin descent is "guilty until proven innocent." Agents feel free to deny entry to both U.S. citizens and to immigrants, even when they can reasonably prove their legal status with documents that are valid on their face.

When agents also make ill-advised medical judgements, the situation becomes lethal as well as arbitrary.

(c) Persons who are denied entry or denied medical parole are not advised of their right to appeal or to make formal application.

Applicants are always made to believe that the decision of the agent on the line is final. If first line supervisors are called, they habitually rubber-stamp the agents' decisions without question (see affidavit of ALONZO, Appendix A), which further emphasizes the message: the agent on the line or at the counter is

"God." No printed statements regarding procedures for appeal to higher authority are available. Applicants are made to feel that if they question the agent's decision, their cars may be confiscated, they will be arrested, or things "may go bad" for them.

(d) Although emergency medical help and facilities are available to border agents, they fail to call for help when needed for persons at the port of entry.

This is evident from these two cases, which our agencies reasonably believe to be the "tip of the iceberg."

B.

Use of Deadly Force - Killings

Several incidents of the use of deadly force against unarmed and passive suspects by border agents are reported.

REYES and RINCON case (Appendix C): Two Mexican nationals, Efren REYES and Benito RINCON, were apprehended slightly inside the U.S. border by a Border Patrol agent. The two were handcuffed together but one resisted getting into the patrol agent's jeep. One began to pull the other, still handcuffed to him, toward the Mexican side of the border, and they started to run. According to eyewitnesses, the agent drew his pistol and shot each of them in the back, killing REYES and wounding RINCON. The Border Patrol has characterized the incident as "self defense."

BALDERAS Case (Appendix D): In February 1979, another agent opened fire on an unarmed man, BALDERAS, who had stopped running and raised his arms. He shot BALDERAS in both arms, and when the victim fell to the ground bleeding, the agent slashed him

deeply with a knife while cutting a backpack strap with the knife.

ZARATE Case (Appendix E): In another incident, a 16-year-old Mexican youth crossed the border with some friends on a dare. A Border Patrol helicopter approached the boys while they were walking back toward the Mexican side of the border, opened fire and felled the youth with shotgun wounds in both legs.

Implications: It is apparent from such incidents that Border Patrol personnel either have no policy regarding the use of deadly force or, if there is one, feel free to ignore it. Agents feel free to wound and kill suspects for the mere crime of crossing the border, or as a means of preventing escape back to Mexico. This means in effect that the crime of trying to escape is punishable by the death penalty inflicted by the arresting agent in the field at his discretion.

In recent highly-publicized meetings of U.S. Attorney M.H. Walsh (Southern District, California) with Border Patrolmen, the U.S. Attorney has begun to informally and orally advise patrol agents to use guns only in self-defense, emphasizing their need to avoid civil liability. (See Appendix F, p. 1, last line, to top of p. 2.) However, if such action by the U.S. Attorney is currently required, this shows that no uniform policy regarding the use of deadly force has been in effect within the Border Patrol or among agents, and lends credence to the eyewitness accounts we have received of irresponsible gun play.

• C.

Inflicting Unnecessary Physical Violence on Suspects

Suspects or prisoners of Mexican or Latin descent are regularly punched, kicked, beaten with batons and otherwise physically abused in the process of arrest, interrogation or processing (Appendices G through K). A survey of those incidents indicates that there would be no basis for a detention or arrest by the standard of probable cause, but that the sole basis for detaining, abusing and trying for force a confession out of the victim is that he is of Latin descent and/or cannot speak English well. It is done when no resistance is being offered by the detained person and where he presents no threat to the officer.

ORTIZ case (Appendix J): Mr. Ortiz, a native-born American citizen of Puerto Rican descent, was seized on the beach while fishing, taken to a Border Patrol station despite his requests that agents look at his identification papers in his nearby car, and beaten into unconsciousness because he refused to sign confessions. He was released without being charged (Appendix J).

DAVALOS case (Appendix Q): Mexican citizens who visit the United States as tourists are also subjected to indignities. Two Mexican tourists, Mr. and Mrs. DAVALOS, came into California to visit Disneyland. They had secured the proper visa at the border and presented it to Border Patrol personnel. Border Patrol officers asserted that there was an irregularity in the visa.

Mrs. DAVALOS was forcibly separated from her husband, taken to a room, made to strip naked and put through the humiliation of a search of her vaginal cavity. She was then kept without food or

water for several hours and finally transported to Mexico as a prisoner.

When Mrs. DAVALOS was removed from her car and Mr. DAVALOS protested, he was grabbed by the front of his jacket and told he would be beaten up, his I-186 card taken away. He was ordered to leave the area immediately, which he did since he had no recourse. He didn't see his wife until she was turned over to Mexican authorities.

At no time were there any facts indicating probable cause to detain or physically humiliate Mrs. DAVALOS in this manner.

Implications: American citizens, resident aliens and suspected illegal aliens alike are seized without probable cause, and subjected to physical injury and racist verbal abuse. The only things required to qualify for such detentions are that one be of Latin descent and/or that one speak English with an accent.

D.

Systematic Civil Rights Violations of Citizens
and of Immigrants of Latin Descent

Affidavits L through T present a sampling of the kinds of situations with which American citizens and immigrants of Latin descent are confronted on a daily basis in the Southwest.

BUSTAMENTE case (Appendix L): Two teenaged brothers of Mexican descent, both U.S. citizens, were running from the playground along the sidewalk toward their home. A Border Patrol agent followed them, broke down the door of their home and kept them and their mother terrorized while calling them racist names and accusing

them of being illegal aliens, having forged documents and so forth.

VASQUEZ case (Appendix M): A native-born U.S. citizen, carrying his driver's license and business card, highly articulate in English, was stopped by an INS agent at the San Diego airport. He was humiliated, insulted and detained for hours, missing his plane flight, on the agent's assertion that he was not "proving his citizenship" to the agent's satisfaction. The only possible basis for detention appears to have been the citizen's apparent Latin descent.

PLANCARTE case (Appendix N): At the same airport, a documented immigrant, carrying his alien registration card, was stopped, detained and deported, forcing him to re-enter the U.S. at San Ysidro. He was given no deportation hearing. He lost his employment in Los Angeles as a result of his absence from his job.

Other instances include:

1. Stopping and questioning people of Latin descent, at random and without probable cause. See declarations of PAZ (Appendix R), ZAPATA (Appendix P).
2. Breaking and entering homes of citizens without warrants or probable cause. (See Appendix L: BUSTAMANTE.)
3. Detaining U.S. citizens without probable cause and without allowing them to call attorneys. (See Appendix O: VENEGAS.)
4. Detaining and deporting legal immigrants without allowing them a hearing or an opportunity to present their documents, and refusing them the opportunity to contact their attorneys. See GONZALES-Velasquez (Appendix H) and LOPEZ-Coronado (Appendix S).

5. Beating and detaining legal residents when they cross the border (ALVAREZ-Carrion case, Appendix T).

An analysis of the foregoing cases leads to these conclusions:

(1) The lack of a clear requirement of Probable Cause, in border areas, and of clear standards of Probable Cause, has resulted in a situation where INS and Border Patrol agents feel free to stop, detain, question, and intimidate all people of Latin descent, regardless of whether there are any reasonable grounds for suspicion that the subjects have committed any crime or are illegally present in the U.S.

(2) Agents feel free to detain and even deport U.S. citizens, and immigrants with legal status, without due process, without any hearing, and on the arbitrary say-so of the individual agent.

Evidently, such acts are often done out of spite, hatred, racist feelings or the power drive of the agent involved.

(3) Agents feel free to break and enter the homes of people of Latin descent and violate their Fourth Amendment guarantees, without warrants and without reasonable cause, solely on the basis of the tenants' Latin descent.

(4) Border Patrol and INS agents regularly deny detained persons the opportunity to produce their documents or to contact their attorneys before summarily deporting them.

E.

Lack of an Independent Investigative Agency
Able to Expose and Correct Abuses of Power

The experience of all agencies and individuals who have asked for redress or made complaints regarding the abuses of individual agents, is that both the INS and the Border Patrol are committed to protecting and defending personnel who commit abuses, regardless of how egregious these abuses are.

A perusal of the exhibits in Appendix A (Manolo ALBERTO case), and of other severe cases, indicates that whenever the arbitrary or violent acts of an agent cause the severe wounding or death of a human being, the reaction of the INS or Border Patrol is to "whitewash" and "cover up."¹ It appears to the Mexican-American and Latin-American community that the principal interest of the INS, for example, is not to detect and remove agents who habitually abuse people or inflict violence on people. Rather, it is to excuse such behavior in order to protect the agency from public criticism.

So long as agents with violent and racist predilections are immune to prosecution or discipline, and are protected systematically in their practices, no correction of abuses is possible.

An independent agency is required, outside the INS and the Border Patrol, with power to thoroughly investigate and with a true interest in uncovering and correcting the patterns of unnecessary violence and violations of citizens' rights by the INS, Border Patrol, and related agencies.

¹In a San Diego Union article dated June 21, 1979 (Appendix A), U.S. Customs Officer Barbara CAPOLUNGO, who had witnessed the ALBERTO incident, confirmed the critical condition of the child and supported Lupe ALONZO's statement. This indicates a pattern of lies and cover-up by the INS personnel involved. KCST-Channel 39 broadcast television interviews with CAPOLUNGO on June 19 and 20, 1979.

II.

THE RELATIVE SOCIAL VALUE OF CURRENT METHODS FOR THE
DETECTION AND DEPORTATION OF UNDOCUMENTED WORKERS IS IN
DOUBT. ITS VALUE IS GROSSLY OUTWEIGHED BY THE
SOCIAL, ECONOMIC, POLITICAL, AND LEGAL HARM
DONE TO AMERICANS OF LATIN DESCENT
BY CURRENT ENFORCEMENT ATTEMPTS.

Every serious study done on the effects of undocumented workers on the economy or job market leaves serious doubts as to whether there is any material negative effect.

No definitive empirical study has been made to date, and experts disagree among themselves. However, there is strong evidence that current efforts to root out undocumented workers are:

1. disproportionate to the objective problem,
2. grounded in hysteria, propaganda and subjectivity, and
3. of little marginal utility, since the current repressive measures do little to stem the flow of undocumented workers, according to estimated statistics.

A.

Examples of Studies

William S. Bernard has concluded that an influx of immigrants, whether legal or illegal, results in an increase of GNP with corresponding expansion of the economy, and more jobs.²

Manuel Villalpando studied situations in both Los Angeles

²William S. Bernard, American Immigration Policy, New York: Harper and Brothers, 1950, pp. ss ff.

and San Diego counties, where large numbers of undocumented workers were removed from jobs in specific light industries. In both cases, no U.S. citizens were willing to take the jobs.³ This tended to disprove the notion that U.S. citizen workers are being displaced from jobs by undocumented workers.

Other studies have disproven the popular cliché that illegal aliens are living on welfare and putting a burden on U.S. taxpayers. In the North Houston study in 1976, it was found that 73% of a sample group of undocumented workers paid income tax and only 0.5% received any welfare.⁴

B.

Alternatives to Current Methods Exist

To the extent that it is desirable to restrict entry of undocumented workers into jobs in the U.S., there are more humane and effective methods than the current reign of terror in which the Chicano/Mexican-American/Latin-American community finds itself, with random detentions of citizens and immigrants of Latin descent.

For example, North and Houston have recommended that government strike forces be organized to crack down on exploitive employers who violate laws regarding minimum wages, working conditions, withholding taxes and reporting wages. If employers could

³Manuel Villalpando, Illegal Aliens: Impact of Illegal Aliens on the County of San Diego. San Diego: County Human Resources Agency, 1977.

⁴North and Houston, The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Explanatory Study. Washington: U.S. Department of Labor, March 1976.

no longer violate these laws with impunity, the motivation to hire undocumented workers would quickly evaporate.

C.

Implications

1. Although further study is needed, there is enough information to conclude that the problem of undocumented workers has been exaggerated out of proportion.

2. We suggest that the social value of stopping the flow of undocumented workers is a relative value and must be balanced against the greater values of respecting human life, and of respecting the dignity and rights of the Mexican-American and Latin-American citizens and immigrants within the U.S.

3. Specifically, the social/economic value of stopping the flow of undocumented workers:

(a) Does not justify the killing and maiming of unarmed human beings at the border for the crime of crossing the border or running away,

(b) Does not justify the arbitrary denial of entry, at ports of entry, to citizens and immigrants who present documentation, and

(c) Does not justify stopping, detaining, insulting, searching and the wholesale invasion of the constitutional rights of citizens and immigrants without probable cause, on the sole basis of their Mexican or Latin descent.

III.

RECOMMENDATIONS

A.

Congressional Hearings and Investigation

1. Congress and its concerned committees should hold hearings to investigate thoroughly the practices and attitudes of the agencies which deal with American citizens and immigrants of Mexican/Latin descent in enforcing national immigration policy.

2. Information should be sought and received from the Chicano/Mexican-American/Latin-American communities and from individuals who are affected by congressional policy and by the practices of the law enforcement agencies involved.

(a) Congress should stop acting on the sole basis of information received from within government agencies concerned and should instead receive information from the communities affected.

B.

Handling of Citizens, Immigrants and Applicants
at Ports of Entry

3. Give top priority to medical emergencies and emergent needs.

(a) In passing persons at the border, special priority and attention should be given to those with medical or emergent problems.

(b) Ambulances or medical personnel should be called

if need is indicated.

(c) Processing of requests for medical visas or parole under 8 USC 1182 (d) (5) and 9 CFR 212.5 (s) (d) should be given first priority. All requests for parole should go to the district director and not be "sat upon" by lower echelon personnel.

4. Adopt the policy of allowing all persons to enter who establish a colorable status as citizens or immigrants by documentation valid on its face.

(a) Stop the practice of allowing individual border agents to decide the validity of a person's status or documentation on arbitrary grounds.

(b) Presume the validity of a citizen's or immigrant's documents unless there are articulable facts raising a reasonable and substantial doubt as to their validity.

5. Establish a reasonable and uniform standard regarding the number and kinds of documents required of U.S. citizens and immigrants when crossing the border.

C.

Treatment of Mexican/Latin-Americans
in Border Areas and the Interior

6. Shift national immigration priority from detection of undocumented workers to honoring the civil rights and human dignity of Mexican/Latin-American citizens and immigrants.

(a) Adopt methods of controlling undocumented worker flow without the random and arbitrary "rounding up" of Mexican/Latin-Americans.

7. Enact standards of Probable Cause to be applied in border areas, as well as the interior.

(a) Require that Border Patrol and INS agents cease their practice of stopping, questioning or detaining persons except where articulable facts exist which give reasonable cause to believe that the person is:

- (1) an alien, and
- (2) present in the U.S. illegally.

(b) Congress should take the moral stand that the mere fact of being of Mexican/Latin descent and not speaking standard English are not to be construed as a basis for suspecting any person of a crime, including the crime of being in the U.S. illegally.

8. Require that the Fourth Amendments rights of the Latin community against unreasonable search and seizure and against breaking and entering without warrants or probable cause be respected by U.S. agents.

9. Establish an independent investigative/monitoring agency, and independent ombudsman, with power, funds and facilities for genuinely investigating complaints and incidents of violations of civil rights, arbitrary abuse of power, unlawful use of deadly force, physical abuse and unnecessary violence.

(a) The agency and its personnel should be outside the structure of INS, the Border Patrol and Customs Service to avoid conflicts of interest or the motive to "cover up."

(b) Congress should enact legislation making all records regarding such incidents and complaints public record.

10. Maintain careful monitoring of agents and records of

complaints with regard to specific agents, to detect and remove agents who are subjectively predisposed to violence, racism and attitudes of contempt toward people of Mexican/Latin descent.

11. Institute hiring practices, including psychological testing and profiles, to prevent the continued hiring of personnel who are predisposed to attitudes based on power drive or contempt for people of Mexican or Latin descent.

D.

Patrolling of the U.S. Border

12. Establish a policy of using no deadly force (weapons) on suspects whose only crime is crossing the border or attempting to escape.

(a) No use of deadly force by agents except where suspects are armed and/or present a genuine immediate physical threat to the officer.

(b) Standardize weapons and weapons policy within the Border Patrol and INS.

(c) Removal of agents who misuse deadly force, rather than excusing and "white-washing" to defend the agency's public image.

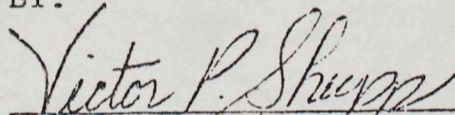
13. Congress should enact specific legislation to the effect that the illegal crossing of the border and/or non-violent attempts to escape from border agents are not, of themselves, felonies, and are not worthy of the use of deadly force.

CONCLUSION

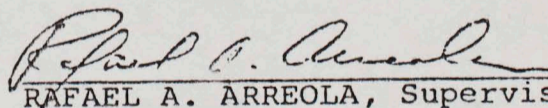
We respectfully request that Congress adopt these recommendations and expedite Congressional hearings.

Respectfully submitted,
LEGAL AID SOCIETY OF SAN DIEGO, INC.

BY:



VICTOR P. SHUPP, Attorney at Law



RAFAEL A. ARREOLA, Supervising Attorney

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RESEARCH AND INVESTIGATION BY:

Carlos VASQUEZ, Paralegal

Susan ALVA, Paralegal

1 AFFIDAVIT OF
2 GUADALUPE ALONZO
3

4 On June 14, 1979, I received a call from Carolina Corona,
5 regarding her nephew, Manolo Agustin Alberto who was very sick
6 in Tijuana, Mexico. She told me that she needed for me to bring
7 Manolo to a hospital in the United States, that the baby's mother,
8 Irma Alberto was crying and afraid that Manolo would die if he
9 didn't get medical help from a United States hospital. I agreed
10 to help and drove to Tijuana. I arrived in Tijuana at approximately
11 12:30 a.m. together with my friend Lolita Galvin. After we arrived
12 we hired a taxi to help us locate Irma. When we found Irma, she
13 gave me the baby and told me to take it to a hospital. She had
14 the baby dressed, ready and everything for us so she gave me the
15 baby's birth certificate and social security number. To me that's
16 all we needed so we got back on the taxi, came back down and when
17 we came back down we had the baby with us.

18 From there we went to the border and they asked us were
19 we United States Citizens? We said, "yeah"! And from there they
20 asked what you'd bring from Mexico? We said, "nothing". The
21 officer looked at us weird as we passed and told us to follow him
22 so we followed him and he took us to secondary inspection and I
23 talked to a customs officer (I believe Mr. Reiner) and he told us
24 to take our personal belongings out so we took them out and they
25 took us in the office. I guess he probably thought we were smug-
26 gling drugs or narcotics or something like that because they had
27 searched us to see if we had anything. Then a second customs
28 officer (I believe Mrs. Capolungo) came out and said that the baby

1 was dehydrated and starving! The baby was starving and all we
2 wanted to do is get the baby to a hospital in Van Nuys or to the
3 nearest hospital across the border. They searched and they told
4 us to sit down. They checked the car registration and our identity.
5 They checked them and they were all ok. So then an immigration
6 officer, Mrs. Burns, came in the office. She asked me if I was
7 the baby's mother. I said no! She said, "Where is she?" I said,
8 "In Tijuana, Colonia Guadalajara." She said, "Why can't the mother
9 come?" I said, "Because she is illegal and you won't let her
10 any place near here." She said, "What are you to the mother?"
11 I said, "We're friends of the mother's sister." She said, "How
12 do you know the baby is legal?" I said, "The baby is a United
13 States Citizen, he has his birth certificate and social security
14 card and they are outside in the car, do you want to see them?"
15 She said, "There was no need in seeing it because you know that
16 you can buy birth certificates and social security cards in
17 Tijuana." She said, "You know that, don't you?" I said, "Well
18 no I don't know!" Lolita started to cry, she cried out, she said,
19 "How could you guys be so cruel! Don't you see this baby is dying."
20 Mrs. Burns said, "We can't let sympathy get to our jobs." She
21 said, "I'm sorry but we cannot let the baby go through." I
22 didn't care what they want us to do with the certificate, I took
23 it out anyways and I showed it to them. She goes, this birth
24 certificate could be a fake one she says, I don't know if it's
25 the real one or not. She said, "How old is the baby?" I said,
26 The baby will be two years old in December 1, of 79'. She said,
27 "No, this baby has got to be about four years and a half." She
28 says, "Yeah!" I says, "That baby is only going to be two years

1 old." And she says, implying like if we didn't go, our car was
2 going to stay. "You know that we can take your car away from you".
3 The way she said it. "You know we can take the car away from you
4 for smuggling." That's when I said "smuggling"? What were we
5 smuggling? And we started saying, me and lolita saying, "This
6 baby is legal." Lolita kept crying, "What more do you guys want.
7 You guys have the baby's birth certificate." They said, "Bring
8 the mother here." Why can't the mother come? I said, again
9 "For the same reason the mother is illegal in the United States!"
10 I said, "You guys won't even let her near this border line." I
11 said, "We're from here so the baby is from here so you know, we
12 figure we can take the baby across because the baby is a legal
13 citizen.

14 So she ,Mrs. Burns, called her supervisor out and he without
15 asking any questions or anything he just came out and said, "NO!"
16 That we couldn't take the baby. Lolita was gonna get the baby's
17 birth certificate and the baby's social security card and go
18 take it to the Customs Officer named Mrs. Capulongo but when
19 Lolita got in the car to get it, Mrs. Burns told us to leave. She
20 said we had to go or "you know we can get you for smuggling."
21 I said, "smuggling what?" She said, "trying to smuggle an
22 immigrant." I said, "It's not an immigrant! This baby is legally
23 born in the United States, this baby has a right to go to the
24 United States. Don't you see the birth certificate." She said,
25 "We have to have proof." I said, "What more proof do you want?"
26 I showed you the birth certificate and the social security.

