

The death of this youngster that Ms. Filoxian mentioned was one of these boys who had come in, signed up with the crew chief. Not alibiing, but stating realistically, the citrus growers of Florida or anywhere are quite different in the way of policing than the tomato fields, where you can stand at the edge of the field and see everybody. You stand at the edge of a grove, and you don't see anybody. It is very difficult for the efforts made by agriculture when it comes to the grove to keep these young teenagers out.

They are reviewed only in cases of accidents, fatal or serious enough to require immediate medical attention. And this is increasing. If you would pick up these kids and plunk them in school, the next morning they are going to be gone.

That crew chief is not going to take them back on. That grower by then is going to have laced out all of his crew chiefs because, as Ms. Filoxian pointed out, the problems of suits today are very serious.

But, moreover, the majority of the time, people in agriculture are human beings that have a concern for the kids. And they are not recruiting these kids. They are flowing into the country.

I don't know what the solution is. But say you put one of these kids in school today, and they're going to be gone tomorrow. And you have nobody that you can hold responsible. I don't know the solution, but it's certainly one of increasing concern.

I believe, Madam Chairman, that you have a tighter schedule made by those who can't watch their clock. So I'm watching my clock, and I'll stop here. I could talk for another two hours, I guess, like any of the rest of us here. But that's my input at this moment.

Ms. Fisher. Thank you, Mr. Rollason. Hopefully, we can explore through questions more of what you have been saying.

We would like to hear now from Ms. Diane Mull, who is Executive Director of the Association of Farmworker Opportunity Programs, a national federation of organizations that provides farmworkers with employment, training, and other services through 450 field offices. She has worked on farmworker issues for more than 17 years and is a recognized expert on child labor issues.

Ms. Mull?

Ms. Mull. Thank you. I want to thank you for the opportunity to be able to come and talk about migrant and seasonal farmworkers here in the United States. I would also like to applaud the commission for its effort in examining the needs and the issues and concerns that affect migrant and seasonal farmworkers here.

Our association is made up of employment and training agencies or organizations who operate employment and training programs for migrant and seasonal farmworkers. They operate in 49 states and Puerto Rico.

Our population includes both migrants as well as seasonals. We also serve the total family, from the child through the adult; we focus the majority

of our services on employment and training for those who have dropped out of school, for those who are seeking alternative skills or want to improve their skills within agriculture or who are seeking alternative employment outside of agriculture. That gives you a little bit of background about the association.

I have been asked to talk about labor standard issues as they relate to migrant farmworker families and especially migrant farmworker children. So the majority of my comments today are going to focus on child labor and those children who are working in agriculture.

I am here to tell you today, as countless other people have before me and as the distinguished members of the panel have said, that the farmworkers', especially migrant farmworkers', health and well-being are at risk and that they are more vulnerable than any other occupational group in this country to exploitation, abuse, and discrimination. There are few labor standard protections for workers in agriculture and even less protection for the children who work in agriculture.

Children are a significant part of the agricultural workforce in the United States. As the United Farm Workers Union has estimated, as many as 800,000 children work in agriculture. Other estimates have indicated that 38 percent of farmworkers consist of women and children under the age of 14.

But whether a farmworker is an adult or a child, a migrant or a seasonal worker, I know of no other people in our society who work harder with as little protection from exploitation in return for so few opportunities and benefits.

Tremendous sacrifices are made in health, education, housing, and financial security by this population to provide an abundant supply of low-cost food, which we as a nation take for granted.

Beginning earlier in this century, there was a shift in our societal views in this country. As a result, we passed child labor laws to increase protections for children.

Society decided that it was no longer acceptable to us that the need for cheap labor by business warranted subjecting workers to hazardous and exploitative working or economic conditions.

Although children have been a good source of cheap labor, over time our society has committed itself to protecting children from neglect, abuse, and exploitation.

Our society has gone a step further and committed its resources to assuring that children are offered a fair deal, the opportunity for a brighter future, the right to a decent education, housing, safe housing, health care, and economic security.

We view our children in this nation as our future, not as a cheap, easily exploited source of labor; that is, unless you are a child born into a migrant or seasonal farmworker family.

And just how is it different for the migrant farmworker child than for other children? I heard Mr. Gross talk about what the laws are. One of the most confusing things about farmworker laws is that every time you take a look at

the labor standards, you take a look at the law, and it seems fairly simple for everybody. And then there's this big, huge "but," no pun intended.

This exception ends up being so convoluted and confusing that it's no wonder agricultural employers themselves can't figure it out. I appreciate your, Mr. Gross, attempt at this.

I'll give you from our perspective in a simple way what we believe the impact of these exemptions with respect to child labor law has had on farmworkers. A migrant farmworker child can be employed in agriculture even if they're younger than the age of 10. OK? A "fluke" in the law allows for a child younger than 10 to work in agriculture. No other child can do that.

Even without parental consent, 10 and 11-year-old migrant farmworker children can be used as hand harvesters if the employer gets a waiver from the Department of Labor. No other child can do that.

A migrant farmworker child under the age of 12 can be employed on a farm that does not pay minimum wage if the child has a written consent from his parent or person standing in place of the parent. No other child can.

A migrant farmworker child can work in agriculture more than 40 hours of week, even during the school term. No other child can.

A migrant farmworker child can work more than a 40-hour week, but is not eligible for overtime pay. No other child can.

A migrant farmworker child can work an unlimited number of hours performing agricultural services before school. No other child can.