27 After they saw us crying, Mrs. Burns gave us \$2.00 and told
28 us to buy some milk for the baby, and find a hospital. I took the

1 \$2.00, said thank you! and gave them to Lolita. I took off and
2 told Lolita that "\$2.00 wasn't going to save the baby's life.
3 "This baby needs a doctor." I went back to Tijuana, the wrong
4 way in a one way street to get a policeman's attention. He did
5 stop me and I told him that we needed to get to a hospital quick.
6 He took us to a doctors general building. He took us to this one
7 doctor first and he wouldn't accept the baby because the
8 mother wasn't with him so the policeman took us to General Hospital
9 They took the baby and they probably thought that I didn't
10 understand Spanish or anything but I did and they said that the
11 mother had abandoned the baby. I said, "No she didn't, she
12 didn't abandon her baby." If the mother didn't care about this
13 baby, she wouldn't have nobody come and pick up that baby and
14 take him across the border to have medical attention down
15 there. She was going to meet the baby up there in the hospital,
16 near where the mother was going to stay if possible.

17 I told the doctors that I would get the baby's aunt, Carolina
18 to let the mother know that Manolo was in the T.J. hospital. I
19 also gave Carolina's telephone number to the hospital. We then
20 went back to Van Nuys, California at approximately 5:00 a.m.

21 I declare under penalty of perjury that the foregoing
22 statements are true and correct to the best of my knowledge.

23 Executed on June 22, 1979 at Chula Vista, California.

24 Guadalupe Alonzo
25 GUADALUPE ALONZO

1 State of California)
County of San Diego) ss.

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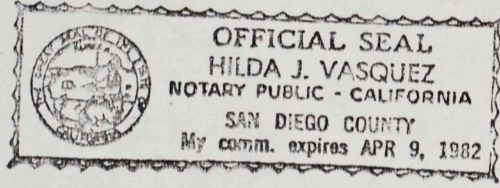
Guadalupe Alonzo, being duly sworn, deposes and says:
That she is over the age of 18 years and has resided in the
State of California for more than five years.

Guadalupe Alonzo
GUADALUPE ALONZA

Subscribed and sworn to before me on June 22, 1979.

Hilda J. Vasquez
HILDA J. VASQUEZ

NOTARY SEAL



.....
.....

This is a true certified copy of the record if it bears the seal, imprinted in purple ink, of the Registrar-Recorder.

MAR 6 1978

Samuel Parnell REGISTRAR-RECORDER
LOS ANGELES COUNTY, CALIFORNIA



019-111840

CERTIFICATE OF LIVE BIRTH

STATE BIRTH CERTIFICATE NUMBER		STATE OF CALIFORNIA-DEPARTMENT OF HEALTH		LOCAL REGISTRATION NUMBER		STATE NUMBER	
THIS CHILD	1A NAME OF CHILD - FIRST NAME MARC O	1B MIDDLE NAME AGUSTIN		1C LAST NAME ALEJO		1D SEX MALE	
	2 SEX MALE	3A THIS BIRTH SINGLE (MAN OR INFANT) SINGLE	3B IF TWIN OR TRIPLE BIRTH - 1ST BORN 1ST 2ND 3RD	4A DATE OF BIRTH - MONTH DAY YEAR DECEMBER 1, 1977		4B HOUR 9:07 P.	
PLACE OF BIRTH	5A PLACE OF BIRTH - NAME OF HOSPITAL Los Angeles County - USC Medical Center		5B STREET ADDRESS - STREET AND NUMBER OR LOCATION 1200 North State Street		5C INSIDE CITY (OR STATE LIMITS) SPECIFY REGION Yes		
	5D CITY OR TOWN Los Angeles		5E COUNTY Los Angeles County				
MOTHER OF CHILD	6A MAIDEN NAME OF MOTHER - FIRST NAME IRMA		6B MIDDLE NAME GLADYS		6C LAST NAME - MAIDEN SURNAME ALEJO		7 BIRTHPLACE - STATE OR FOREIGN COUNTRY EL SALVADOR
	8 AGE OF MOTHER AT TIME OF BIRTH 19 YEARS	8A SOCIAL SECURITY NUMBER OF MOTHER NONE	9 COLOR OR RACE OF MOTHER CAUCASIAN		10A RESIDENCE OF MOTHER - STREET ADDRESS 12111 HAVA STREET		10B INSIDE CITY (OR STATE LIMITS) SPECIFY REGION YES
	10C RESIDENCE OF MOTHER - CITY OR TOWN LOS ANGELES		10D RESIDENCE OF MOTHER, COUNTY LOS ANGELES		10E RESIDENCE OF MOTHER, STATE CALIFORNIA		
	11A NAME OF FATHER - FIRST NAME SAI ROS		11B MIDDLE NAME		11C LAST NAME ANZALDO		12 BIRTHPLACE - STATE OR FOREIGN COUNTRY MEXICO
FATHER OF CHILD	13 AGE OF FATHER AT TIME OF BIRTH 33 YEARS	13A SOCIAL SECURITY NUMBER OF FATHER UNKNOWN	14 COLOR OR RACE OF FATHER CAUCASIAN				
	15A PARENT OR OTHER INFORMANT'S SIGNATURE (IF OTHER THAN FATHER, SPECIFY) <i>Samuel Parnell</i>		15B DATE REVIEWED AND FOUND CORRECT DECEMBER 2, 1977				
INFORMANT'S CERTIFICATION	16 I HEREBY CERTIFY THAT I HAVE REVIEWED THE ABOVE STATEMENT OF INFORMATION AND THAT IT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE		17A PHYSICIAN (OR OTHER PERSON WHO ATTENDED THIS BIRTH) SIGNATURE - DEGREE OR TITLE <i>David A. Griffin M.D.</i>		17B ADDRESS 1200 NORTH STATE STREET		
	16A DATE REVIEWED AND FOUND CORRECT DECEMBER 2, 1977		17C PHYSICIAN'S ADDRESS (CITY, STATE, ZIP) MEDICAL STUDENT		17D LOCAL REGISTRAR DEC 15 1977		
ATTENDANT'S CERTIFICATION	18 I HEREBY CERTIFY THAT I ATTENDED THIS BIRTH AND THAT THE CHILD WAS BORN ALIVE AT THE TIME, DATE AND PLACE STATED ABOVE		19 LOCAL REGISTRAR SIGNATURE <i>Monica E. Chamberlain</i>		20 LOCAL REGISTRAR DEC 15 1977		
LOCAL REGISTRAR	18A REQUEST OMISSION FROM SOLICITATION LISTS						



A-6



SERVICIOS COORDINADOS DE
SALUD PUBLICA EN EL
ESTADO DE BAJA
CALIFORNIA
HOSPITAL GENERAL
TIJUANA, B. C.

DEPENDENCIA HOSPITAL GENERAL, S. S. A.
TIJUANA.
SECCIÓN DIRECCION.
MESA
NUMERO DE OFICIO 492.
EXPEDIENTE

ASUNTO: Se envía Resumen Clínico solicitado
Tijuana, B.C. a 19 de Junio de 1979.

DEPARTAMENTO DE INMIGRACION.
LINEA INTERNACIONAL. (TIJUANA).
CIUDAD.

A petición de ustedes nos permitimos enviar resumen
clínico del C. Manolo Agustin Alberto:

"NOMBRE: Manolo Agustin Alberto, EDAD: 18 meses, SEXO: Masculino, FECHA DE INGRESO: Junio 15 de 1979, DIAGNOSTICOS DE INGRESO: Desnutrición Grado III, Deshidratación Grado II. Se recibió al paciente a las 03.45 Hrs. del día 15 de Junio, traído por Agente de la Policía Municipal, sin familiares que lo acompañaran, encontrándose a su admisión en muy mal estado general, con palidez notoria de tegumentos, caquexia marcada, adinamico, piel seca, con globos oculares hundidos, mucosas orales secas, extremidades hipotróficas y con escaso pániculo adiposo.-Su peso era de 6,800 gramos. Durante su estancia hospitalaria recibió tratamiento a base de soluciones y electrolitos intravenosos, inicio de tolerancia a la vía oral con solución glucosada y posteriormente leche fresca y complementos protéicos; cuidados especiales y vigilancia estrecha. Se mantuvo afebril en los tres días de hospitalización, cursando en varias ocasiones con temperaturas de 35.2 y 35.5. grados Centígrados. Su evolución fué estacionaria, presentando ocasionalmente evacuaciones semilíquidas; se mantuvo buena diuresis. A las 08.15 horas del 18 de Junio, presentó súbitamente paro cardiopulmonar que fué irreversible a las medidas de resucitación, declarándose clínicamente muerto. Diagnósticos Finales: 1.-Desnutrición Grado III, 2.-Deshidratación, Desequilibrio Hidroelectrolítico, 3.-Anemia Severa."

Atentamente.
SUFRAGIO EFECTIVO NO REELECCION.
EL DIRECTOR DEL HOSPITAL.

DR. FRANCISCO SANCHEZ MARTINEZ.



S. S. A.
SERVICIOS COORDINADOS DE
SALUD PUBLICA EN EL
ESTADO DE B. C.
HOSPITAL GENERAL
TIJUANA

FSM/hrr.

AL CONTESTAR ESTE OFICIO CITENSE
LOS DATOS CONTENIDOS EN EL ANEXO
LO SUPERIOR DERECHO.

SERVICIOS ORGANIZADOS DE SALUD PUBLICA EN EL ESTADO DE BAJA CALIFORNIA
 HOSPITAL GENERAL S.S.A. TIJUANA

HOJA DE MEDICO

NOMBRE DEL PACIENTE AGUSTIN ALBERTO MANOLO

NOMBRE DEL MEDICO RESPONSABLE LOS DEL SERVICIO.

No. de Expediente

CAMA NUM. 11 SALA PEDIATRIA

FECHA	HORA	EVOLUCION Y PRESCRIPCION	NOMBRE Y FIRMA DEL MEDICO
18-VI-79	8:15	<p>PEDIATRIA.</p> <p>Paciente masculino de 1.5 años de edad, admitido con los diagnosticos de Desnutricion grado II*III (llegando al marasmo) avitaminosis y deshidratacion Grado II, Estando de alta voluntaria bajo responsiva familiar y</p> <p>Paciente en malas condiciones y que su evolucion ha durante su estancia fue grave, el día de hoy a las 8:15 horas presenta paro cardiorespiratorio de presentacion subita al tratar de tomar muestra de sangre para laboratorio, practicandosele inmediatamente maniobras de resucitacion, adrenalina, y bicarsol, respiracion directa boca a boca. No fue posible intubarlo. El paciente fallece irremediamente.</p> <p>Diagnostico de fallecimiento: paro cardiorespiratorio que se presento subitamente.</p>	<p>J.R. CAMACHO. MARTINEZ</p>

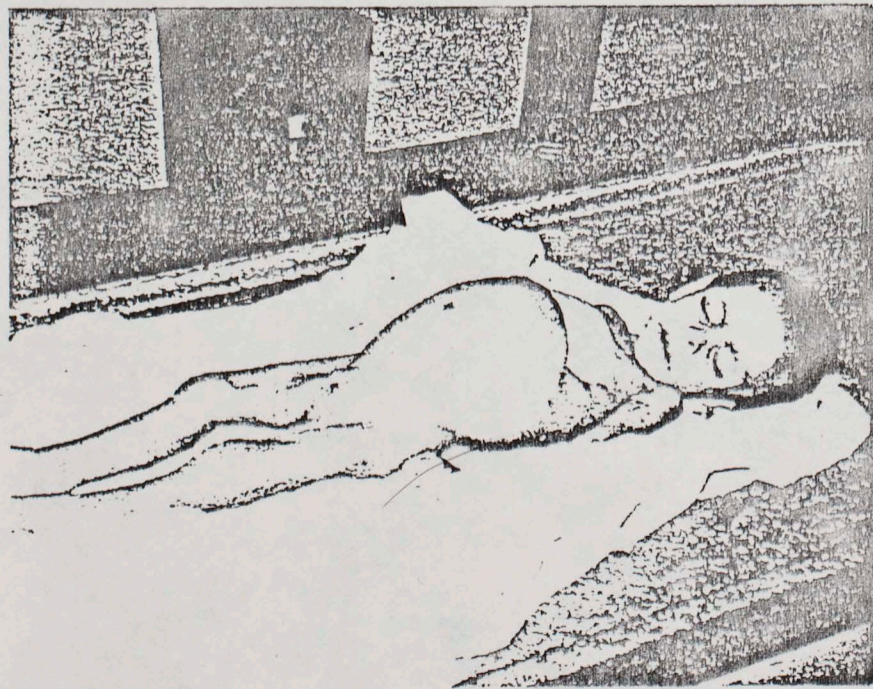
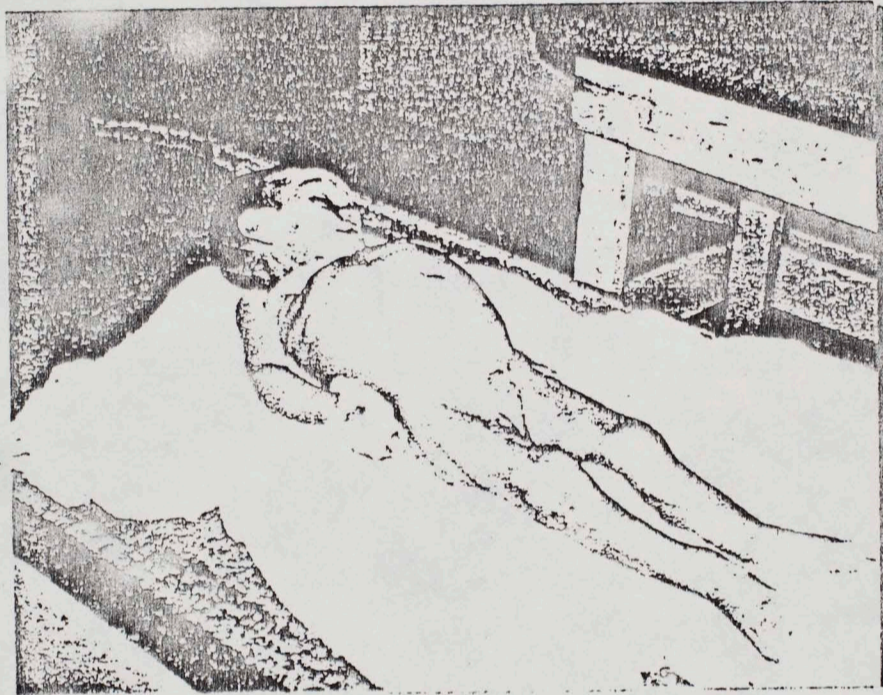
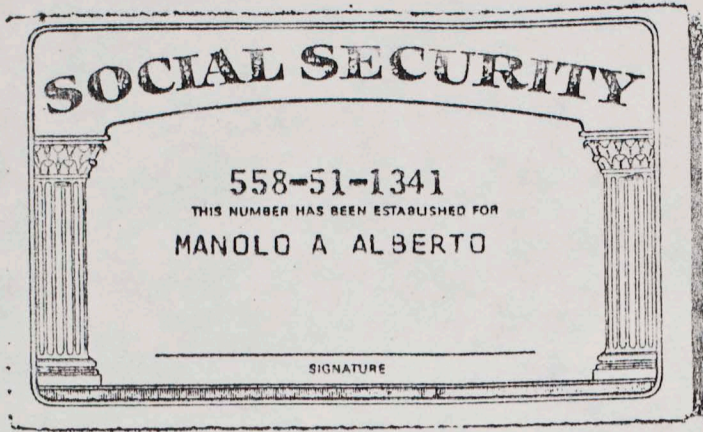
FICHA DE MEDICO

NOMBRE DEL PACIENTE: MANOLO AGUSTIN ALBERTO
 NOMBRE DEL MEDICO RESPONSABLE: LOS DEL SERVICIO
 CALA ENL. II CALA 15

No. de Expediente

FECHA	HORA	EVOLUCION Y PROSECUION	NOMBRE Y FIRMA DEL MEDICO
17-VI-79		<p>NOTA DE EGRESO Y RESUMEN CLINICO:</p> <p>FECHA DE INGRESO : 15-VI-79 FECHA DE EGRESO: 17-VI-79.</p> <p>DIAGNOSTICO DE INGRESO: DESNUTRICION GRADOS II-III. DESHIDRATACION GRADO II.</p> <p>DIAS DE ESTANCIA : 3 dias.</p> <p>RESUMEN CLINICO: Paciente masculino , de 1.5 años de edad, nacido en EEUU., admitido con los diagnosticos anotados arriba, traído por patrulla y dos mujeres estadounidenses que trataban de pasarlo a los EE UU. El paciente ingresa en malas condiciones generales, con facies palida , caquexia , signos francos de desnutricion casi en grado III, avitaminosis marcada , y deshidratacion severa grado II. Se le instituye tratamiento a base de soluciones IV, Electrolitos , inicio de dieta via oral a tolerancia, primero con solucion glucosado y despues con leche fresca, cuidados especiales y vigilancia estrecha. La evolucion no ha sido satisfactoria debido a que estos padecimientos necesitan tratamientos muy largos y costosos.</p> <p>Actualmente se da de alta bajo responsiva de familiar , quitando toda responsabilidad al el cuerpo medico y el departamento administrativo de esta institucion.</p> <p>Se da de Alta voluntaria.</p> <p><i>Personas por se llevar el paciente</i> <i>Georgiase Alonzo</i> <i>Alonzo</i> 14077 GAIN STREET DLETT. CAL -</p> <p>TESTIGO: <i>Dr. Gonzalez</i></p>	<p>II-III. II.</p> <p>DR. de guardia. DR. GRIJALBA.</p>

MIDP.
 J. ECAMACHO,
M. Camacho



LEGAL AID SOCIETY OF SAN DIEGO, INC.

MEMORANDUM

FROM OFFICE SOUTH BAY

TO: THE FILE OF MANOLO AGUSTIN
ALBERTO

DATE JUNE 25, 1979

FROM: RAFAEL ARREOLA *RA*

RE:

Saturday afternoon, June 23, 1979, my wife Betty Arreola and I drove Lupe Alonzo to Van Nuys, California. We took Lupe Alonzo to her mother's house and subsequently we went to the house of Carolina Corona and Irma Alberto. I spoke to both women independently and they gave me the following account: first Irma Alberto;

Irma left Los Angeles on September 30, 1978, to rejoin her family in San Salvador. Approximately a month later Manolo became ill and she took him to a doctor in San Salvador. The doctor said he had some stomach problems and gave him some pills and medicine for the baby. Since Manolo did not get well, Irma went back to the doctor and took him to the hospital. They again gave some medicine for Manolo, kept him for two or three days and let him go. Irma kept going back and forth to the doctors and to the hospital a number of times and finally during the first week of June, the baby was kept for approximately a week and the doctors recommended that Irma get away from the climate in San Salvador and bring the baby back to the United States where he could get better treatment and the climate and the food would not affect him as much. Irma was able to get a passport on June 9th and on June 10th she began her trip back to the United States. She traveled by bus for three days and three nights and finally arrived in Tijuana on June 13, 1979. On that same day she tried to get help and get someone to try to cross the baby to a hospital in the United States. A Mrs. Transito del Carmen Trujillo Martinez, at 11:00 p.m. was refused admittance and the baby was turned back to Tijuana. After the baby was returned, Irma called her sister Carolina in Los Angeles and asked her to please help and send somebody or come by and bring the baby or take the baby across the United States. She told her that the baby was very sick but that the doctors had not told her how sick the baby was; she just knew that the baby was in trouble and needed to go to the hospital and get some help. Carolina was able to find her friend Lupe Alonzo and asked Lupe to please go down to pick up the baby and bring him across the United States. The reason Carolina didn't go herself is because she does not have documentation and would probably not be able to bring the baby to Los Angeles.

Irma waited for Lupe to arrive and finally at approximately 1:00 a.m., Lupe arrived and Irma gave her the baby.

Irma then tried to make arrangements to get herself across the border to be with her baby. She was hoping that the baby would be allowed to go to Los Angeles and to a hospital in Los Angeles and she

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TO THE FILE OF MANOLO AGUSTIN ALBERTO

Page Two

June 25, 1979

wanted to meet him at the hospital. Irma found some papers that would help her but on Friday the police went to the house looking for Irma. The people at the house would not allow Irma to speak with the police and instead took her to a motel in Tijuana. Irma overheard that her baby was in a hospital and she wanted to go to the hospital or find out what was going on. She was not allowed to do so but they did allow Irma to call her sister, Carolina, and Carolina told her that the baby was in fact in a Tijuana hospital but that arrangements were being made to transfer the baby to a hospital in San Diego or Los Angeles and that Irma should bring herself across the border otherwise the baby would be in the United States and Irma would stay in Tijuana. Irma then secured the person who was going to guide her to Los Angeles; that person apparently became aware of some of the problems and refused to bring her across on Friday. They finally found someone else who agreed to bring her across and they crossed the border at approximately 9:00 a.m. The group got to San Diego in the evening and they continued walking all day and all night as well as the following morning. They finally got to the San Clemente check point at approximately 1:00 p.m. They rested and waited for a vehicle to pick them up on Sunday, and at approximately 3:00 p.m. the car arrived. She got to Van Nuys at approximately 6:00 p.m. on Sunday and inquired about the baby. She was told that there was some problems in bringing the baby across the border but that on Sunday Lupe had already gone to Tijuana and they already agreed to bring the baby to hospital in the United States that Sunday evening. She was also told that Lupe Alonzo would be returning Los Angeles that same evening and that they should wait until Lupe returned to find out what happened. When Lupe returned, she told Irma that the baby was much better, that she had seen the baby, that the baby had moved an arm, and that the baby said, "Mama". She was also told that a University Hospital in San Diego had been in contact with them and that if someone agreed to pay the bill that they would send an ambulance to pick the baby up right away. Irma didn't know what to do but her sister, Carolina, told her that Mrs. Maria Leon with the Department of Public Social Services in Los Angeles was helping them and that a Mr. Ben Cadwill from the Mexican Consulate was also helping them and they had called University Hospital to bring the baby across. Both Irma and Carolina then concluded that the baby would be in the United States hospital on Monday. They waited until Monday afternoon and when they were not notified what had finally happened; they called the hospital in Tijuana at approximately 3:00 p.m. At that point, Irma was told that the baby died at approximately 8:30 a.m.

Apparently, no one tried to notify Carolina or Irma even though Irma's telephone number was listed in the hospital records in Tijuana as a person to contact in case of an emergency.

TO THE FILE OF MANOLO AGUSTIN ALBERTO
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Carolina Corona's statement:

Carolina agreed with Irma's statements with respect to all of parts related to Carolina's involvement. She also added that she had spoken to the hospital in Tijuana and that she had told them all of the bills would be paid by her, to go ahead and transfer the baby to the University Hospital or whatever hospital was convenient in the United States. They agreed to do so and told her that everything would be taken care of. The other thing that Carolina mentioned was that she asked Carmen Albaron to go to the hospital and sign all the necessary documents to have the baby immediately transferred to a hospital in the United States. Carmen Albaron did so and was told that the baby would be transferred on Saturday. Since the baby was not transferred, Carolina asked Lupe, again, to go to the hospital in Tijuana to ask what the problem was and to see if Lupe could get the baby transferred on Sunday. She said that Lupe informed her that the baby would be transferred by 8:00 p.m. on Sunday to University Hospital. Throughout this whole process, Carolina had also been contact with the social worker, Maria Leon who agreed to help her in any way she could.

RA:hjv



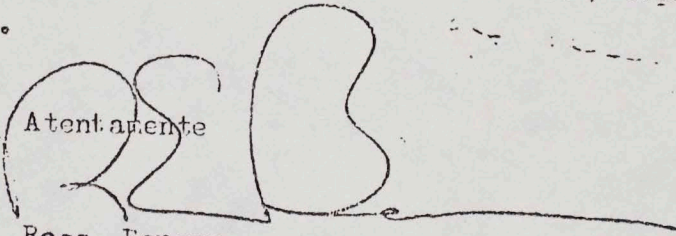
CONSULATE GENERAL OF THE
UNITED STATES OF AMERICA

Tijuana, B. Cfa. 20 de Junio de 1979.

C. DIRECTOR DEL HOSPITAL GENERAL
Dr. Francisco Sanchez Martinez
Tijuana, B. Cfa.

Por medio de la presente, deseo manifestarle que este Consulado, no tiene inconveniente alguno en que se haga entrega de los documentos (acta de nacimiento y tarjeta del Seguro Social), relativos al finado infante Manolo Agustin Alberto, a la Srta. Guadalupe Alonso, ya que estos documentos se necesitan para tramitar el traslado y sepultura del cuerpo.

Atentamente


Ross Benson
Consul Americano.

A-14

by, Barred Re-Entry U.S., Dies In Tijuana

6/19

CHRISTOPHER COOK
and GREG GROSS

Staff Writers, The San Diego Union

month-old boy, an American suffering from malnutrition, iron deficiency and vitamin deficiencies in Tijuana General Hospital yesterday, several days after he was brought into this country at the San Diego border crossing.

His mother, an El Salvadorian, seeking treatment for her child, was turned away at the border reportedly because her visa had expired. The child was in Los Angeles during the mother's previous visit to this country.

His mother, Irma Alberto, then

took the child to Tijuana General Hospital for treatment.

Immigration officials on duty last night said they were not familiar with the case. Questions about why the child was not allowed to pass into the United States went unanswered last night.

Dr. Robert Kahn of University Hospital said that the hospital was contacted on Friday morning, and immediately made arrangements to transfer the child, Augustin Alberto Manolo.

"Somehow there was a breakdown in communications," Kahn said. "The arrangements had been made. We were ready to pick the child up at the border. We tried contacting the hospital several times . . . Then, this morning, we finally got through . . . They told us the child had died."

Assemblyman Art Torres, D-Los Angeles, said late last night that he intends to investigate the incident.

Ailing boy dies as red tape stops mother in Mexico

By JAMES REDFERN
TRIBUNE Staff Writer

TIJUANA — It was a long and frightening journey toward hope that ended in death.

And it is a tragic example of the desperate flight of thousands of illegal aliens flooding the United States border with Mexico in search of what they believe to be the promised land.

For Manolo Augustin Alberto Anzaldo, just under 18 months old and an American citizen by virtue of his birth in Los Angeles to his illegal alien mother, that dream ended this week.

Manolo died in Tijuana General Hospital early Monday while several government agencies and private individuals desperately tried to get him across the border for better medical treatment.

"He was near the third (and last) stage of malnutrition," said Dr. Jose Rafael Camacho, who was treating him. "He was suffering from a tremendous vitamin deficiency and all the infirmities associated with such a condition."

Manolo's mother, Irma Alberto, contacted in Los Angeles, spoke in a tearful and frightened voice. She knows she is subject to deportation if she is discovered by U.S. authorities.

"I tried and tried to get the people at the line to let us pass, but I have no papers and they wouldn't allow it," she said. "Then my sister, who lives here, tried to bring him across, but they turned her back twice."

"And then we found out he was dead."

"He was so sick, so sick, but they wouldn't let him in. Why?"

Manolo, officials now agree, was a victim of bureaucracy from both sides of the border.

And everyone involved, including Robert Milton, deputy district director for INS in San Diego, agrees it should never have happened.

"It hit us very much like a bomb, Milton said. "We've been scrambling ever since yesterday (Monday) — the first time we heard of it."

"Neither Alan Clayton, our chief at the San Ysidro border crossing, nor I was contacted at all. If we had been, this never would have happened. We would have gotten the child into the United States."

"We do have procedures to take care of these matters, but if someone shows up at the border with a child who is obviously dying we waive even those procedures."

"If that was the case, he should have been let in. A dying child — that's a hell of a lot more important than our immigration laws."

The INS apparently was not contacted because other agencies involved in the attempted transfer thought someone else had made that call.

But no one had.

Manolo's story began in Los Angeles. His mother, 21, has two other children in San Salvador, the capital of El Salvador. Pregnant, she had left Los Angeles with Manolo late last year to bring his brother, then 3, to live with her in the United States.

Manolo's sister was born in El Salvador, causing a delay in the plan to return.

"Manolo got very sick in El Salvador," his mother said. "I had to put him in the hospital. He got better then and the doctor gave me medicine to give him during the trip back."

She obtained tourist visas for Guatemala and Mexico. But because Mexico will not grant visas to the U.S. border area, because of growing pressure from INS authorities unless the person seeking the visa has relatives there, she had to reach the border from Mexico City illegally.

She paid \$550 to do it.

Then she could not cross into the U.S. from Tijuana. After leaving Manolo in Tijuana with her sister, who had come from Los Angeles to try to get him across, Manolo's mother paid \$250 to an alien smuggler who brought him through the canyons and brush east of the border crossing and in the trunk of a car to Los Angeles.

When her sister was unable to bring the boy into the United States because she did not have guardianship documents, she put Manolo in the Tijuana hospital.

Arrangements were made through the American Consulate in Tijuana, the San Diego County Welfare Department and University Hospital to have him admitted there Friday night.

But because of his serious malnutrition and vitamin deficiency, Mexican authorities suspected he had been mistreated.

A state district attorney in Tijuana ordered the child held at the hospital pending an investigation.

That hold was not released until Sunday, and by then new arrangements had to be made to bring him across the border.

University Hospital officials contacted Hartson's Ambulance Service in San Diego, but it encountered problems and told the hospital it could not bring the boy across.

Dr. Robert Kahn of University Hospital tried to call the welfare department case worker in the dependent's section but could not reach her at home.

He planned to contact the case worker Monday morning.

But before he could, he learned that Manolo had died.

COMPLICATIONS

Baby Dies After Being Turned Back at Border

BY PHIL GARLINGTON
Times Staff Writer

The baby was sick but not dying when the two young women in a late-model car drove up to the border crossing at San Ysidro at 3 a.m. last Friday.

"He was not in a terminal state at that time," said Robert Mitton, deputy district director of the Immigration and Naturalization Service. "If we thought the baby was dying we would have got him to a hospital regardless of whether he was a citizen or an alien."

Three days later, however, 18-month-old Manolo Augustin Alberto Anzaldo, a U.S. citizen by virtue of being born to an illegal alien in Los Angeles, was dead of anemia and dehydration in a Tijuana hospital.

And the INS, the American Consulate in Tijuana, University Hospital and the bereaved relatives all were trying to figure out what had gone wrong.

Manolo's 21-year-old mother, Irma Alberto, a citizen of El Salvador, was in Los Angeles when the boy died. She had left her ailing son with Lupe Alzano and another woman while she reentered the United States illegally with an alien smuggler.

The two women, both American citizens, were to bring Manolo to rejoin his mother in Los Angeles.

But according to INS reports, the two were told at the border check-

Continued from First Page

point that they could not bring the infant into the United States because no legal guardian accompanied the child.

The report said the women told inspectors that they did not know the child's mother, apparently to avoid revealing her alien status.

Mitton said the child was sick "but not in a terminal state" and that the women were advised to take him to Tijuana General Hospital. The child reportedly had contracted an infection while he and his mother were in Salvador.

On Friday afternoon, the Tijuana hospital called the American Consulate in Tijuana to report that two women had left a baby. With the baby is a birth certificate issued by USC Medical Center in Los Angeles, a copy which was obtained by The Times.

"An officer went to see the child," said Ross Benson, head of the consulate's citizen service department, and determined he was in serious condition."

"After failing to find a relative to take him, we called the San Diego Welfare Department and made arrangements to transfer the child by ambulance to University Hospital," Benson said.

Officials Called Cruel in Barring Ill Child at Border

Woman Who Sought Help Says Inspectors Were Callous Toward Infant Who Died 3 Days Later

BY PHIL GARLINGTON
Times Staff Writer
6/21/79

The woman who brought an ailing 18-month-old American baby to the San Ysidro border checkpoint last Friday has charged that immigration inspectors were "cruel and callous" in refusing to let the baby be taken to a U.S. hospital.

The baby, Manolo Augustine Alberto Anzalo, a U.S. citizen by virtue of being born to an illegal alien in Los Angeles, died three days later in a Tijuana hospital, after numerous efforts to arrange his transfer to a San Diego hospital had failed.

Lupe Anzalo of Los Angeles said she and a friend had been asked in behalf of the baby's mother, Irma Alberto, 21, to pick up the baby in Tijuana and take him to a hospital in the Los Angeles area.

Ms. Anzalo said she arrived in Tijuana about 1 a.m. Friday in a borrowed car and received Manolo from his mother at a home where she was staying. Later that night, the mother slipped across the border and traveled to Los Angeles, Ms. Anzalo said.

She said that when they arrived at the border the inspector on duty challenged the baby's birth certificate and later threatened to impound the women's car.

"She then gave us a couple of dol-

lars to buy food for the baby and told us to find a policeman to take us to the Tijuana hospital," Ms. Anzalo said.

INS supervisor Hank Owens also refused to let the baby across, she said.

"It was cruel, very cruel," Ms. Anzalo said. "They told us they couldn't let sympathy get in the way of their jobs."

Robert Mitton, deputy district director of the INS, repeated Wednesday that although the child was very sick, he was not in imminent danger of dying at the time he reached the border.

"The inspectors on duty do not recall seeing a birth certificate," Mitton said, "and four witnesses have testified that the young women claimed not to know the whereabouts of the mother."

"They were advised that the Tijuana hospital was much closer and that it was set up to administer glucose and to take care of the baby's problems."

"I believe the inspectors acted in good faith and it is not fair to blame them for something that happened almost four days later."

(The baby was admitted to Tijuana General at 3:45 a.m. Friday and died at 8:20 a.m. Monday.)

Mitton added that an average of 200 aliens are allowed into the United States each month through San Ysidro on medical parole to receive hospital treatment in San Diego.

"But these two women were practicing deception and it was thought they might be smuggling or kidnaping the baby," Mitton said. "Neither of them was the legal guardian."

Ms. Anzalo said that after putting Manolo in the Tijuana hospital she visited the baby on Sunday and "he looked fine, much better."

"He was wide awake and crying for his mama, reaching his little arm out," she said. "The nurse said he was a lot better but still sick."

"When I went back to Los Angeles I told his mother he was getting better and we were all happy."

Mitton said that Manolo was a victim of the economic disparity between countries that forces poverty-stricken people to make a bid for a better life.

"It is part of the syndrome of the very poor, who often have to live like animals, that there were serious errors in raising the child that led to its malnourished condition," Mitton said.

\$10 Million Stated for Burying Lines

ABY

But on Friday night the Baja state district attorney put a hold order on Manolo because of suspicions he might have been a victim of child abuse.

An officer from the Baja district attorney's office visited the hospital Friday night, but an order to release the child was not issued until Saturday.

Meanwhile, an aunt, Carolina Corona, telephoned the Tijuana hospital to say she would be arriving to get Manolo.

The aunt never arrived, but on Saturday night Lupe Anzalo and the other young woman came to pay the hospital bill and to request that the child be airlifted to Los Angeles. They left after being told this was beyond the hospital's capacity.

Once again, on Sunday, efforts were made by the consulate to transfer the boy by ambulance to University Hospital.

Before the transfer took place, however, Dr. Roger Kahn at University Hospital called Tijuana General to inquire about Manolo's condition.

Although Kahn speaks no Spanish and the person he reached spoke no English, he was able to determine that the boy was in stable condition, according to Pat Jacoby, a spokeswoman for University Hospital.

At the same time, a clergyman with Project Hope who looked in on the infant also thought his condition had improved, according to Benson.

On the basis of his calls, Kahn de-

Thursday, June 21 1979

B-2 THE SAN DIEGO UNION
Agents Often Face Medical Choices

By LEW SCARR

Medical Writer, The San Diego Union

Life and death emergencies, regardless of immigration status, are permitted through the international border, federal officials maintain.

This is the rule at the San Ysidro border crossing, one forcing immigration officers to make medical judgments regularly just as they did recently when a sick 18-month-old boy accompanied by two young women was turned back.

The boy, eventually diagnosed as suffering malnutrition, died three days later in a Tijuana hospital.

The case has stirred charges of callousness against immigration inspectors who turned away the boy, an American citizen. And it has brought a strong defense of the inspectors by a superior who said they made the right decision.

The sides have been drawn, each with supporting witnesses, forcing the public to make an impossible judgment of the truth.

Two facts remain constant: Manolo Augustin Alberto was turned back from the country of his birth, and he died.

In a telephone interview with The San Diego Union, Lupe Alonzo, an American citizen who attempted to bring Manolo across the border as a favor to the boy's mother, Irma Alberto, an illegal alien, told a story of frustration and despair.

Her account is corroborated by Barbara Capolungo, a Customs Service inspector who was on duty at the time of the attempted crossing and witnessed the incident.

Essentially, Alonzo claims she told immigration inspectors neither she nor her friend was the baby's mother, but that she identified her and told them where the mother lived. Alonzo told the officers the mother is an illegal alien and that they were taking her critically ill son to her in Los Angeles.

She claims an inspector told her she could not take the baby into the United States because he was not a citizen. She said she tried to show the baby's birth certificate to

the inspector but that the inspector, a woman that Capolungo identified as Mary Louise Burns, told her she thought the birth certificate was a fake.

Capolungo said Burns' supervisor agreed with Burns that the baby should not be permitted into the United States.

The customs inspector also said she has a master's degree in social welfare, specializing in child abuse and malnutrition, and that, in her opinion, the case of Manolo Alberto was a life and death matter.

Robert Mitton, deputy district director of immigration here, does not agree.

"The child died and now some people want to dump on us," Mitton said.

He said the inspectors were not told who the mother of the child was, a claim he said is verified by a supervisor and two customs inspectors.

"Our inspector made a simple determination," Mitton said. "The child obviously was ill, but not critical. They wanted to take the child to a hospital in Van Nuys, about three hours away."

Mitton said the child and the women were turned away because the child was not sick enough to meet the life-and-death criterion and because there was no legal guardian with him.

Congressman entered fight for remains

Dead baby's body results in bureaucratic snafu

By JOAN BROYLES

Star-News Staff Writer

Tragedy turned into nightmare this week as a citizens group raced against time — and bureaucracy — to bring the body of an American-born baby to the U.S. for burial.

The eight-day ordeal ended Friday when a group led by Chula Vista legal aid attorney Rafael Arreola secured release of the body of 18-month-old Monolo Augustine Alberto.

THE BABY, born in Los Angeles to an illegal alien mother, died Monday in Tijuana General Hospital after U.S. immigration officials three days earlier refused to admit him to the U.S. for emergency medical treatment.

The tragedy was compounded in the days following the baby's death as Arreola and friends of the mother were enmeshed in a snarl of red tape surrounding release of the body.

Arreola said officials were "very slow" in providing assistance and handled things "poorly."

He said officials moved on the matter apparently only after high-level pressure was brought to bear.

According to Arreola, American Consulate officials in Tijuana Friday admitted receiving a call from the office of U.S. Rep. Edward Roybal of Los Angeles regarding the matter.

OTHER SOURCES reported that Chula Vista's Ernesto Azhocar, at their

request, had contacted the offices of several U.S. congressmen and state officials for assistance.

Azhocar is field representative to the Mexican-American community for Assemblyman Waddie Deddeh (D-Chula Vista).

Arreola says he plans to call for a congressional investigation of "problems regarding entrance at the border and health care."

He said he plans to use the Alberto baby incident as "the catalyst in requesting the investigation."

THE BABY finally will be buried in American soil tomorrow in San Fernando Mission Cemetery, San Fernando, Calif. Funeral services were conducted yesterday at Greenwood Mortuary in San Diego.

An eyewitness to events since the early morning hours of June 15 gave the following account:

— The baby's mother, Irma Alberto, contacted her friend Lupe Alonzo, a U.S. citizen residing in Los Angeles, and asked her to come to Tijuana and take her ailing baby across the border to a U.S. hospital.

— Alonzo, with the baby's U.S. birth certificate and another friend, tried to bring the baby into this country at the San Ysidro checkpoint while the mother slipped across the border and traveled to Los Angeles.

THE EYEWITNESS, who saw the

baby, said it was apparent the baby had been sick for some time. It showed signs of advanced starvation — distended stomach, pipe stem arms — and needed immediate treatment.

According to the eyewitness, immigration officials refused to accept the birth certificate as proof of citizenship and sent the baby back to Mexico as an illegal alien.

Repeated efforts to have the baby transferred to University Hospital during the next three days also met with failure.

THE SAME eyewitness also gave the following accounts of efforts to secure release of the body following the baby's death:

— The body was taken from the hospital to Funeraria San Juan, owned by Magdalena Bogorquez.

— Alberto again dispatched Alonzo to claim the body since, as an illegal alien, she could not cross the border to identify her child and bring it back to the U.S. for burial.

— Since Mexican law allows burial of an unidentified body within 24 hours, a race with the clock began.

— At first, the funeral home agreed to accept Alonzo as the person legally responsible for identifying the baby and had her fill out forms for identification by a non-relative.

— The funeral home, however, refused to release the body until it was paid \$175 for services in the case.

— The money was raised through private donations and Bogorquez was advised Tuesday that the money was in hand.

— She agreed to start release proceedings, which were to take 24 hours, and then to drive the baby across the border at 2 p.m. Wednesday.

— Alonzo and Arreola also Tuesday went to Tijuana General Hospital to pick up the baby's birth certificate and personal effects. The hospital at first refused then agreed to release them Wednesday morning.

— Wednesday morning the hospital again refused to release the property until it received a letter of authorization from the American Consulate. Arreola obtained a letter and the hospital turned over the property to Alonzo.

— Alonzo, the mother of six children of her own, returned to Los Angeles and worked through the night and part of Thursday to get the letter notarized and everything finalized.

— Bogorquez had told the group to meet her with all the papers at 3 p.m. Thursday and she would deliver the baby. When the first member arrived, Bogorquez refused to take the money raised to pay her and conveyed a message that anyone coming to pick up the body should call David Rogus, a U.S. vice-consul in Tijuana.

— When told the notarized statement was on the way, Bogorquez said she

would also need a driver's license and some other document to verify the signature. Alonzo arrived at the funeral home at 9:30 p.m., a er wasted trip.

— Arreola went to the American Consulate Friday morning, all the red tape suddenly vanished and the baby's body was transported by Bogorquez to the U.S.

ARREOLA SAID Rogus claimed his initial telephone call to him Friday morning was the first time anyone from the U.S. side of the border had contacted him about the matter.

"I know that isn't true," Arreola contended. "A member of our group had an encounter with him at the hospital (in Tijuana) last Monday. I know for a fact they were aware of what was happening by Wednesday when we got the letter for the hospital."

Rogus could not be reached for comment.

Arreola, who is supervising attorney for the Chula Vista office of the Legal Aid Society of San Diego County, said investigation of the entire incident will continue.

Besides asking for a Congressional investigation, he said, "We are considering some action against persons responsible for the delay and the suffering of the family.

"It was a nightmare, but the nightmare's over — at least in part."

DECLARATION

I, GUADALUPE CAÑEDO ASTORGA, declare:

I had been the babysitter for MARIO ALBERTO CAÑEDO for three (3) years. He would now be five (5) years old.

MARIO had been sick and treated at University Hospital in San Diego, Calif. since November, 1978 for a heart condition. I took him to University Hospital monthly until his open-heart surgery in February, 1979. He was in the hospital about three weeks until around March 13 or 14 when he was released to me with an appointment to return the next week for follow-up.

Each time I or my husband came across the border for MARIO's doctor appointments we had with us a letter signed by the doctor at University Hospital. Each time we would have to go upstairs at the port of entry and have the hospital letter verified. I asked if there was some way to get a regular permit so we wouldn't have to go through this each time. The official said the letter from the hospital was enough for each entry and they could only give permits for from one to several days at a time.

On March 20TH, several days before his next doctor's appointment, I saw that Mario was very sick. I asked Blanca, a neighbor, for a ride to the hospital. B-1

It was around 4:00 P.M.

The line at the border was so long we drove around to the front. An Asian female official, dressed in a blue uniform, saw how sick the baby looked and opened the gate, sending us to the secondary inspection. We parked there and waited over ten minutes and finally got out of the car. It was then that a tall officer who had been standing there the whole time, came up and asked if I had any papers. I showed him the hospital letter indicating MARIO's last appointment. The officer sent us inside to the office.

Inside at the counter, I showed the officer the hospital letter and asked for a permit to take MARIO to the hospital since it was an emergency. I unwrapped MARIO's blanket so the officer could see how sick the baby was. He looked at the baby then told me to take a number and sit down.

As I sat down, even the other people waiting noticed that I was getting very upset and that MARIO was very sick. People began pointing out to the officials behind the counter that MARIO was in a grave condition. I got up and went towards the door and a tall officer from the front counter grabbed the baby before I could exit the building, another officer grabbed me. By now I was hysterical and uncontrollable. I saw the officer

lay the baby on the counter place his hand on the baby's neck and then say a few words in english to the other officer. He motioned that the baby was dead.

They took me to a small room to the side where a female officer tried to calm me. The ambulance attendants examined the baby and the officials came to tell me that the baby had been pronounced dead. I had to wait three more hours for the coroner before I was allowed to leave. I was finally given permission to leave at 8:00 P.M.

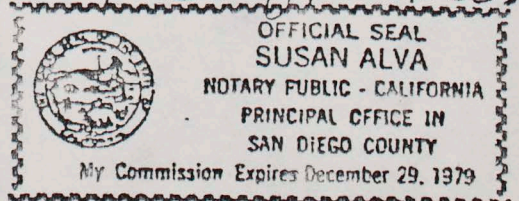
I declare under penalty of perjury that the above is true and correct to the best of my knowledge. Executed this 2nd day of July, 1979 in Tijuana, Baja California, Mexico.

Jose Canedo Arango



I, CARLOS VASQUEZ, declare under penalty of perjury that I am fluent in english and spanish, have translated the above to the declarant and she understood and affirmed its contents before signing. Executed this 2nd day of July, 1979 in Tijuana, Baja Calif. Mexico.

Carlos Vasquez



Subscribed and sworn before me this 2nd day of July, 1979. Susan Alva, Notary Public



Fundación Project Concern de Mexico

HOSPITAL MATERNO INFANTIL

Una institución de Beneficiencia Privada No-Lucrativa

Paseo del Pacifico No. 43 Fracc. El Mirador

P.O. Box 125 San Ysidro, CALIF. 92073

Teléfono 5-04-04

Tijuana, B.C., Mexico

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Director Ejecutivo
Quinn K. Mathewson
Secretario
Donald E. Nutter, C.P.A.
Tesorero
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Director Servicios de Salud

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Sra. Josefina M. de Contreras

"Para Servir a la Humanidad"

Dec. 1, 1978

Mr. Alan Clayton, of the Chief Inspector
U.S. Immigration Service
San Ysidro, Ca.

Dear Sir:

Mario Alberto Canedo was seen today in Cardiology Clinic. He has been diagnosed as having Tetralogy of Fallot, and is in need of prompt attention. Thanks to a cancellation, he can be admitted Monday to University Hospital on Clinical Teaching Funds. May I ask you to please give him and La Sra. Cañedo Ortega, his aunt and responsible for the little boy, a waiver for three days beginning Monday, Dec. 4.

Birth: April 6, 1974 in Tijuana

Mother: Clara Canedo

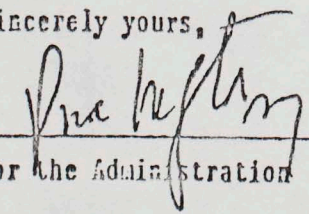
Father: Ramon Galindo (not with family)

Address: Abraham Gonzalez 35 A, Col. Frco. Villa, Tijuana

University Hospital has notified you by telephone.

Thank you for your kind attention.

Sincerely yours,


For the Administration

Dirección General Internacional

3802 HOUSTON STREET, P.O. BOX 81123, SAN DIEGO, CALIFORNIA 92138 USA • Teléfono (714) 299-1353 • Cable: PROJCONUS

B-4

UNIVERSITY OF CALIFORNIA, SAN DIEGO

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SANTA BARBARA · SANTA CRUZ

DEPARTMENT OF PEDIATRICS

UNIVERSITY HOSPITAL
225 DICKINSON STREET
SAN DIEGO, CALIFORNIA 92103

February 21, 1979

PEDIATRIC CARDIOLOGY ADMISSION NOTE

RE: CANEDO, MARIO
#733059-K
DOB: 4/6/74

This is a four year old Mexican child with either tetralogy of Fallot or double outlet left ventricle. He is admitted for total correction.

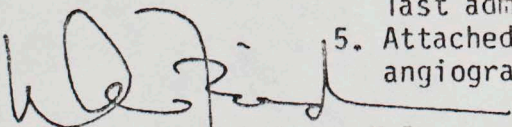
He was brought to our Project Concern Clinic in Mexico in early January and was found to be cyanotic. Subsequent cardiac catheterization revealed either severe tetralogy of Fallot or double outlet left ventricle with severe pulmonic stenosis. Because of the history of hypercyanotic spells, it is felt that urgent correction is warranted. He was admitted for surgery on February 6, 1979, however, it was cancelled because of inadequate blood for open heart surgery. EMI scan was performed during that admission to rule out any kind of intracranial abnormality because of enlarged carotid arteries seen on angiogram. The EMI scan was normal and the neurological examination was normal.

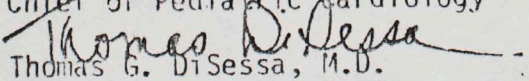
Physical examination reveals a grossly cyanotic child in no obvious distress. He also has clubbing of the digits. Peripheral pulses are normal. There is increased right precordial activity. S1 is normal and S2 is widely split with diminished P2. There is a grade II/VI systolic ejection murmur heard in the pulmonic area which peaks in early systole. There is no diastolic murmur.

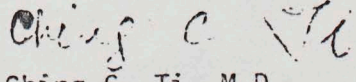
EKG shows right axis deviation with right ventricular hypertrophy. Chest x-ray shows a boot-shaped heart with flat main pulmonary artery segment. Pulmonary vascularity is at the lower limits of normal.

IMPRESSION: Tetralogy of Fallot vs. double outlet left ventricle with severe pulmonic stenosis.

- SUGGESTIONS:
1. Open heart surgery for total correction on 2/22/79.
 2. Routine preoperative workup.
 3. The child has been maintained on Digoxin since last admission in anticipation of positive inotropic support postoperatively. Digoxin should be discontinued on the day of admission.
 4. The child has been on a low dose of Ampicillin since last admission and this should be discontinued also.
 5. Attached please find cardiac catheterization report and angiogram report.


William F. Friedman, M.D.
Professor of Pediatrics
Chief of Pediatric Cardiology


Thomas G. DiSessa, M.D.
Assistant Clinical Professor
Division of Pediatric Cardiology


Ching C. Ti, M.D.
Clinical Instructor of Pediatrics
Division of Pediatric Cardiology

CT:jo
cc: Project Concern

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SANTA BARBARA · SANTA CRUZ

DEPARTMENT OF PEDIATRICS

March 9, 1979

UNIVERSITY HOSPITAL
225 DICKINSON STREET
SAN DIEGO, CALIFORNIA 92103

Officer in Charge
U. S. Immigration and Naturalization Service
San Ysidro Port of Entry
P. O. Box 1C
San Ysidro, California 92173

RE: CANEDO, Mario Alberto
Birthdate: 4/6/74
UH #733059-K

Dear Sir:

This letter is to request border crossing privilege for Mario A. Canedo and his aunt and uncle, Sra. Canedo Ortega and Sr. Alfonso Avila Guzman. Mario is being followed in our Outpatient Center for double outlet left ventricle under the care of Dr. William F. Friedman. He is scheduled for an appointment in Dr. Friedman's office on Wednesday, March 14, 1979, at 11:00 a.m.

Mario's aunt and uncle are his legal guardians and have reared the child since shortly after birth. The family's home address is as follows: Abraham Gonzalez #35-A, Tijuana, Mexico.

Funding for this patient's care will be provided, at no cost to the County or State, by Clinical Teaching Funds.

Should you require further information, please contact Ms. Jay Haas, Patient Services Representative, at 294-6570.

Sincerely,

David E. Wood
Assistant Director of Finance
Patient Services

DEW:pdh

cc: Patient Services
Project Concern

TO CROSS BORDER

HEART PATIENT

Boy, 4, Dies at Border Gates

BY ROBERT MONTEMAYOR
Times Staff Writer

To the U.S. Customs inspector at the desk, the Mexican woman with the 4-year-old boy in her arms was just another impatient person waiting to cross the international border.

For other people waiting in the Customs lobby, the woman's frantic pleas of "Emergencia! Emergencia! Boy sick!" indicated only that something was wrong. How serious it was, no one knew.

Except for Guadalupe Astorga. For her and for Mario Alberto Canedo — at that point unconscious and gasping his last breaths — the moment was a nightmarish climax to a series of confusing events that ended with a terrified scream as the boy died in her arms.

Please Turn to Page 5, Col. 1

Continued from First Page

People who suddenly realized the seriousness of the woman's distraught pleadings began weeping as Mrs. Astorga cradled the boy's limp body in her arms. Moments later — just a few minutes too late — an ambulance team arrived.

The death, a border official explained, was the result of "a certain lack of communication . . . an unfortunate death that fractured emotions and brought everyone who witnessed it to their knees."

On Thursday, border authorities finally pieced together the details of the Tuesday incident.

The Canedo boy, who had a congenital heart disease, had undergone heart surgery about a month ago at San Diego's University Hospital. Doc-

an emergency." Mrs. Astorga was instructed to proceed to the secondary inspection area, where she bolted from her car with the boy in her arms, and ran into the Customs lobby.

However, "because of all the confusion going on, it was not made clear to the Customs agent inside the inspections building that Mrs. Astorga was experiencing an emergency."

In her limited English, Mrs. Astorga explained to the Custom officer at the permits desk that the boy was ill and needed immediate medical attention. She was told to wait.

San Diego police and an ambulance crew, Mitton said, had been called

tors told investigators that the boy's operation had involved "rebuilding the heart."

After recuperating to the doctors' satisfaction, the youth was released from the hospital March 14 and returned to his home in Colonia Francisco Villa, about 10 miles southwest of Tijuana.

Mrs. Astorga told police the boy had been fine until Tuesday afternoon, when he began vomiting blood. The woman, who had raised the child since birth, carried the boy to a cousin's home and from there began driving to the border.

But en route to the San Ysidro port of entry, the boy began convulsing and shortly afterward lost consciousness.

The time was about 5:15 p.m. and the notoriously long lines of cars at the border by this time stretched beyond the Mexican customs offices, about 200 yards south of the border crossing.

"She had to wait 20 minutes in line, just like everyone else usually waits at that time of the day," said Robert Mitton, assistant district director of the U.S. Immigration and Naturalization Service.

After finally reaching the entry gate, the panicking Mrs. Astorga quickly explained her "life-and-death" problem to the Customs officer.

The officer, Mitton said, "recognized the problem and wrote the woman a note that indicated she had

"The officer (inside) was not aware it was an emergency, even though the woman was screaming," said Mitton, whose agency investigated the death. "I think if he would have known what the circumstances were, he would have waived her through. But it was simply a matter of lack of communication."

Consequently, Mrs. Astorga waited in the Customs lobby, pleading and sobbing in Spanish. The lobby was beginning to fill with confused murmur when Mrs. Astorga let out a blood-curdling scream, Mitton said.

A hush fell over the lobby, Mitton said, and officers who finally went to Mrs. Astorga's side, then realized what was happening.

Even the ambulance team, which

Los Angeles Times * 5
Fri., Mar. 23, 1979 - Part II

speculation area and couldn't find the woman and boy," Mitton said. "No one outside knew that the woman had run into the inspections building."

By the time they reached the boy "the only thing left to do was call the coroner," Mitton said.

"What can I say? It was not a very happy thing for us, not a pleasant thing at all. I'm sure there are a lot of people saying, 'if only I could have done this or done that, things might be different.'"

Ironically, the boy had been scheduled to return to University Hospital Wednesday for a checkup. The

83312

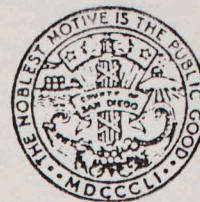


DAVID J. STARK
CORONER

Office of The Coroner

COUNTY OF SAN DIEGO

5555 Overland Avenue
Building 14
San Diego, California 92123
(714) 565-5645



CORONER'S REPORT

File # 83312

CC # 666-79

Name of Deceased	EFREN REYES	Age 24
Residence	Calle 9B 337, San Luis, Potosi, Mexico	
Place of Death	Open area, 1 mile W. of the port of entry and 40 ft. N. of border fence, San Ysidro, California	
Place of Homicide	Open area, 1 mile W. of the port of entry and 40 ft. N. of border fence, San Ysidro, California	
Date of Death	March 17, 1979, APPROX., 10:17 p.m.	
Date of Homicide	March 17, 1979, APPROX., 10:17 p.m.	
Date of Call	March 18, 1979, 12:35 a.m.	
Informant	San Diego Police Department	
Deputy Coroner	R. V. Pettit	
Property	None taken	
Person Notified	San Diego County Public Administrator	
Address		
Relationship		

INVESTIGATIVE SUMMARY

At 3:05 a.m., 3-18-79, the undersigned viewed the decedent, fully clad except for the left shoe, supine at the foot of a 28-foot embankment at the place of demise. The decedent's left shoe was lying on the ground one-fourth of the way down the embankment. Lying on the ground one-half way down the embankment was a law officer's black baton. The body was cold to the touch and flaccid. The decedent was rolled onto his left side by the undersigned. The decedent's clothing was raised, exposing the back and chest areas. An apparent through-and-through gunshot wound was noted in the right upper chest and the left lower back. The clothing adjacent to the wounds was bloodstained. Around the decedent's right wrist was a Smith and Wesson handcuff in the locked position. The other handcuff was hanging free. The decedent's head and hands were bagged, and he was

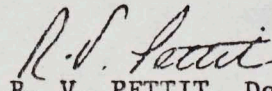
removed to the Coroner's office as John Doe. A subsequent search of the decedent's clothing at the Coroner's office revealed no evidence of his identification.

Officer Dan Cole, identification #5532, a supervisor, Border Patrol Agent, was present and related the following information. He was patrolling the south levee at approximately 10:17 p.m., 3-17-79, when he encountered three apparent unregistered aliens. They appeared to have been drinking. He apprehended the subjects, handcuffing two of them together by the wrists. He had the other subject by the back of his belt and was attempting to place the subjects into his patrol unit. They attempted to flee; and in the following encounter, Officer Cole fired three rounds from his service revolver. One round struck the decedent, and the subject handcuffed to the decedent was apparently struck in the shoulder. The subject with the shoulder wound was transported to Bay General Community Hospital, Chula Vista, California, and was subsequently transferred to the University of California Medical Center, San Diego, California.

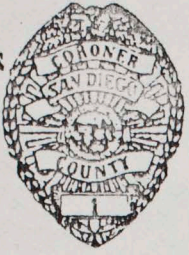
On 3-21-79, Socorro Kovacs, 1761 East Orange Grove, Pasadena, California, visually identified the decedent as her brother, Efren Reyes.

San Diego Police Department homicide team #3 responded to the scene and is conducting an investigation. The decedent's property was receipted for and impounded by the team. For further information regarding this homicide, please refer to San Diego Police Department homicide file #79-23081.

HOMICIDE: Shot in chest by on duty border patrol officer.
LOCATION: Open area, 1 mi. W. of port of entry and 40 ft. N. of border fence, San Ysidro, California
DATE: March 17, 1979, APPROX., 10:17 p.m.


R. V. PETTIT, Deputy Coroner

RVP:lad
4-6-79



DAVID J. STARK
CORONER

Office of The Coroner

COUNTY OF SAN DIEGO

5555 Overland Avenue
Building 14
San Diego, California 92123
(714) 565-5645



AUTOPSY REPORT

Name of Deceased	EFREN REYES	File #	83312
Place of Death	Open area, 1 mi. W. of port of entry and 40 ft. N. of border fence, San Ysidro	CC #	666-79
Date of Death	March 17, 1979	Age	24
Place of Autopsy	San Diego County Examining Room		
Date of Autopsy	March 18, 1979 2:30 P.M.		

EXTERNAL EXAMINATION

The body is that of an unembalmed, well-developed, well-nourished, Caucasian male whose general physical condition is consistent with a chronologic age of 24 years. The body weighs 132 pounds. The body length is 65 inches. The irides are brown. The hair is brown.

The eyes, ears, nose and mouth are unremarkable. The neck and right arm are grossly normal. Small abrasions and purplish discolorations are present around the right wrist in portions. The chest shows a gunshot entrance wound, located in the right upper portion, 14-1/2 inches from the top of the head, 2-1/2 inches to the right of the midline. The central defect is about 3/8 inch in diameter with a narrow abrasion rim. The abdomen is grossly normal. The external genitalia are male. The left leg shows small abrasions on the medial ankle. The back shows a stellate gunshot exit wound, 3/8 inch in maximum dimension, 22 inches from the top of the head, about 1-1/2 inch to the left of the midline.

INTERNAL EXAMINATION

The abdominal and thoracic organs occupy their normal positions.

Large amounts of bloody fluid are present in the right chest and in the pericardial sac. A moderate amount of bloody material is present in the abdomen.

CARDIOVASCULAR SYSTEM

The heart weighs 290 grams. Multiple sections reveal no significant sclerosis of the coronary vessels. There is extensive gunshot disruption of the right ventricular wall, near the apex, with an opening about 1/2 inch in diameter on the anterior aspect and more extensive disruption on the posterior aspect, about 2 inches in dimension. Some disruption of the septum is also present. The left lateral wall shows no significant abnormality. Valve appearances and sizes are normal. The aorta shows no significant atherosclerosis.

RESPIRATORY SYSTEM

The larynx, tracheobronchial tree and pulmonary artery are unremarkable. The right and left lungs weigh 340 grams and 560 grams, respectively. The anterior-inferior aspect of the right lower lobe shows gunshot disruption. Multiple sections through the left lung show no significant abnormality.

GASTROINTESTINAL SYSTEM

No abnormalities of the esophagus are noted. Examination of the stomach, duodenum, jejunum, ileum and colon reveals no abnormality.

LIVER AND BILIARY SYSTEM

The liver weighs 1440 grams. Multiple sections reveal extensive disruption of the left lobe. The gallbladder and extrahepatic biliary tract are unremarkable.

PANCREAS

The pancreas is disrupted in the midportion with extensive diffuse hemorrhage into the connective tissue.

ENDOCRINE SYSTEM

The thyroid gland is not palpably enlarged.

The adrenal glands are of usual size, shape and consistency.

HEMATOPOIETIC SYSTEM

The spleen weighs 90 grams and multiple sections reveal an intact gross architecture.

The lymph nodes of the mesentery and mediastinum are not enlarged. Inspection of the bone marrow reveals no grossly remarkable findings.

GENITOURINARY SYSTEM

The right kidney weighs 130 grams; the left kidney, 160 grams. There is hemorrhage in the hilar portion of the left kidney, but no significant abnormality of either kidney is identified on sections.

The urinary bladder is unremarkable.

The prostate is normal in size.

MUSCULOSKELETAL SYSTEM

The musculature is well-developed and consistent with that of an adult male.

The skeleton is consistent with that of an adult male.

The left psoas muscle is disrupted in portions by the gunshot. There is disruption of the right fourth rib anteriorly.

CENTRAL NERVOUS SYSTEM

The scalp is reflected, and there is no evidence of subcutaneous or muscular hemorrhage. The calvaria is intact and without evidence of fracture.

There is no evidence of epidural, subdural or subarachnoid hemorrhage. The cerebral vessels have a normal anatomical distribution.

Examination of the skull and cervical vertebrae reveals no abnormality.

The brain weighs 1400 grams and is symmetrical.

Multiple coronal sections of the cerebrum, mesencephalon, pons, medulla and cerebellum reveal an intact gross architecture. The pituitary gland is unremarkable. The upper cervical spinal cord and cerebral sinuses are unremarkable.

MICROSCOPIC EXAMINATION

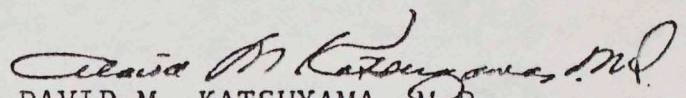
Sections of lung show areas of disruption and hemorrhage.

Sections of heart, liver, spleen, kidney and cerebrum show no significant lesion.

Sections of pancreas show areas of disruption.

CAUSE OF DEATH:

Hemorrhage, massive due to lacerations, heart, lung, right and liver due to gunshot wound, chest, right.


DAVID M. KATSUYAMA, M.D.
Pathologist for the Coroner

DMK:MT:br
3-30-79

Agent's killing of alien justified, probe indicates 3/20/79 SD TRIBUNE

By ROBERT DIETRICH

San Diego police homicide detectives investigating the Saturday shooting death of an illegal alien and the wounding of his companion by a Border Patrol agent said today the probe so far indicates the agent shot in self-defense.

Baja California state judicial police, however, said two Mexican men who claimed to be witnesses stated the two illegal aliens were shot while running back to the Mexican border.

But, one of the San Diego police investigators said, there are indications that there were no spectators on the Mexican side of the fence — about 40 feet from the shooting — at the time the incident occurred.

New details of the 10 p.m. Saturday shooting were revealed by San Diego police today.

One is that the wounded man, Benito Hernandez Rincon, 24, gave statements that essentially agree with the account given by the Border Patrol agent who did the shooting,

Dan Cole, 49.

Hernandez is in University Hospital's jail ward recovering from a bullet wound in the left shoulder.

Hernandez and the dead illegal alien — who has not yet been identified by the coroner's office — had been handcuffed together, according to Cole's statement, after they had been arrested after illegally crossing the border. Cole said he shot them in self-defense when they attacked him. A third illegal alien escaped to Mexico.

Manuel Agullera, Baja state judicial police chief in Tijuana, said his office had made an internal investigation but would not divulge results because "the incident happened in the United States, and is a matter in the hands of American authorities."

Homicide Lt. John Gregory shed some light on the bullet wounds inflicted on the two men.

The bullet that struck the unidentified illegal alien entered his chest

from the front. Hernandez's shoulder wound was from a bullet that hit the back of his shoulder.

"The shots were fired at close range," Gregory said.

He said a Mexican man who claimed to be the third man arrested ran back to Mexico and has not been positively confirmed as the third man by the police investigating team.

The site of the incident was atop the south levee of the U.S. section of the Tijuana Flood Control Channel.

DA Will Not File Charges in Manacled-Alien Slaying

5/12/79

By MICHAEL D. LOPEZ

Staff Writer, The San Diego Union

District Attorney Edwin Miller said yesterday that he will not issue a criminal complaint against a San Diego Border Patrol agent who shot and killed a Mexican alien and wounded another on March 17 when the two men attempted to escape and were handcuffed together.

In a decision expected to trigger a new protest from local Chicano activists and Mexican officials, Miller said supervising Border Patrol agent Dan Cole, 49, probably would not have been charged if he had been a state law enforcement officer.

State law prohibits the use of deadly force against fleeing misdemeanants, but, because Cole is a Border Patrol agent, Miller said his actions are under the jurisdiction of federal law, which holds that resisting arrest or escape from a federal officer is a felony that probably justifies Cole's use of a gun.

"With the reasonable prospect that this case, if brought to trial, would be removed to federal court and tried under federal rules," Miller said, "it becomes more clear that the prospect of obtaining a conviction has become so diminished as to foreclose charging agent Cole."

Local Chicano activists, led by the Committee on Chicano Rights, earlier sent telegrams to congressmen to protest the shootings and other incidents that they called evidence of a "pattern of brutality against Mexicans" along the border by Border Patrol agents.

Some Mexican officials also called for an investigation of the shootings in the wake of the Chicano protests.

In a letter explaining his decision to Chief of Police William Kolender, Miller said, "The facts of the case have been reviewed at length by the United States attorney for this district. He advises me that it is his view that the activity in which

(Efren) Reyes (who was killed by Cole) and (Benito) Rincon Hernandez were engaged at the time they were shot constitutes a chargeable felony under federal law."

Miller's letter added, "My research fails to reveal any reported federal cases in which conduct of the type attributable to Reyes and Rincon Hernandez was found as justification for the use of deadly force. I must, however, be mindful of the manner in which federal law is understood . . . by the ranking federal legal authority in this district."

The results of Miller's investigation of the case, first disclosed in

yesterday's letter to Kolender, showed that Reyes, 23, of San Luis Potosi, and Rincon Hernandez, 22, of Mexico City, were shot while they were struggling to escape from Cole, who had just arrested them about 30 yards inside the U.S. border.

A third alien arrested with the two, Rogelio Mendez Diaz of Guatemala, escaped back into Mexico while Cole struggled with the handcuffed men.

Miller said his investigation disclosed that "neither of the handcuffed men made any move to strike or kick the agent, nor did either of

them make any move to suggest that they were reaching for a concealed weapon. The agent had not, however, determined that neither of them was in possession of some weapon."

Cole and his superiors claimed after the incident that the agent shot the men in self-defense, while Rincon Hernandez and Mendez Diaz claimed the two victims were shot in the back.

Miller rejected the latter contention, however, "on the

basis of indisputable physical evidence that the shots entered both men from the front."

Rincon Hernandez has not been charged with a federal felony, Miller said. He said U.S. Attorney Michael Walsh "advised that his decision not to charge Rincon Hernandez was based on the fact that the man already had suffered substantially as a result of the confrontation with the officer."

Police sources said Mendez Diaz voluntarily returned from Mexico to aid in the investigation.

Miller said the legal understanding of the case on the part of federal authorities "complicates an already difficult situation," and that, "viewed from the perspective of whether or not this shooting was justifiable as having been in self-defense, the picture is no less clouded."

He noted that Cole was on duty "in a combat zone atmosphere" of the border, and earlier that night had been the target of rock-throwers along the Mexican zone.

Saying that his was a difficult decision reached only after "long and painful reflection," Miller said he did not condone the conduct of the Border Patrol agent and that he did not believe the shootings were justified.

"But I am bound to make my decision in conformity with the law as I understand it to be," Miller said.

DECLARATION OF
BENITO RINCON-HERNANDEZ

I, Benito Rincon-Hernandez, declare:

1. I am a native and citizen of Mexico.
I am twenty-two years of age.
2. On March 17, 1979, Efren Reyes and Rogelio Alfredo Mendez-Diaz and myself were sitting on a paved road that runs along an embankment on the United States-Mexican Border about two (2) miles west of San Ysidro, California, and about fifty (50) feet inside the United States territory.
3. At approximately 9:30-10:00 p.m. a Border Patrolman pulled up while we were sitting there. The Border Patrolman was alone. He placed Efren Reyes and myself in handcuffs, my right arm attached to Reyes' right arm. As he was placing the handcuffs on, the Border Patrolman kicked me very hard in the back for no reason.
4. The Border Patrolman escorted the three of us to his vehicle. As we approached the vehicle Reyes pulled back. The Border Patrolman immediately pulled his handgun and threatened Reyes and myself. After the Border Patrolman replaced his gun, Reyes again pulled and started moving toward the Mexican side. I had no choice but to follow Reyes since I was handcuffed to him. About 3/4 of the way down the embankment I heard a shot from the Border Patrolman's gun. I squatted down. Then another two shots were fired. I fell forward. At first I did not realize I was hit but after a few minutes, I felt an intense pain in my shoulder. The bullet had entered from my front left side and passed out the back near the right arm. I laid face down for 20-25 minutes before anyone came to my attention. Reyes was dead as soon as the bullet hit him.

5. At no time did Reyes, Mendez-Diaz, or myself attempt or threaten to strike the Border Patrolman with our hands, sticks, stones or any object or in any manner whatsoever.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 5/14/79

in San Diego, California

Benito Rincon
BENITO RINCON-HERNANDEZ



DISCHARGE SUMMARY

- 2 -

Neurologic: Examination was grossly within normal limits, with the exception of the right upper extremity, as described above.

LABORATORY STUDIES: On admission included normal chest x-ray. Left shoulder x-ray was not obtained, since films from Bay General were felt to be adequate and excluded bony injury. BUN, creatinine, electrolytes were within normal limits, hematocrit was 35.

HOSPITAL COURSE: The patient was admitted to the Trauma Service and observed for evidence of vascular compromise. It was felt that this isolated injury in the proximity of a major vessel without other evidence of vascular injury did not warrant angiogram at the time of admission. The patient was placed on Ancef and his wounds were debrided, on admission and he was then started on q.i.d. Betadine dressing changes. For the first day in the Hospital, he ran a low grade fever with high ~~fever~~ temperature of 100.3 F., and his wounds appeared clean during that period of time. Over a 48 hour period, he developed no evidence of neurovascular compromise and became completely afebrile. He was discharged home on hospital day number two, 3/20/79.

DISCHARGE DIAGNOSES: 1. Gunshot wound to the left shoulder without evidence of neurovascular compromise.

CONDITION ON DISCHARGE: Stable.

DISCHARGE MEDICATIONS: Tylenol #3 for pain, 500 mg p.o. q 6 hours times five additional days. The patient was also instructed to continue Betadine soaked dressing changes which can be continued in the jail facility to which he is being taken. In addition, he was instructed to begin active range of motion exercises, to the extent that this is possible.

OPERATIONS: None.

DISPOSITION: The patient will be seen in Trauma Clinic in one week and also will return to Orthopedic Clinic for follow up.

PHYSICIAN'S INSTRUCTIONS RE PATIENT ACTIVITY: As above..

John Kroener, M.D.
Surgery Resident II

JK:bb
T: 3/24/79

DECLARATION OF REGELIO ADOLFO MENDEZ-DIAZ

DECLARATION OF ROGELIO ADOLFO MENDEZ-DIAZ

I, Rogelio Adolfo Mendez-Diaz, declare:

Yo, Rogelio Adolfo Mendez-Diaz, declaro lo siguiente:

1. On Saturday, March 17, 1979, I, Efren Reyes and Benito Rincon were sitting on a paved road that runs along the embankment on the United States-Mexican Border about fifty feet inside the United States territory.
1. El Sabado, 17 de Marzo, 1979, yo, Efren Reyes, y Benito Rincon, estabamos sentados en un camino pavimentado que corre al lado de un bordo de la ladera en la frontera del Mexico y los Estado Unidos, aproximadamente 50 pies adentro del territorio de los Estados Unidos.
2. At approximately 9:30-10:00 a Border Patrolman pulled up while we were sitting there. The Border Patrolman was alone. He placed Efren Reyes and Benito Rincon in Handcuffs.
2. Aproximadamente a las 9:30-10:00, un hombre de la Patrulla Fronteriza se acerco mientras que estabamos sentados alli. El hombre de la Patrulla Fronteriza estaba solo. Les puso los esposas a Efren Reyes y a Benito Rincon.
3. While the Border Patrolman was attempting to place Efren Reyes and Benito Rincon into the patrol jeep, I ran down the embankment back to the Mexican side. From there I was able to observe the Border Patrolman still trying to place Efren Reyes and Benito Rincon into the jeep. I had no trouble seeing what was occurring because the lights from the city and the streets luminated the area where the arrest was taking place.
3. Mientras que el hombre de la Patrulla Fronteriza trato de poner a Efren Reyes and Benito Rincon en el "jeep" de patrulla, yo baje el bordo de la ladera corriendo al lado mexicano. Desde alli pude observar que el hombre de la Patrulla Fronteriza todavia estaba tratando de poner Efren Reyes y Benito Rincon en el "jeep". Yo no tenia ninguna dificultad mirando lo que pasaba por que los luces de la ciudad y de los calles alumbraban el area donde estaba pasando el arresto.

4. I saw Efren Reyes and Benito Rincon start to run down the embankment. The Border Patrolman then fired two shots hitting Benito Rincon and Efren Reyes.
4. Yo mire a Efren Reyes y a Benito Rincon bajando el Borde de la ladera corriendo. Entonces el hombre de la Patrulla Fronteriza tiro dos balas que pegaron a Benito Rincon y a Efren Reyes.
5. At no time did Benito Rincon, Efren Reyes or myself ever hit or assault the Border Patrolman in any manner.
5. A ningun tiempo tratamos (Benito Rincon, Efren Reyes ni yo) de pegar or asaltar el hombre de la Patrulla Fronteriza en ninguna manera.
6. At no time did the Border Patrolman's safety or life appear to be threatened or in danger from Benito Rincon and Efren Reyes in any manner.
6. A ningun tiempo parecia que la seguridad o la vida del hombre de la Patrulla Fronteriza estaba en peligro or amezado en ningun manera por parte de Benito Rincon or Efren Reyes.
7. El balacera parecia que era un intentar del hombre de Patrulla Fronteriza de prevenir Efren Reyes y Benito Rincon de regresar a Mexico.
7. The shooting appeared to be an attempt by the Border Patrolman to prevent Efren Reyes and Benito Rincon from returning to Mexico.

I declare under penalty of perjury that the foregoing is true and correct.

Yo declaro bajo pena de perjurio que el antes mencionado es la verdad y corecto.

Date:

Fecha: 5/14/74

Rogelio A. Mendez Diaz
Rogelio Adolfo Mendez-Diaz

Dos Sobrevivientes, Señalan con Índice de Fuego al Inmigrante que Mató a un Ilegal

Por Rogelio LAVENANTSIFUENTES

SAN YSIDRO.- El mexicano Benito Rincón Hernández y el guatemalteco Rogelio Méndez Díaz de 22 y 16 años de edad respectivamente, a testificarán en contra del supervisor Dan Cole, de la Patrulla Fronteriza, por la muerte del infortunado Efrén Reyes, a quien según aseguran aniquiló a balazos después de haberlo esposado, a corta distancia de la cerca fronteriza.

Ambos concedieron ayer una entrevista exclusiva a EL MEXICANO, para narrar con detalles la forma en que el oficial de la Patrulla Fronteriza los agredió a tiros, hiriendo en el hombro izquierdo a Benito Rincón, y causando la muerte instantánea de Efrén Reyes, estando esposados uno a otro.

Mañana lunes se presentarán ante el fiscal federal en San Diego, Ed Miller, para declarar sobre el caso, ocurrido la noche del sábado 17 de marzo del presente año, en el bordo del canal del Río Tijuana en territorio estadounidense, donde se hallaban los tres jóvenes junto con otras muchas personas que acostumbran transitar por este lugar desde que fue hecha la canalización.

La intervención de la Asociación Mexicana-Americana, que preside Alberto R. García, evitó que Benito Rincón fuera procesado bajo varios cargos que le fueron imputados y por los que se hallaba en el Metropolitan Correccional Center de San Diego, desde el 22 hasta el 30 de abril pasado.

Asimismo, el guatemalteco Rogelio Méndez Díaz, de 16 años, estuvo en peligro de ser deportado a su país sin tener oportunidad de declarar en este espinoso asunto, en el que esperan que se les haga justicia. Benito Rincón demandará a la Patrulla Fronteriza por la agresión de que fue objeto y en la que resultó herido, independientemente de que atestiguará en contra del supervisor Dan Cole, quien se halla libre.

Ahora los dos jovencitos están alojados en la casa de una familia residente en esta área del Condado de San Diego, bajo la tutela de Alberto R. García, y la Asociación que preside, merced a que logró conseguir un permiso de las autoridades de Inmigración para que permenezcan indefinidamente Benito Rincón y temporalmente Rogelio Méndez, a quien pagarán pasaje de avión para que regrese a su país una vez concluido el asunto.

Sobre el particular, Alberto R. García, declaró a

este diario que "las autoridades mexicanas, tanto de Migración en Tijuana, como del Consulado mexicano en San Diego, mostraron desinterés e ineptitud para esclarecer este caso, a pesar de que al gobierno de México debe interesarle mucho aclarar la muerte de Efrén Reyes. Esperamos la visita del secretario de Relaciones Exteriores, Lic. Santiago Roel, para plantearle esta situación".

NARRAN LOS HECHOS A EL MEXICANO

Entrevistados en la oficina de Alberto R. García, el mexicano Benito Rincón y el guatemalteco Rogelio Méndez Díaz, dijeron haber sido amigos ocasionales del hoy occiso, Efrén Reyes.

Hace unos dos meses y medio, Efrén Reyes y Rogelio Méndez se conocieron en la "Casa de los Pobres" en la colonia Altamira de Tijuana. Después conocieron a Benito Rincón en el bordo del canal, la noche trágica del sábado 17 de marzo de 1979.

Los tres se hallaban sentados sobre el bordo de tierra del canal. Eran poco después de las 9:00 de la noche, y otras muchas personas también estaban en ese lugar. Algunos esperaban la oportunidad de internarse a los Estados Unidos. Benito y Rogelio confiesan que así lo pensaban también, junto con Efrén, "pero era muy temprano para intentarlo".

A esa hora mas o menos pasó una unidad de la Patrulla Fronteriza, pero su tripulante, el supervisor Dan Cole, no les dijo nada.

"Yo creo que no nos vio", comenta Rincón secundado luego por Méndez Díaz.

Unos diez minutos más tarde volvió la patrulla. El vehículo se detuvo a unos diez o doce metros de distancia de donde se hallaban sentados ellos.

De pronto vieron llegar al oficial de la Patrulla Fronteriza, que tomando de las ropas a Efrén y a Benito, les ordenó caminar hacia la unidad. El primero en subirse al vehículo, fue Rogelio Méndez, asustado por lo que ocurrió.

Sin embargo, el supervisor Dan Cole no tuvo el mismo resultado con Efrén y Benito a quienes momentos antes había esposado uno a otro de sus brazos derechos para evitar que huyeran.

"Efrén no aceptó meterse a la "perrera" porque, como le decía al oficial de la Patrulla Fronteriza, no estábamos haciendo nada malo, ni había razón para que nos detuviera", dijo Rincón.

Interviene Rogelio Méndez para comentar que él aprovechó este momento de confusión del supervisor Cole, para bajarse de la unidad de transporte y correr hacia la cerca metálica que limita San Ysidro con Tijuana.

Casi al mismo tiempo, el oficial Dan Cole sacó su pistola para amedrentar a Efrén, en vista de que se resistía a subir a la panel con rejas.

"Efrén le dijo: dispáreme, al cabo no he hecho nada malo", expuso Benito Rincón, quien señala que ambos comenzaron a caminar hacia la alambrada, seguidos por Dan Cole, quien trataba de detenerlos sujetándolos de las esposas que les había puesto.

No logró su propósito y entonces disparó su arma.

El primer balazo no dañó a ninguno, y fue hasta el segundo disparo cuando Benito Rincón resultó herido. Según dice escuchó una tercera detonación y fue cuando Efrén Reyes quedó inmóvil, a su lado. Ya se hallaban en el suelo, toda vez que habían resbalado en su carrera cuesta abajo en el bordo.

Rogelio Méndez cuenta que él ya había conseguido pasarse a suelo mexicano. Estaba pegado a la cerca, cuando Efrén falleció y Benito quedó herido.

Después llegó una patrulla-ambulancia de la policía de San Diego, según comentan, y recogió a Rincón. Mientras, Rogelio se confundió entre los curiosos que se arremolinaron y a los que la Policía Municipal de Tijuana ordenó retirarse cuando llegó al lugar de los hechos.

Benito Rincón fue llevado primero al Community Hospital, de Chula Vista, y posteriormente, en vista de que no lo atendían, lo trasladaron al University Hospital, donde permaneció dos días internado, sin recibir tampoco la atención que ameritaba, según él mismo lo comenta,

De aquí fue enviado a la cárcel, acusado de felonía, asalto a un oficial de la Patrulla Fronteriza y por tener varias entradas ilegales a los Estados Unidos.

Benito Rincón manifestó también que cuando estuvo en el University Hospital, oficiales policíacos le llevaron unos documentos y le pidieron que los firmara, con la promesa de deportarlo sin hacerle mas cargo. Se trataba de una liberación de responsabilidad del oficial Dan Cole.

"Después me visitó un representante del Consulado Mexicano, y cuando le dije eso, me recomendó que firmara cualquier papel que me llevaran porque de otra forma no iba a salir libre", comentó Rincón.

Concluyó diciendo que su respuesta fue: "no tengo prisa en salir libre. Lo que quiero es que el caso se lleve a su fin conforme todos los reglamentos y las leyes".



SAN YSIDRO. — Rogelio Méndez García, nacido en Guatemala, listo para atestiguar contra el supervisor de la Patrulla Fronteriza. (RLS)



SAN YSIDRO.— Benito Rincón Hernández muestra la cicatriz de la herida en su hombro izquierdo (RLS)

DECLARATION OF MARGARITO BALDERAS-HERNANDEZ

I, MARGARITO BALDERAS-HERNANDEZ, hereby declare that:

On or about February 11, 1979, around the middle of the day, I was alone crossing the border near the baseball field. As I was crossing I saw a migra car approach, stop on the embankment about ten feet from me and the one official get out with his gun drawn. I turned to go back and he said "stop, put your hands up" and I did. I felt two shots hit me, managed to stay standing a few seconds and then had to lie down.

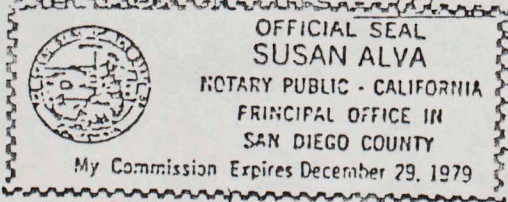
I had been shot in both arms; the bullet to the right arm must have hit the bone or nerve because I was in so much pain. The official came up and started to kick me; I did nothing.

I had a bag with a strap over my left shoulder. The official tried to cut the strap with a knife and in the process slashed my left arm so deep I almost passed out from the pain.

By now other migra cars had pulled up. I know the arresting official to be Hayes, Grathwell and Sharp. They took me to a hospital in Chula Vista then to a hospital (University?) in San Diego. The doctor said there were some bullet fragments in my left arm that were impossible to get out and that I might lose some of my right arm/hand/fingers where the bullet hit the bone/nerve. The migra then started to take me to the Mexican side of the border but I believe they thought I could make more trouble for them there so they instead took me to MCC.

I declare under penalty of perjury that the above is true and correct to the best of my knowledge.

Executed on this 6TH day of April, 1979 in San Diego, CA.



X
MARGARITO BALDERAS-HERNANDEZ

I, SUSAN ALVA, declare under penalty of perjury that I am fluent in English and Spanish, have orally translated the above to the declarant and he understood and affirmed its contents before signing.

Executed on this 6TH day of April, 1979 in San Diego,

Susan Alva



DISCHARGE SUMMARY

ADMISSION DATE: 2-11-79

DISCHARGE DATE: 2-20-79

CHIEF COMPLAINT AND PRESENT ILLNESS: This 31-year-old, Mexican male reportedly assaulted a Border Guard on the day of admission, receiving gunshot wounds to both upper extremities. The gun inflicting the damage was reportedly a .357 Magnum. On admission, the patient complained of numbness of the small and ring fingers on the right hand.

PH EM SH ROS: Noncontributory.

PHYSICAL EXAMINATION: The general physical examination was within normal limits with exception of examination of both upper extremities. Examination of the left upper extremity showed an entrance wound on the dorsal and ulnar aspect of the distal third of the right forearm with an exit wound on the volar aspect of the distal third of the right forearm. The patient's deep and superficial flexors to the small finger were nonfunctional and the patient had numbness in the ulnar nerve distribution distal to the gunshot wounds. In addition, the patient's ulnar pulse was nonpalpable and his Allen test was positive for a lacerated ulnar artery. Examination of the left forearm showed an entrance wound proximal to the elbow on the radial aspect of the arm with an exit wound on the mid-volar surface of the proximal third of the left forearm. Motor examination was felt to be intact, as was sensory examination.

LABORATORY STUDIES: X-rays showed a comminuted fracture of the right ulna at this junction of the middle and distal thirds with metallic fragments noted. Examination of the left arm and forearm showed no fractures, but revealed the presence of a bullet, approximately two inches proximal to the left ante cubital fossa.

HOSPITAL COURSE: On the night of admission, the patient was taken to the Operating Room where both wounds were debrided and left open. The lacerated ulnar artery and ulnar nerve were noted on the right. In addition, a laceration of the deep and superficial flexors to the right small finger were also noted. The patient was initially elevated postoperatively, and did well. On 2/16/79, delayed primary closure of the right forearm wound was performed, and the patient was placed in a long arm cast. The wounds were taken care of through a window in this cast. Then on 19 February 1979, the patient's exit wound on his left forearm was also closed in delayed fashion. The entrance wound was noted to already have healed by secondary intention.

Throughout the course of the patient's hospitalization, his neurovascular examination has remained unchanged.

DISCHARGE DIAGNOSES:

1. Gunshot wound to both right and left forearms.
2. Open fracture, right ulna.
3. Laceration of right ulnar nerve and right ulnar artery. and laceration of deep and superficial flexor to right small finger, secondary to diagnosis No. 1.

CONDITION ON DISCHARGE: Satisfactory.

D-2



UNIVERSITY HOSPITAL
University of California
Medical Center, San Diego

-2

BALDERAS, Margarito

739 582 E

DISCHARGE SUMMARY

DISCHARGE MEDICATIONS: None.

OPERATIONS: 1. Debridement of right and left forearms. 2-11-79
 2. Delayed primary closure, right forearm. 2-16-79

DISPOSITION: Followup wound care will be in the Orthopedic Clinic in one week.

PHYSICIAN'S INSTRUCTIONS RE PATIENT ACTIVITY: The patient will be allowed to use his left hand and arm ad lib. The right arm is to remain in a long arm cast.

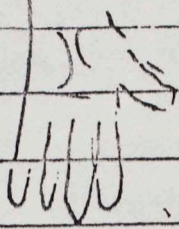
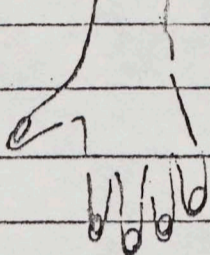
Raymond Sachs, M. D.
Orthopedics Resident II

RS:su
T. 2-20-79
L-1



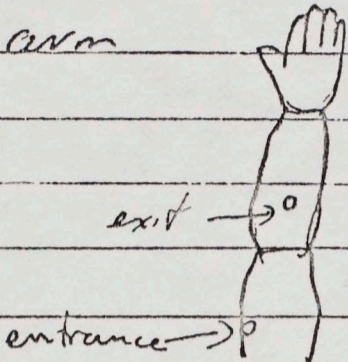
ENTRANCE

PROGRESS RECORD

DATE		Volar	Dorsal
2/11/79	④ arm	exit	
			
	diminished radial & ulnar pulses = no brachial pulse.		
	motor exam intact ulnar & median muscle groups & intrinsic hand motors intact		
	Sensory intact to touch		
	x ray - comminuted Fr of ② ulna middle/distal 1/3 junction		
	- ② metallic frags but no Fr		
	Imp: - ② ulnar nerve, artery, FCU, FDS & P to little finger.		
	Fr open & comminuted of ulna.		
	④ Neuro & sensory exam intact, diminished pulses distally - R/O brachial artery injury.		
	Plan: to angio, then to OR for debridement & irrigation of wounds, possible vasc. repair on ④.		




PROGRESS RECORD

DATE	
	<p>(L) arm</p>  <p>exit →^o</p> <p>entrance →^o</p> <p>faint radial pulse. No ulnar pulse. Nerve intact</p>
	<p>nerve - alert & oriented X3</p> <p>motor, sensory & reflexes intact quest for ulnar (L) (R) arm</p> <p>angio (L) arm → radial a interrupted just past brachioradial</p> <p>(R) arm → fx ulnar</p> <p>Asses - gunshot wounds to both arms</p> <p>Ulnar n of a injury to (R) arm,</p> <p>Radial a injury to (L) arm</p>
	<p style="text-align: right;">Humbly</p>



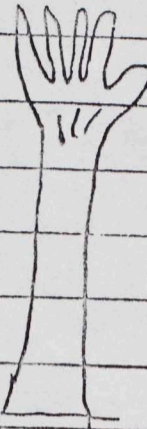
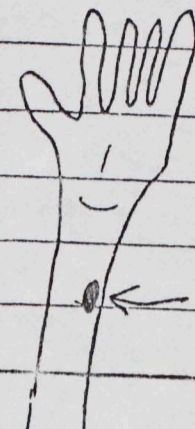
JH4
12 11 78

PROGRESS RECORD

DATE	
2/11	<p>Trauma RAN</p> <p>cc. gunshot wounds to both arms</p> <p>HPI - young mexican ♂ dot in both arms while trying to cross border. Complains of pain in both arms. Reportedly high velocity bullets.</p> <p>PH</p> <p>no previous medical or surgical problems</p> <p>allergies - none</p> <p>meds - none</p> <p>ROS & FH not obtained</p> <p>Physical</p> <p>w/o w/u med or in mild distress (arm pain)</p> <p>HEENT - WNL</p> <p>lungs - clear to A&P</p> <p>cv - RR, no (M) or (G)</p> <p>abd. soft, benign, no organomegaly or abn masses BS active</p> <p>genitalia - wnl</p> <p>back - no injuries</p> <p>extremities</p> <p>(R) arm -  large tissue defect. ulnar aspect bearing. Ulnar a. appears transected. Good radial pulse but no ulnar pulse. Ulnar nerve also out.</p>



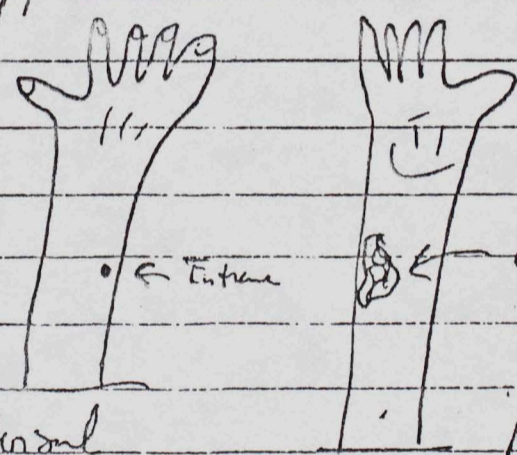
PROGRESS RECORD

DATE		
	<p>(L) arm</p>  <p>Entrance</p>	 <p>Exit</p>
	Dorsal	Ventral
	<p>Brachial pulse $\frac{1}{4}$, Radial + Ulna Both $\frac{3}{4}$.</p>	
	<p>Mittler N. all groups, Sensory in both</p>	
	<p>median + ulnar + radial</p>	
	<p>Nerv - C6 II - XII full, Cervical Full, Sensory + Motor as above.</p>	
	<p>X-Rays - (L) - Humerus - pt. bullet lodged at lat</p>	
	<p>hum epiphysis - multiple fragments of metal,</p>	
	<p>no fractures.</p>	
	<p>(R) - comminuted fracture of (R) ulna</p>	
	<p>at middle-distal $\frac{1}{3}$ junction.</p>	
	<p>Arteries - Occlusion of (L) radial artery,</p>	
	<p>caused R/O compromise of (L) ulna.</p>	
	<p>Treat: GSW to (R) + (L) arms -</p>	
	<p>1) (R) ulna N., artery, FCU, FDS + FOP</p>	
	<p>injury, + fx (open) ulna</p>	
	<p>2) (L) Radial Artery Occlusion + post</p>	
	<p>traumatic, ulnar N. injury.</p>	



12 11 79

PROGRESS RECORD

DATE	
	-2-
	Back - No CRT or per. pain.
	Chest - Clear to A&P
	CV - RR 5 @, w/ S ₂ , no S ₃ or S ₄ .
	Abd - Soft, no tenderness or guarding, no masses, w/ B.S.
	GU - NR ♂, tests ok
	Neuro - Not performed
	Extremities - Lower - FROM, Strength 5/5 all
	OTR's (L) (R) Sensory Nl.
	AT 2+ 1+
	KT 2+ 1+
	Upper
	(R) arm:
	
	Distal
	Exam - 5 th finger - Flex. Big Prof. + Superfic. Cut out Interossei Out Prox. Flex. Carp. Ulnaris Out
	Sensory - Numb (R) 5 th + lat 1/2 4 th
	Ulnar Pulse 1/4+, No Ulnar Blood in Allen's.
	Radial 4/4+



JUN 2 11 78

PROGRESS RECORD

DATE Ortho Consult

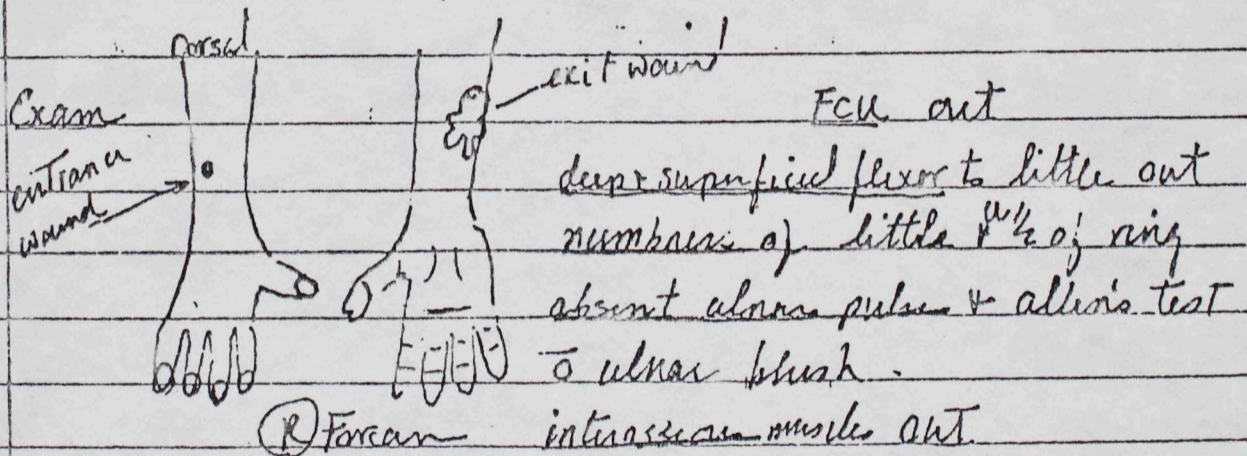
2/11/78

4:51 pm Pri is 31 1/2 Mex CT injured today at 12:00. He was shot - both arms - 357 magnum. He was taken to another ER & then brought to WH by trauma van.

Pt is Mexican national. He speaks no English & is poor in cooperation even with interpreters.

Pt claims numbness of little & ring digits on (R) hand but denies any numbness on (L). He has GSW to (R) distal 1/3 forearm and to (L) mid-forearm.

He has no other complaints.



poor cooperation on (R). Unable to do 2 pt discrimin due to lack of understanding of instructions.

cent

Vandell

EXAM(S) REQUESTED <i>angiograms of @ arm</i>		PROC. CODE	BALDERAS MARGARITO M 07 10 48 U 739582 E P U 0442
Infectious Disease Precautions: <input type="checkbox"/> YES <input type="checkbox"/> NO	Starting Date of L.M.P. SE-TRM 639 Source		
A: DIAGNOSIS/BRIEF CLINICAL HISTORY: <i>gunshot wounds to both arms</i>		<input type="checkbox"/> STAT <input type="checkbox"/> OPR <input type="checkbox"/> RM <input type="checkbox"/> PORT	
B: REASON FOR REQUESTING EXAM:		TECHNOLOGIST/RADIOLOGIST REMARKS	
PHYSICIAN (PRINT OR TYPE) <i>Hamber</i>	PHYSICIAN'S SIGNATURE <i>[Signature]</i>	TELEPHONE	
SEND COPY OF REPORT TO:		MAIL CODE:	

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UNIVERSITY HOSPITAL
University of California Medical Center
San Diego

DIAGNOSTIC X-RAY REPORT

LEFT ARM ARTERIOGRAM - 2/12/79

PROCEDURE: By way of percutaneous puncture of the right femoral artery, left brachial arteriogram was obtained. There was no immediate complication.

FINDINGS: There are multiple metallic foreign bodies in the soft tissue about the elbow and proximal forearm. In addition, there is air in the soft tissue from soft tissue injury.

There is complete occlusion of the radial artery at about 5 mm. from its origin. There is also approximately a 3 cm. long segment of smooth narrowing in the distal brachial artery adjacent to the metallic foreign body. This is probably a spasm related to the radial artery injury, although it could conceivably represent intimal injury of the brachial artery. There is early visualization of the brachial vein, suggesting arteriovenous fistulae about the elbow, although arteries and veins in the upper arm appear grossly normal.

- IMPRESSION:
- 1) Complete occlusion of the radial artery.
 - 2) Possible AV fistula formation about the elbow as discussed above.
 - 3) Multiple metallic foreign bodies about the elbow and forearm.

Date Typed: 2/13/79 - KS:m1b

Radiologist *[Signature]* K. SEO, M.D. / J. BOOKSTEIN, M.D.

YELLOW - Medical Record WHITE - Physician WHITE - Department File
GREEN - Specialty File PINK - Data Processing

Otro Mexicano Balaceado por un Patrullero de la Border Patrol

Margarito Balderas, la Víctima, se Encuentra Hospitalizado en San Diego

Por Arturo GONZALEZ PEREZ

SAN YSIDRO.— Un mexicano, al parecer aspirante a ilegal, fue ayer balaceado en ambos brazos por un patrullero de la Border Patrol. Los hechos ocurrieron en la línea internacional que divide a Tijuana, con esta ciudad, en la zona canalizada del Río Tijuana.

Margarito Balderas Fernández, de aproximadamente 28 años de edad, quien según un testigo pretendió arrojarle piedras al patrullero, resultó herido en ambos brazos y es atendido en el "University Hospital de San Diego" según el reporte.

El Departamento de Justicia de Estados

Unidos, el FBI y la Policía de San Diego, están realizando las investigaciones del caso sin la intervención del Border Patrol.

El cónsul auxiliar de México, en San Ysidro Alfonso Fuentes y el Supervisor de Protección de la Secretaría de Relaciones Exteriores, ingeniero Jorge del Río, inmediatamente acudieron al "Community Hospital de Chula Vista" en donde primeramente fue atendido Margarito para interiorizarse del caso e informar a las autoridades mexicanas. Aseguraron estos funcionarios, que el

Consulado de México en San Diego se hará cargo de la defensoría del mexicano y estará pendiente de que se le atienda debidamente.

Margarito Balderas Fernández (a) Antonio Cuevas Moreno y (a) Juan Cuevas, aún no ha declarado debido a que se encuentra bajo los efectos de la anestesia, pero el médico que lo atendió Dr. Edwar L. Rasik, informó que las heridas que sufre no ponen en peligro su vida y sus brazos quedarán sin defecto alguno.

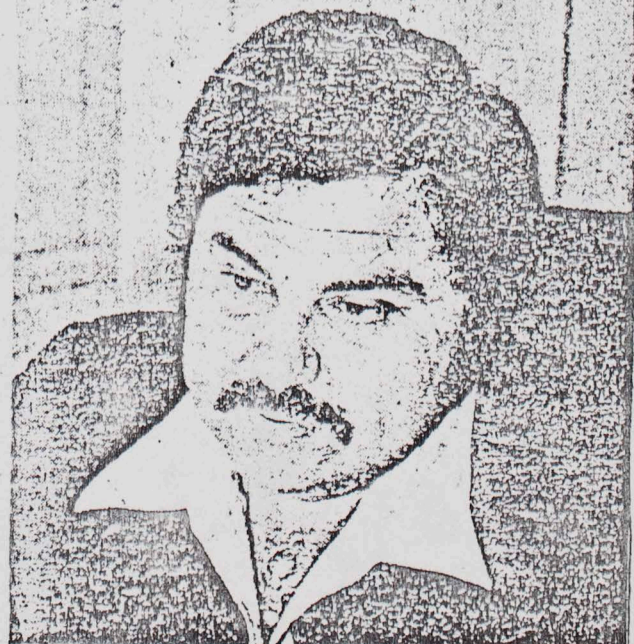
OCULTAN EL NOMBRE DEL PATRULLERO

Por otra parte Donald Cameron jefe de la Border Patrol en San Diego, se negó a dar a conocer el nombre del patrullero que hirió a Margarito, hasta que se realicen las investigaciones y se señalen responsabilidades aunque por su actitud mostró su malestar por dicha situación.

HABLA UN TESTIGO

Por otro lado, en Tijuana, el joven Efrain Ruiz Valadez, de 20 años de edad, y quien fue testigo de los hechos señaló ante el agente del Ministerio Público que Margarito después de levantar unas piedras, caminó hacia los Estados Unidos, al parecer con intenciones de arrojarle las piedras a un agente de la Border Patrol. Después se escucharon los disparos (dos) y cayó herido Margarito.

Señaló que sólo fue espectador de los hechos, como muchas otras personas que estuvieron ahí.



SAN YSIDRO.— Alberto García, dirigente de los mexicanoamericanos del Estado de California dio a conocer los resultados de la investigación sobre el mexicano Margarito Balderas, balaceado en

Miércoles 14 de Febrero de 1979

Identificado el Oficial de E.U. que Hirió al Mexicano Balderas

SAN YSIDRO.— A iniciativa de la Asociación de Mexicanoamericanos del Estado de California el representante del Departamento de Justicia de Estados Unidos en San Diego, encargado de los

(Pasa a la Pág. 4, Col. 4)

Identificado...

(Viene de la 1ª Pág.)

ternacional por un agente de la Patrulla Fronteriza.

La investigación arrojó como resultados el nombre del agente de la "Border Patrol"; Robert D. Reidell, de 23 años, que disparó contra el mexicano Margarito Balderas, hiriendolo de ambos brazos.

Asimismo, se llegó a la conclusión, faltando la comprobación correspondiente de acuerdo con la ley, de que la mayoría de los agentes de la Patrulla Fronteriza portan dos clases de armas: la oficial y otra de diferente calibre, la que es usada en los casos como el de Margarito Balderas.

"De esta manera todas las investigaciones que se han hecho, basándose en los antecedentes de casos similares, han resultado negativos, ya que al exigir las pruebas, se presenta la pistola oficial del agente y se comprueba que ésta nunca ha sido disparada. Pero en esta ocasión, hubo testigos de que el agente Reidell hizo los disparos contra el mexicano y como se comprobó que su arma nunca fue disparada, las autoridades del Departamento de Justicia llegaron a la conclusión de que otra arma había sido utilizada en el atentado", explicó ampliamente Alberto García, dirigente de los mexicanoamericanos.

Agregó que la denuncia se hizo también al Departamento de Justicia en Washington, directamente con Gilberto Pompa, encargado de la comunidad mexicanoamericana en la

DECLARATION

I, MARTIN ZARATE OLMOS, DECLARE:

I AM SIXTEEN (16) YEARS OF AGE AND LIVE AT PALOMA #82, COLONIA AEROPUERTO, TIJUANA, BAJA CALIF, MEXICO. I LIVE THERE WITH MY PARENTS JOSE DE JESUS AND JUANA ZARATE. I AM EMPLOYED AT THE AIRPORT RESTAURANT.

ON MAY 28, 1979, OR APPROXIMATELY THEREABOUT, I WORKED FROM 8:00 AM UNTIL ABOUT 4:30 PM. I DECIDED TO MAKE UP SOME HOURS I HAD MISSED AND SO WORKED UNTIL AROUND 7:30 PM.

AT THAT TIME I AND FOUR FRIENDS FROM WORK, WHO ALSO LIVE IN MY NEIGHBORHOOD, WERE WALKING HOME WEST ALONG AEROPUERTO ROAD.

ABOUT HALF WAY DOWN THE ROAD, JUST PAST THE TOMATO PATCHES, ONE OF MY FRIENDS SUGGESTED, OUT OF CURIOSITY, THAT WE CHECK OUT WHAT WAS ON THE OTHER SIDE OF THE RIDGE. WE ALL AGREED SINCE THIS WAS MY FIRST TIME.

WE WALKED ACROSS TO THE OTHER SIDE, NO MORE THAN $\frac{1}{8}$ OF A MILE AWAY FROM THE FENCE. WE STAYED LESS THAN FIFTEEN MINUTES AND SAW NO ONE.

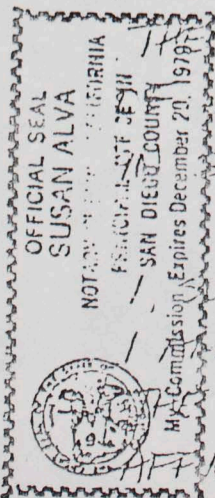
AS WE WERE WALKING BACK TOWARDS MEXICO WE COULD SEE A HELICOPTER IN THE DISTANCE, WE CONTINUED TO WALK AT OUR SAME PACE; THE

HELICOPTER CONTINUED TOWARDS US. I DON'T KNOW HOW CLOSE IT FINALLY GOT BECAUSE I HAD MY BACK TO IT BUT I COULD FEEL IT VERY CLOSE. WITHOUT WORD OR WARNING A SHOT WAS FIRED ~~THE~~ FROM THE HELICOPTER. I WAS HIT AND FELL TO THE GROUND. MY FRIENDS AHEAD OF ME RAN TOWARDS THE FENCE. A FRIEND FROM BEHIND RAN PAST ME YELLING "I'M HIT, TOO."

WITHIN TEN OR FIFTEEN MINUTES THE BORDER PATROL AND OTHER PERSONS (WHO LATER IDENTIFIED THEMSELVES AS FBI AGENTS) WERE THERE, ASKING ME TO IDENTIFY MYSELF. THE AMBULANCE THEN ARRIVED. AS I WAS RECEIVING EMERGENCY TREATMENT I COULD SEE THE HELICOPTER STILL HOVERING ABOVE US.

AS THE OFFICERS CONTINUED TO QUESTION ME I FELT WEAK AND DIZZY BECAUSE I WAS LOSING SO MUCH BLOOD AND COULDN'T ANSWER THE QUESTIONS. I WAS TAKEN TO A HOSPITAL FOR EMERGENCY TREATMENT AND THEN TRANSFERRED TO UNIVERSITY HOSPITAL.

I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. EXECUTED THIS 29TH DAY OF JUNE, 1979 IN SAN DIEGO, CA. *Martin Zuniga*



I, SUSAN ALVA, DECLARE UNDER PENALTY OF PERJURY THAT I AM FLUENT IN ENGLISH AND SPANISH, HAVE TRANSLATED THE ABOVE TO THE DECLARANT AND HE UNDERSTOOD AND AFFIRMED ITS CONTENTS BEFORE SIGNING. EXECUTED THIS 29TH DAY OF JUNE, 1979 IN SAN DIEGO, CA. *Susan Alva*



UNIVERSITY HOSPITAL
University of California
Medical Center, San Diego

ZARATE, Martin

749 764 G

D 6-29-79

DISCHARGE SUMMARY

DATE OF ADMISSION: 5-29-79
DATE OF DISCHARGE: 6-29-79

ATTENDING PHYSICIAN: J. Devin, M. D.
RESIDENT PHYSICIAN: F. Hammill, M. D.

CHIEF COMPLAINT: Gunshot wounds to both legs.

PRESENT ILLNESS: This 16-year-old Mexican male was shot at the border on 5 29-79. He initially was taken to the Emergency Room at Chula Vista Hospital where he was found to have injuries to both popliteal fossae. These appeared to be shotgun injuries to both legs. The patient was bleeding profusely from the left popliteal fossa at the time of admission to the Emergency Room in Chula Vista. His blood pressure was noted to be 60 systolic. The patient was resuscitated with five liters of Ringer's lactate, several units of plasmanate and was transferred to the Trauma Unit at University Hospital. On arrival the patient had a blood pressure of 120; hematocrit 20%, he was still bleeding profusely from both popliteal fossae.

PH FH SH ROS: Allergies: None. Medications: None. SH: Unknown. FH and ROS: Not obtainable at the time of admission.

PHYSICAL EXAMINATION: A well-developed, pale, Mexican boy, bleeding profusely from both lower extremities. Head: Normocephalic; no palpable occipital nodes; no evidence of trauma to the head. Extraocular muscles were intact; the pupils were equal, round, reactive to light; sclerae clear. The disks were sharp. Neck: Soft, supple, full range of motion. Mouth: Clear. Lungs: Clear to auscultation and percussion. Heart: Regular sinus rhythm, no gallops, clicks, rubs or murmurs. The abdomen was flat, soft, normal; no organomegaly; no peritoneal signs; good bowel sounds. External genitalia were within normal limits. Rectal examination was normal. Extremities: Gunshot injuries to both popliteal fossae, with two, large, gaping wounds, approximately four by six centimeters, over the left popliteal fossa, more wounds in the right leg with no major tissue destruction. No pulses distally in the left leg; dorsalis pedis in present in the right leg. Both feet felt cool, but did not appear cyanotic. Neurologic examination: The patient was awake, alert, oriented; cranial nerves II through XII were grossly intact. There was no gross motor or sensory deficit except for the distal left leg.

LABORATORY DATA: On admission, hct. 20%; WBC 19,500; PT 14.4/10.6 control; PTT 38.7/30.2 control. Glucose 190; BUN 16; creatinine 0.7; bicarb. 23; chloride 103; sodium 140; potassium 4.9; amylase 70.

HOSPITAL COURSE: The patient was admitted to the Trauma Unit, and, after a quick evaluation by the House Officers, was taken to the Operating Room where he underwent repair of the left popliteal artery and vein with saphenous vein graft from the right thigh. He had intraoperative angiograms which showed both arterial and venous anastomoses to be intact. He underwent a large, left leg, fasciotomy to relieve pressure. Estimated blood loss at that time was 300 ccs. Postoperatively, the patient was noted to have intact distal pulses in the left leg. He, however, had a large amount of tissue destruction and needed frequent dressing changes with debridement of necrotic tissue. Postoperatively, he was found to have nearly complete motor and sensory deficits below the left knee, due to nerve destruction. The patient was taken to Physical Therapy for exercise and

E-3



UNIVERSITY HOSPITAL
University of California
Medical Center, San Diego

ZARATE, Martin

749 764 G

DISCHARGE SUMMARY -2

attempts to regain function of the leg. After two to three weeks, the patient was noted to have an increase in sensation in the left leg; however, motor abilities remained minimal. The patient's wound was granulating in slowly and by the time of discharge, the patient's father was taught how to change his dressings at home. At the time of discharge the patient has been taught how to walk with a crutch, and was doing some weight bearing on his left leg.

DISCHARGE DIAGNOSIS: 1. Gunshot wounds to both popliteal fossae.

CONDITION ON DISCHARGE: Improved.

DISCHARGE MEDICATIONS: Tylenol #3 prn pain; Betadine and dressing materials.

OPERATIONS: 1. Exploration of left popliteal fossa, repair of popliteal artery and vein, left leg.

DISPOSITION: The patient is discharged to home with his family.

PHYSICIAN'S INSTRUCTIONS RE PATIENT ACTIVITY: The patient is to have dressing changes daily by his father. He is to return to the Clinic.

Karl Zucker, M. D.
Surgery Resident I

KZ:er
T 7-3-79



UNIVERSITY HOSPITAL
University of California
Medical Center, San Diego

OPERATION REPORT

NAME: ZARATE, Martin

FLOOR

UNIT NO. 749 764 G

DATE OF OPERATION: May 29, 1979

LECTATED BY: F. Hammill
May 29, 1979

PREOPERATIVE DIAGNOSIS:

Gunshot wounds to bilateral popliteal fossae.

POSTOPERATIVE DIAGNOSIS:

Same.

OPERATION:

Repair of left popliteal artery and vein with saphenous interposition graft from the right thigh.

Intraoperative angiograms.

Left lower leg fasciotomies.

SURGEON: J.B. Devin/F. Hammill

ASSISTANT: P. Humber

STAFF: J.B. Devin

INDICATIONS, FINDINGS AND PROCEDURE:

INDICATIONS: This 16-year-old, Mexican-American male was brought to the hospital after sustaining gunshot wounds to the backs of both legs. On admission to Chula Vista Community Hospital initially, the blood pressure was 60/0 and he was bleeding profusely, primarily from his left popliteal fossa. Compressive dressings were applied and fluid resuscitation was begun and he was transferred to University Hospital. On arrival here, his blood pressure was 100/60; he was agitated and confused and continued to lose copious amounts of blood from his left popliteal fossa. Because of his unstable condition and continued bleeding, he was brought straight to the Operating Room. He had two large I.V.s running and blood was being typed and cross matched.

PROCEDURE: Upon arrival in the Operating Room, the compressive dressings were removed while a pneumatic tourniquet cuff was placed about the upper left thigh. When this was inflated, dressings were fully removed and the extent of the wound was inspected. He was found to have a large defect in skin and subcutaneous tissue and muscle along the lateral aspect of the left leg at the level of the knee. Surrounding this were numerous smaller puncture wounds. Along the medial side of the knee was also a smaller defect from which moderate amounts of blood oozed when the pressure on the tourniquet was decreased. The wound was packed with Betadine soaked dressings and the opposite leg was inspected. This was found to have approximately 30 2-3 millimeter puncture wounds along the posterior aspect of the posterior and medial aspect of the right leg just below the area of the popliteal fossa. In the left leg, no pulses were palpable in the lower leg and the foot was quite cool. The patient was unable to move any muscles at the level of the ankle joint or in the foot or toes. He also had a complete lack of sensation below the knee. On the right side, he was able to move his ankle and toes and though no pulses were palpable in the foot, the foot was warm with normal capillary filling.

Once the bleeding had been stopped, using the pneumatic tourniquet, it was decided



OPERATION REPORT

NAME: ZARATE, Martin

UNIT NUMBER: 749 764 G

DATE OF OPERATION: May 29, 1979

to wait until blood was available before proceeding with the operative procedure. This required approximately 45 minutes, at which time six units of blood were available and the patient was put to sleep with a general anesthesia.

Both legs were then prepared in their entirety to the level of the groins and then the lower abdomen was similarly prepared. Exploration was carried out in the left popliteal fossa by making an incision from two to three inches below the tibial tuberosity along the medial aspect of the leg to approximately four or five inches above the patella. Sharp dissection was carried through the subcutaneous tissues and bleeding was controlled with electrocautery. Once the popliteal fossa was opened, it was found that large amounts of tissue were missing. A portion of the hamstring muscles was entirely gone and a good portion of the upper part of the gastrocnemius similarly was absent. The sciatic nerve was found, but had been severely shredded with only a small portion remaining intact. The popliteal artery was found and, though still intact, there was no blood flow and there were numerous gaping holes along approximately a six-inch length. The popliteal vein similarly was located and it too was severely injured and there was no blood flow. These vessels were dissected proximally and distally until normal vessel was encountered. Vascular clamps were then placed across the stumps of those vessels.

Attention was then turned to the right thigh where a 10-inch incision was made over the right saphenous vein. This was easily located in the subcutaneous tissue and sharp dissection was used to free the saphenous vein from its underlying bed. Branches were either clipped, using Weck clips, or ligated with 4-0 ties. When a 10-inch segment of vein had been isolated, it was ligated proximally and distally and removed for use as a vein graft. A five-inch section was then removed and placed in reverse fashion, initially to restore continuity to the vein. One end of the saphenous vein was then spatulated and an end-to-end anastomosis was constructed between the proximal end of the popliteal vein and the saphenous vein graft. The clamp was then removed and the anastomosis was seen to be patent. The anastomosis was constructed of a single running suture of 6-0 Prolene.

The distal venous anastomosis was then constructed in the same way and, when both clamps were removed, there was good flow of venous blood through the vein graft. The arterial graft was then repaired in the same manner using a five-inch piece of saphenous vein in reverse fashion, constructing first the proximal and then the distal anastomosis. Care was taken prior to removal of the vascular clamps to flush the anastomosis so that no thrombus or debris would be carried distally. A palpable pulse was present in the vein graft. The foot was inspected and was seen to be pink. Anterior and lateral fasciotomies were then constructed by making two-inch incisions on either side of the lateral and medial aspects of the leg. When the fascia was encountered, it was opened through the small skin incisions a distance of approximately 12 inches, using



OPERATION REPORT

NAME: ZARATE, Martin

UNIT NUMBER: 749 764 G

DATE OF OPERATION: May 29, 1979

long Metzenbaum scissors underneath the skin.

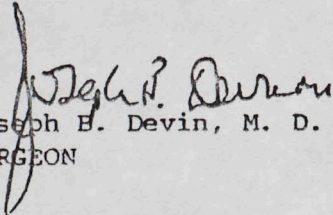
The muscular and fascial layers over the medial aspect of the wound were then closed using continuous 00 chromic catgut. However, because of the skin loss due to the multiple puncture wounds, the skin could not be fully reapproximated and a gap was left. Similarly, over the injury on the lateral side, there was a large skin and soft tissue loss and Betadine soaked packs were placed into a portion of the popliteal fossa and a totally occlusive dressing was applied.

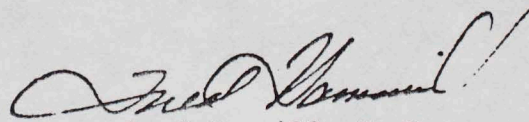
Attention was then turned to the right leg. An angiogram was done by 20 gauge angiogram catheter into the common femoral artery on the right side. Fifty percent Conray dye was injected and x-rays were taken over the level of the knee and distal lower leg. These showed good flow of dye in normal appearing vessels. It was decided that no vascular injury had been sustained at the level of the knee. The wound in the upper thigh was then closed with continuous suture of 000 chromic catgut in subcutaneous tissue and 4-0 nylon continuous suture in the skin.

Previous to closure, both wounds had been irrigated copiously with antibiotic solution.

Estimated blood loss was approximately 600 ccs.

The patient tolerated the procedure with stable vital signs and was returned to the Recovery Room in good condition.


Joseph E. Devin, M. D.
SURGEON


Fred Hammill, M. D.
Surgery Resident V

FH:er
T 6-5-79

Nuevos Hechos Violentos contra los Indocumentados

Por Rogelio LAVENANT SIFUENTES

San ISIDRO.— La violencia continúa en la franja de terreno colindante al cerco fronterizo, en esta zona de California.

Cuatro mexicanos fueron las víctimas de dos incidentes violentos, pasados por separado la noche del pasado. Resultaron heridos con heridas de fuego.

De ellos fueron llevados al hospital de Chula Vista. Uno de ellos es el agente de la Patrulla Fronteriza, e Ismael Villa, de 17 años de edad, respectivamente, fueron internados en el Hospital de Chula Vista.

Originalmente, Al Wells, asistente de sector de la Patrulla Fronteriza, dijo que a las 10:30, p.m. los agentes acudieron al Spring Canyon, de recibir un llamado de que mexicanos estaban siendo atacados por bandidos.

En este lugar, casi frente al aeropuerto, pero los presuntos atacados ilegales lo derribaron por menos de dos veces.

El agente del FBI aseguró que el agente de la Patrulla Fronteriza en esa ocasión en que lo tiraron sintió un jalón en la funda de la pistola, por lo que la sacó y al tratar de tratar de ponerse en pie cayó accidentalmente.

Los casos están siendo investigados por el Federal Bureau of Investigation (FBI), cuyos agentes están tratando de reunir los datos de declaraciones con las declaraciones de Ismael Villa y de Martín Zarate.

En el aeropuerto de Tijuana, encontraron herido a Martín Zarate. Los asaltantes huyeron cuando los oficiales de la Patrulla Fronteriza, llegaron y dispararon. Intervino la Policía de San Diego, y también agentes del FBI.

Más tarde, un agente de la Patrulla Fronteriza, (cuyo nombre no fue revelado) disparó su pistola "accidentalmente", hiriendo en el cuello a Ismael Villa. Esto ocurrió a las 11:30, p.m. cuando el patrullero vio un grupo de 18 mexicanos internándose a territorio estadounidense, cruzando el canal del Río Tijuana.

El Buró Federal, de Investigaciones (FBI) reveló en sus primeras indagaciones que el oficial de la Patrulla Fronteriza (Border Patrol) se hallaba sobre el bordo norte del canal. Vio al grupo de "indocumentados" y pretendió interceptarlo cuando resbaló y cayó entre ellos. In-

(Pasa a la Pág. 4, Col. 1)

MAS DE MIL "INDOCUMENTADOS" ARRESTADOS

William H. Seizer, Jr., funcionario de la Patrulla Fronteriza en este sector de California, dijo que la noche en que se registraron los incidentes violentos arrestaron alrededor de 1,300 presuntos "extranjeros ilegales".

El número de "indocumentados" ha ido creciendo —aseguró— y es posible que se supere el promedio mensual máximo de 40 mil personas detenidas por estancia ilegal en los Estados Unidos, en esta zona de San Diego.

Que se Enfrentaron al "Border Patrol" la Noche de Ayer

Por Rodolfo García TALAVERA

Dos menores heridos a balazos y otro golpeado, fue el resultado de una trifulca registrada entre patrulleros fronterizos estadounidenses y varios presuntos "asaltapollos" e "ilegales", ayer a las 10 de la noche, en suelo norteamericano, frente al viejo aeropuerto de Tijuana.

Los heridos son Martín Zarate, de 16 años y Ricardo Durán del Real, de la misma edad. Al primero se le encamó en un hospital de Chula Vista y al segundo, en el de Tijuana.

El golpeado es Aurelio Román Espinosa, también de 16 años, ignorándose las demás generales de los tres menores.

Según se dijo en la judicial del Estado esta mañana a la hora mencionada del lado americano y frente al aeropuerto, se escucharon varias detonaciones, cuando los del Border Patrol descubrieron a un grupo de "ilegales", al parecer asaltándose entre sí, por lo que de inmediato intervinieron y como se les echaron encima, dispararon contra ellos, lesionando a Martín Zarate y al otro muchacho Durán del Real. Este y Román Espinosa echaron a correr hacia el lado mexicano, logrando cruzar el alambre para ponerse a salvo y allí los detuvo un oficial de la Policía Federal de Caminos, quien los entregó a socorristas de la Cruz Roja para que los llevara al Hospital General.

Se dice que Durán del Real recibió un balazo en una de sus piernas y pese a ello pudo correr buscando refugio en suelo mexicano y que Roman Espinosa solo salió ligeramente golpeado.

Por lo que respecta a Martín Zarate, por teléfono informó un oficial de enlace de la policía americana de apellido Navarro, que había sido llevado a un hospital de Chula Vista, Calif. y que también sufrió lesión por arma de fuego en una pierna; no sabiéndose la identidad de quienes dispararon sobre los dos jóvenes.

El oficial Navarro en su comunicación telefónica con la judicial aseguró que Zarate dio como domicilio la calle Paloma número 82 de la colonia Irapuato, pero se cree que posiblemente tomaron mal los datos o el mismo menor no pudo explicarse bien y que se trate de un domicilio no de Tijuana, sino de Irapuato, Guanajuato.

En el transcurso del día se esperaba conocer mayores datos sobre este nuevo hecho de sangre ocurrido en territorio norteamericano entre policías de allí e "ilegales" mexicanos, como el reciente que se escenificó frente a la Zona Norte, en que otro joven de México fue balaceado y herido desde un helicóptero.



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MAS HECHOS DE SANGRE

Cuatro connacionales fueron víctimas de hechos violentos en parte de la zona fronteriza entre México y Estados Unidos de América, localizada en la ciudad de San Isidro, California.

Dos de las víctimas, heridas con armas de fuego, fueron trasladadas al Hospital General de Tijuana y las otras dos, identificadas como Martín Zarate e Ismael Villa, de 16 y 17 años de edad, respectivamente, fueron conducidos al Hospital Universitario de Chula Vista, California, Estados Unidos, en donde fueron internados y atendidos.

Al Wells, asistente del jefe de sec-

tor de la Patrulla Fronteriza en la región, informó que "varios de sus elementos se trasladaron a Spring Canyon al tenerse conocimiento de que varios "indocumentados" estaban siendo objeto de un asalto por parte de varios sujetos no identificados.

"En el mencionado lugar, localizado casi frente al aeropuerto de Tijuana, B. C. N., se encontró a Martín Zarate mal herido y fue trasladado a un hospital para las primeras curaciones. Los asaltantes del

"indocumentado" herido huyeron al avistar a los elementos de la Patrulla Fronteriza, la Policía de San Diego y también agentes del FBI que acudieron al lugar de los hechos para investigar".

Horas después de lo anterior, un agente de la Patrulla Fronteriza hirió de manera "accidental" a un "indocumentado".

Lo anterior se registró cuando el agente de la Border Patrol, cuyo nombre no fue proporcionado, se acercó a un grupo de 18 "indocu-

mentados" que trataban de ingresar de manera ilegal en territorio norteamericano.

Se asegura que el agente se resbaló y de "manera accidental" se disparó su pistola y la bala fue a dar precisamente en el cuello del indocumentado que fue identificado como Ismael Villa.

Agentes del Buró Federal de Investigaciones (FBI) tomaron cartas en los asuntos y llevan a cabo investigaciones para deslindar responsabilidades.

RECEIVED JUN 15 1979

F-6

Michael Walsh

PRESS RELEASE

June 12, 1979

For further information, call:
Michael H. Walsh (714) 293-5690
or Peter K. Nunez (714) 293-5366

WALSH MEETS WITH BORDER PATROL: URGES RESTRAINT

U. S. Attorney Michael H. Walsh announced today that he was personally meeting with each day's Border Patrol shifts, just before they commence duty along the troubled U. S. - Mexican border, to urge "utmost restraint" in the use of force to apprehend aliens or to respond to continued violence along the tense international border. "Violence begets violence", Walsh advised the officers. "Avoid resort to force if at all possible."

Cautioning agents that "Federal policy permits agents to use deadly force (guns) only in three circumstances - when an agent is acting in defense of his own life, or in defense of the life of another officer, or in defense of an innocent third party", Walsh warned the officers that "use of force in any other circumstance threatens criminal prosecution, disciplinary action, and possible civil liability on both the Government's and the officer's part".

Assistant U. S. Attorney Peter K. Nunez, now assigned full time to work at the border, and Assistant U. S. Attorney Donald F. Shanahan accompanied Walsh. According to Shanahan: "We want these agents to know just what their legal rights and responsibilities are. They are personally liable if they make a wrong decision."

Their personal assets are on the line. They've got to know just what they can and cannot do. That's all we're trying to accomplish." Nunez and Shanahan indicated they would continue to work with the Patrol to resolve legal questions as they arise regarding local border operations.

Walsh called upon the Border Patrol agents to do "everything in their power" to help quell the rising tide of violence along the international border. "We've got to do whatever we can to stop the violence", Walsh said, consistent with doing the job and maintaining agent safety. "If your life is genuinely in danger, then you have no choice but to use every means at your disposal to protect yourself", said Walsh. "But the use of your weapon should be the absolute last resort", he cautioned. Pointing to beefed-up patrols, two-man assignments recently implemented in the most dangerous areas, walkie-talkies carried by the agents, and available back-up officers and tactical support, Walsh called upon the agents to, if possible, "get help, don't shoot".

Pointing to recent agreements with Governor Roberto de la Madrid of Baja, Walsh expressed the hope that border banditry, rock and bottle throwing, sporadic diversionary shooting by smugglers and staged violence would all diminish in coming weeks. "We've got to give the situation a chance to settle down", Walsh urged. "We've got to give the new efforts, both on our side of the line and in Mexico, a decent chance to work".

FEDERAL DEFENDERS OF SAN DIEGO, INC.

MEMORANDUM

TO: File

DATE: 8 November 1978

FROM: MRR

RE: U.S. v. Mario Torrez-Medina

MARIO TORREZ-MEDINA

*AVE Sicilia #300
Col. Roma*

201

Date of Alleged Beating: 20 October 1978

Name or Description of Officer(s): Mr. Oscar Cardenas (the defendant said that the other officers called him Oscar and that the defendant observed the name O. Cardenas on the officer's shirt pocket).

Place of Alleged Beating(s): Inside the Chula Vista station.

Defendant's Sentence: The defendant received 30 days from Magistrate Harris.

AUSA: David Doyle

Date of Interview by AUSA: 3 November 1978

Date of Examination by Doctor: none

Defendant's Story:

The defendant said he was caught lying on the ground by himself in the hills near the border. When approached by the officer, he stood up and offered no resistance.

At the Chula Vista Anti-Smuggling Unit, the defendant said that Officer Cardenas showed him a picture of himself and asked, "Is this you?". The officer kept asking the defendant if this was not his picture. The officer suggested that it was better if he would admit that he was the one leading the other group of illegal aliens caught nearby.

The officer warned that he would "break his face in if you don't agree to this". The defendant said that he was not leading the other group of people and he never saw them before. The officer once again repeated his threat that he was going to break his face in and then proceeded to kneed the defendant in the groin. The defendant allegedly kept his mouth shut, as he did not want to be punished any more. The defendant fell up against the wall after he was first kneed. Four or five minutes later, the officer repeated his threat and kneed the defendant in the groin again.

The defendant was interrogated by Officer Oscar Cardenas for fifteen to twenty minutes. The defendant can identify the officer by name since it was on his nametag and he is positive that he can identify

G-1

Memo re: Torrez-Medina
8 November 1978
Page Two

the officer in a line-up. The defendant also said there were two witnesses about two feet away from this when it all happened. One witness was an Officer Sanchez, who was interviewing another alien, a Mr. Cruz. The defendant stated that Officers Cardenas and Sanchez were the only two Mexican officers in a room full of Anglos, who were nearby. The defendant estimates that there were around 6 officers in the general area of the beatings.

AUSA's Remarks: Mr. Doyle first attempted to interview Mr. Cruz to corroborate the defendant's story, but upon learning that Mr. Cruz was represented by someone other than Federal Defenders, he decided to try and obtain the permission of that lawyer before interviewing Mr. Cruz. Mr. Doyle said that it seemed like the defendant was on drugs or something. He said it was very unlikely that the other officer nearby would "remember" anything. He also added that it would be very hard to prosecute on this information, especially since the defendant had no visible injuries.

1 In the matter of the Claim of :
 2 MERCEDES BUSTAMANTE and MERCEDES :
 3 BUSTAMANTE as parent and guardian :
 4 of ALEJANDRO BUSTAMANTE and :
 BENJAMIN BUSTAMANTE, :
 Claimants, :
 v. :
 6 THE CITY OF SAN DIEGO, CALIFORNIA, :
 7 Defendant. :
 8

9 FREDERICK HETTER, acting as attorney for claimants, hereby makes
 10 claim against THE CITY OF SAN DIEGO and its employees and in support
 11 of said claim declares as follows:

12 1. The claimants' names are MERCEDES BUSTAMANTE and MERCEDES
 13 BUSTAMANTE as parent and guardian of ALEJANDRO BUSTAMANTE and BENJA-
 14 MIN BUSTAMANTE.

15 2. The claimants' post office address and telephone is 143 West
 16 Olive Avenue, San Ysidro, California 92073, ~~428-2469~~.

17 3. Post office address to which notices are to be sent is:
 18 2214 Fifth Avenue, San Diego, California 92101.

19 4. On February 26, 1974, claimants were assaulted, detained, ar-
 20 rested and threatened by officers of the San Diego Police Department
 21 and officers of the United States Border Patrol, and charged with no
 22 offense.

23 5. A Border Patrol officer observed two juveniles (claimants
 24 ALEJANDRO BUSTAMANTE and BENJAMIN BUSTAMANTE) running from a play-
 25 ground on Park Boulevard in San Ysidro toward their home on Olive Ave-
 26 nue in San Ysidro. He pursued them. They entered their home. He
 27 broke down the door and grabbed them, damaging the refrigerator, over-
 28 turning chairs, and pushing and shoving the claimants and their mother
 29 MERCEDES BUSTAMANTE. He yelled, and called them racist names. He ac-
 30 cused them of crimes. Other officers came, and did likewise. San Di-
 31 ego Police Officers arrived. They ignored the pleas for help from
 32 the mother and children. They threatened to arrest the children for

RECOMMENDATIONS

- A. MAY 24, 1980 CHICANO NATIONAL
IMMIGRATION RESOLUTIONS
- B. BILL OF RIGHTS FOR UNDOCUMENTED WORKERS
- C. COMMITTEE ON CHICANO RIGHTS OPPOSITION
TO THE SELECT COMMISSION RECOMMENDATIONS
- D. NATIONAL CENTER FOR IMMIGRANT RIGHTS
ANALYSIS ON THE SELECT COMMISSION
RECOMMENDATIONS



Committee on Chicano Rights, Inc

RESOLUTIONS PASSED AT THE NATIONAL CHICANO IMMIGRATION CONFERENCE

May 24, 1980

BORDER VIOLENCE WORKSHOP

1. THAT THIS CONFERENCE GO ON RECORD in calling for the abolishment of the INS/Border Patrol.
2. THAT THIS CONFERENCE GO ON RECORD in calling for the abolishment of the militarization policy between the U.S./Mexico as a solution to the immigration issue.
3. THAT THIS CONFERENCE GO ON RECORD in calling for the immediate termination of the policy of incarcerating children and their mothers in federal prisons.
4. THAT THIS CONFERENCE GO ON RECORD as appointing a representative group of this conference to present the most degrading violations of human rights (i.e. incarceration of children, rape of women, handcuffed individuals shot and killed, etc.) to international Human Rights Organizations (i.e. the United Nations, International Amnesty, Federation fo the Rights of Man, etc.) with the understanding that the long range solutions be in our people's self-determination.
5. THAT THIS CONFERENCE GO ON RECORD in calling for an end to the racist term of illegal alien.

ADMINISTRATION OF JUSTICE

1. THAT THIS CONFERENCE GO ON RECORD as supporting the creation of a broad-based coalition to end all residential sweeps.
2. THAT THIS CONFERENCE GO ON RECORD in support of the Legal Services Corporation and oppose all legislation that discriminates against immigrants and that the Conference oppose the O'Brien amendment.
3. THAT THIS CONFERENCE GO ON RECORD as opposing any collaboration with the INS/Border Patrol which will result in sweeps being conducted in work places and/or the community.

RESOLUTIONS: continued

CHICANO/MEXICANO PERSPECTIVE

1. THAT THIS CONFERENCE GO ON RECORD as demanding unconditional residency for all people with all rights and privileges of indigeneous people as provided for in the Treaty of Guadalupe Hidalgo.
2. THAT THIS CONFERENCE GO ON RECORD as abolishing all quotas on immigration from countries where the USA has political, economic, and military domination.
3. THAT THIS CONFERENCE GO ON RECORD demanding that Mexican Government support progressive groups in Mexico and Chicano groups in their struggle for Human Rights and demand compliance with the Treaty of Guadalupe of Hidalgo.
4. THAT THIS CONFERENCE GO ON RECORD as supporting the fact "Que Somos un Pueblo Sin Fronteras," and that the struggle for immigrant rights is part and parcel of the struggle for the Chicano/Mexicano rights to self-determination.
5. THAT THIS CONFERENCE GO ON RECORD as supporting the Vogue Coach struggle and other similar progressive Union organizing efforts on behalf of undocumented workers.
6. THAT THIS CONFERENCE GO ON RECORD as calling for the denouncement of U.S. Ambassador, Julian Nava, for his support of the foreign guest worker program and his ignorance on the Immigration Issue.
7. THAT THIS CONFERENCE GO ON RECORD as developing an informational network and campaign to inform and educate our people of the Immigration Issue.

ECONOMICS, LABOR AND FOREIGN WORKER PROGRAM

1. THAT THIS CONFERENCE GO ON RECORD as supporting an Open-Border for immigrant workers and a Closed-Border for Multi-National Corporations.
2. THAT THIS CONFERENCE GO ON RECORD as supporting the demands presented at the International Immigration Conference in Mexico City held on April 28, 1980.
3. THAT THIS CONFERENCE GO ON RECORD as opposing all forms of contract labor such as the H-2 Program, Temporary Visa program or foreign guest-worker program.

RESOLUTIONS: continued

CULTURAL WORKSHOP

1. THAT THIS CONFERENCE GO ON RECORD as recognizing Art and Culture as a link to the Immigration Issue, not just as a form of entertainment.
2. THAT THIS CONFERENCE GO ON RECORD as acknowledging that culture be used as a weapon for Resistance.
3. THAT THIS CONFERENCE GO ON RECORD as opposing the commercialism of cultural workers by big business industries such as Coors and Oil Companies.

EDUCATION WORKSHOP

1. THAT THIS CONFERENCE GO ON RECORD to politicize the Chicano community of its civil and educational rights.
2. THAT THIS CONFERENCE GO ON RECORD as a force to pressure the educational system to be accountable in assuring academic, social and economic competence for all Chicano students.
3. THAT THIS CONFERENCE GO ON RECORD to develop an educational system based on democratic, humanistic and social consciousness principles that guarantee the Chicano community the right to social, economic, and political power, as defined by the Chicano community.
4. THAT THIS CONFERENCE GO ON RECORD demanding the right to free educational services and benefits that maintain and develop the primary language and culture of the Chicano/Mexicano community in all institutions of society.

CHURCH WORKSHOP

1. THAT THIS CONFERENCE GO ON RECORD AS endorsing the Ecumencial Network that met here to affirm its willingness to continue to meet with and give support to Grass Roots organizations concerned with Immigration efforts.
2. THAT THIS CONFERENCE GO ON RECORD as endorsing the Ecumenical Network Southwest's meeting in the spring of 1981 to critique the report of the President's Select Commission on Immigration.
3. THAT THIS CONFERENCE GO ON RECORD AS endorsing the Ecumenical Network's desire to communicate with Grass Roots organizations to aid them in getting their message to the people.
4. THAT THIS CONFERENCE GO ON RECORD as endorsing an agreement by the Ecumenical Network that the economic, political and social causes of immigration should be emphasized in education on immigration.

RESOLUTIONS: continued

HEALTH AND SOCIAL SERVICES WORKSHOP

1. THAT THIS CONFERENCE GO ON RECORD in supporting that all health care and social services facilities must provide their services regardless of citizenship.
2. THAT THIS CONFERENCE GO ON RECORD in supporting health care and social service benefits should be rendered to the undocumented without immigration las consequences past or present.
3. THAT THIS CONFERENCE GO ON RECORD in supporting hehceforth, that the medi-cal standard form MC-6 or its equivalent be eliminated. (the MC-6 form is used in our health service system to identify and eliminate health care benefits to the undocumented)
4. THAT THIS CONFERENCE GO ON RECORD in supporting that the collection of information regarding status and its forwarding to INS or dissemination in violation of the person's right to privacy and due process of law be stopped immediately.
5. THAT THIS CONFERENCE GO ON RECORD in supporting an immediate creation of an emergency lane at all ports of entry to allow emergency medical treatment.
6. THAT THIS CONFERENCE GO ON RECORD in supporting that all providers of health care and social services have bilingual and bicultural professional staff.

.....

AND FINALLY THAT THIS CONFERENCE GO ON RECORD as ENDORSING THAT A NATIONAL CAMPAIGN BE UNDERTAKEN TO EDUCATE THE GENERAL POPULATION AND ELECTED OFFICIAIAL REGARDING THE FULL CHARACTER OF HUMAN RIGHTS, HEALTH NEEDS AND TAX CONTRIBUTIONS OF UNDOCUMENTED PERSONS.

IN ADDITION THAT THIS CONFERENCE GO ON RECORD AS ENDORSING, ENCOURAGING, AND SUPPORTING ALL COMMUNITY GROUPS THROUGHOUT THE COUNTRY TO IMPLEMENT THE STATED GOALS OF THIS CHICANO NATIONAL IMMIGRATION CONFERENCE.

442-1170



Committee on Chicano Rights, Inc

RESOLUCIONES ADOPTADAS EN LA CONFERENCIA CHICANA NACIONAL DE INMIGRACION

24 DE MAYO DE 1980

VIOLENCIA EN LA FRONTERA

1. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Pedir la abolición de la Patrulla Fronteriza/INS
2. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Pedir la abolición de la militarización y sistemas policiacos en la frontera, entre Estados Unidos y Mexico.
3. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Pedir la abolición del encarcelamiento de niños y sus madres en las prisiones Federales, por la Patrulla Fronteriza y el INS.
4. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Que representantes de esta Conferencia sean designados para exponer las violencias a los Derechos Humanos y civiles cometidos por el INS y la Patrulla Fronteriza, ante organismo como la Organización de las Naciones Unidas y Amnistía Internacional, en el entendimiento que la solución a largo plazo esta en la autodeterminación del movimiento chicano.
5. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Acabar con el termino racista de "Illegal Allien"

ADMINISTRACION DE JUSTICIA

1. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Apoyamos la creación de una organización ampliamente representada para dar fin a las redes residenciales.
2. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Apoyamos a La Corporación de Servicios Legales y nos oponemos a toda aquella legislación que discrimine contra los inmigrantes y esta conferencia se opone a la Enmienda O'Brien.
3. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Nos oponemos a toda colaboración con el INS/Patrulla Fronteriza que resulte en redes conducidas en lugares de trabajo y en la comunidad.

1837 Highland Avenue, National City, CA 92050 (714) 474-8195

PERSPECTIVA CHICANA/MEXICANA

1. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Demandar residencia incondicional y derechos y privilegios de ciudadanos para toda persona, de acuerdo con el Tratado de Guadalupe Hidalgo.
2. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Anular todas las cuotas de inmigración de países en los cuales los Estados Unidos domina económica, política y militarmente.
3. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Analizar y criticar la política inmigratoria de ambos gobiernos y que se exija de estos gobiernos una actitud más severa en favor de estos trabajadores o de lo contrario se rompa todo trato con el.
4. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Apoyan el hecho "Que Somos un Pueblo Sin Fronteras", y que la lucha por los derechos de los inmigrantes es parte inseparable de la lucha por los derechos de los Chicanos/Mexicanos a la auto determinación.
5. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Apoyamos los esfuerzos de los trabajadores de la compañía "Vogue Coach" y otras uniones similares que van hacia adelante, organizando esfuerzos en defensa de los trabajadores indocumentados.
6. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Denunciamos al Embajador de los Estados Unidos, Julian Nava, por su apoyo al programa de trabajadores huéspedes, y por su ignorancia a los problemas de inmigración.
7. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Desarrollar una cadena de información y una campaña para informar a educar a nuestra gente sobre el problema de inmigración.

LA ECONOMIA, EL TRABAJO, Y EL PROGRAMA DE TRABAJADORES HUESPEDES.

1. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Apoyamos una frontera abierta para trabajadores inmigrados y una frontera cerrada para corporaciones multi-nacionales.
2. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Estamos a favor de las alegaciones de derecho presentadas en la Conferencia Internacional de Inmigración que se llevo a cabo en la ciudad de Mexico el 28 de Abril de 1980.
3. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Se opone a toda forma de "trabajadores contratados" como el programa H2, programas de visas temporales o programas de trabajadores huéspedes.

TALLER CULTURAL

1. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - El arte y la cultura deben ser como una cadena que se una al problema de inmigracion y lo ayude y que no solo sea una forma mas de entretenimiento.
2. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - acordamos que nuestra cultura debe usarse como un arma para resistir.
3. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Nos oponemos al comercialismo de trabajadores culturales por las grandes industrias como Coors y las Companias Petroleras.

TALLER DE EDUCACION

1. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Dar caracter politico a la comunidad Chicana sobre sus derechos civiles y educativos.
2. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Como una fuerza para precionar al systema educacional para que sea responsable en asegurar la competencia academica, social y economica para todos los estudiantes Chicanos.
3. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Desarrollar un systema educativo basado en un systema democratico, humanitario y principios de consciencia social que garanticen a la comunidad Chicana el derecho al poder social, economico y politico, como señala la comunidad Chicana.
4. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Reclamamos el derecho de servicios educacionales y de beneficios que mantengan y desarrollen el idioma principal y la cultura de la comunidad Chicana/Mexicana en todas las instituciones de nuestra sociedad.
5. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Condenamos al Estado de Texas por su reciente ley que niega la educacion en las escuelas publicas a niños de personas indocumentadas.

TALLER DE LA IGLESIA

1. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Apoyamos la cadena Ecumenica que se reunio aqui para afirmar su deceso de continuar a reunir y dar sosten a las organizaciones comprometidas en los esfuerzos de inmigracion.
2. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Apoyan la junta de la Cadena Ecumenica del Suroeste que llevara acabo en la primavera de 1981, para examinar el reporte Presidencial de la Comission Selecta de Inmigracion.
3. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Apoyamos el deceso de la Cadena Ecumenica de comunicarse con organizaciones para ayudarles a llevar su mensaje a la gente.

CONTINUACION

4. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Apoyamos un acuerdo con la Cadena Ecumenica que las causas economicas, politicas y sociales de inmigracion deben ser acentuadas en la educacion sobre inmigracion.

TALLER DE SALUD Y SERVICIOS SOCIALES

1. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Todas las instituciones de Salud y Servicios Sociales deben proporcionar sus servicios a quienes los requieran, sin importar su ciudadania.
2. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Apoyamos dar a los indocumentados los beneficios de salud y servicios sociales sin consecuencia s bajo la ley de inmigracion, pasadas o presentes.
3. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Desde ahora, que la forma MC-6 o sus equivalentes sean eliminados. (La forma MC-6 es usada en el sistema de servicios de salud para reportar la condición de inmigrante de una persona al Servicio de Inmigracion y Naturalizacion)
4. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Alto a la recopilación de informacion sobre la situación de inmigrante del paciente, usando para otros fines por el INS, o difusion de estos datos, en violacion del derecho de privacidad de las personas, y puesto bajo proceso legal en caso necesario.
5. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Creación inmediata de una línea de emergencia en todos los puertos de entrada para permitir tratamiento médico de emergencia, a fin de atender a los pacientes sin tener que esperar a que el INS determine si puede ser admitido en Estados Unidos o no.
6. QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO - Todos los proveedores de servicios sociales y de salud deben tener personal profesional, bilingue y bicultural, en proporción a las necesidades de la comunidad.

.....

Y FINALMENTE QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO APOYAMOS QUE SE EMPRENDA UNA CAMPAÑA NACIONAL PARA EDUCAR AL PUBLICO EN GENERAL Y A LOS POLITICOS SOBRE LAS CARACTERISTICAS DE DERECHOS HUMANOS, LAS NECESIDADES DE SALUBRIDAD Y LAS CONTRIBUCIONES DE IMPUESTOS DE LAS PERSONAS INDOCUMENTADAS.

ADEMAS QUE ESTA CONFERENCIA SEA ACENTUADA EN EL REGISTRO QUE APOYA Y FOMENTA A LOS GRUPOS DE LA COMUNIDAD Y GRUPOS POR TODO EL PAIS A IMPLEMENTAR LOS OBJETIVOS ESTABLECIDOS POR LA CONFERENCIA CHICANA NACIONAL DE INMIGRACION!!