And a migrant farmworker child 14 or younger can use knives, machetes, operate some machinery, and be exposed to dangerous pesticides, but no other child can.

Children who work in agriculture work long hours before, during, and after school. They're exposed to pesticides because they harvest the commodity. They may not be handling pesticides. Handling is classified as a separate activity from harvesting. If you're harvesting an agricultural commodity, you are exposed to pesticides, and these children are.

Do you know that there has been no research to determine what neurologic impacts these pesticides have on children? There has been none. Pesticides and the safety of those pesticides are determined based on the weight of what is safe for an average adult male 150 pounds or what is 10 times safe for an average adult male.

If you take a small child weighing about 50 pounds and they're exposed to pesticides at the same rate, that level of safety diminishes to where it is minimally safe for that child in that field.

The earnings that this farmworker child makes while they're working may never get credited to that child and may never show up at the point they go to hopefully seek retirement one day or collect their Social Security. It may not be there because in a number of circumstances these children work under their parents' Social Security numbers.

It shows up as fewer workers on the payroll. Therefore, the employers are able to be exempt from labor standard protections because they don't meet

the minimum number of 500 "man days" per calendar quarter. There are a lot of problems with this antiquated system.

Farmworkers are also generally exempt under the law from unemployment compensation, workers' compensation, overtime, federal minimum wage, benefits that most Americans take for granted.

Now, what impact have all of these years of exemptions under the law had on farmworkers? Well, we have already heard a few circumstances from people who have talked before me about what impact it's had, but I'm going to give you a few statistics, hopefully not to bore you to death with them.

School enrollments for migrant farmworker children is lower than for any other group in this country. The dropout rate for migrants is 45 percent. That's compared to 25 percent for the rest of the nation. Only one in 10 complete the 12th grade.

Eighty percent of adult migrant farmworkers are functioning at a fifth grade literacy level. Those adults are the people served by the Job Training Partnership Act, title IV, section 402 program, of which our members provide training services--that's the people that we deal with on a day-to-day basis.

That means we start with English as a Second Language. From there we go to literacy education. From there we can then start thinking about training, job training, skills training, then job placement. It's a very long and difficult process and it's a very expensive process.

Our organizations receive funds to serve approximately two percent of the eligible population, even though we have the largest and broadest definition of an eligible farmworker population of any of the 10 programs that were previously referenced.

What impact has all of these exemptions under the law had on health? Three hundred children die every year in agricultural-related accidents. Twenty-three thousand, five hundred are injured every year.

There are some other tragic statistics. Infant mortality is 25 percent higher for farmworkers. Parasitic infection, 11 to 59 times higher than for other U.S. workers.

Forty-eight percent of children working in the fields have been sprayed with pesticides while working. Childhood brain tumors and leukemia have been linked in two studies that have been done to pesticide exposure.

In a California study between the years of 1980 and 1989, 42 children under 15 died in farm-related accidents. According to the research, when they looked at this, they said that, actually, it was probably 25 percent higher than that because of the way the information was reported.

The life expectancy for a farmworker according to the Center for Disease Control is 49 years. That's compared to 73 years for the rest of the U.S. population.

So what are some of the economic impacts that these exemptions have had? The average income for a farmworker family is less than \$6,000, \$6,000. That's compared to \$28,000 for the average U.S. worker.

Agriculture has been defined as the most dangerous occupation. Yet, we continue to say that it's OK that children continue to work there and that it's acceptable under our laws to allow that.

Thirty-six percent, or, if we reverse that, 64 percent of workers are not allowed, are not guaranteed the right to have fresh drinking water, hand-washing, or toilet facilities under the current law.

Fifty percent, only 50 percent, are entitled to minimum wage. Only 14 states offer full workers' compensation coverage. And in 19 states workers' compensation coverage does not apply to agricultural workers at all.

In 15 states there are no job safety standards at all that are applicable to farmworkers. And only four states offer full unemployment compensation for farmworkers.

So you ask yourself, "OK. With all of these statistics, why do children work on farms? Why do the parents allow the children to work?"

Well, the answer is very simple. It's a basic necessity of survival. If you can't make a decent wage and you want to provide for your children and have food on the table, they need a place to live, everybody in the family has got to work to contribute so that the family can survive.

We in America have to allow a situation where farmworkers are forced to bring their kids to the fields so that the basic family can survive?

Why is that? Basically it is because the adults are not adequately compensated in their wages for the work that they do, and they do not have access to the same labor standard protections that other workers have that will help them maintain themselves above poverty. Even though they are working in difficult, hard work exposed to the hazardous conditions that they are exposed to, they have none of the benefits to fall back on that other workers in our American society have.

Farmworkers are the lowest paid occupational group. Their annual incomes maintains them in a forced poverty situation. The laws that we pass and the laws that we allow to continue to stay on the books, relegate this population to a continual cycle of poverty from generation to generation.

There's a common practice in agriculture, and that's piece rate payments. That means for every bit of work you do, you're going to be paid a certain token for a bushel or a basket.

Well, that piece rate system means that the more productive you are, the more you're going to make, so as a result, having your children there running, carrying the heavy bushel baskets helps, as you see in this picture, or having them go down and help harvest, as seen in the other photo or as described in the Fresno Bee article or in the five-part series on child labor in agriculture that was done by the Boston Globe.

There was a child 5 years old. The parents were working in the field, and the child was helping out--children learn behavior early--trying to help out the family, the child ran across the road to pick up some bags and was hit by a car and killed.

That was not qualified as a child farm-related accident. That was a motorized vehicle accident. That child was helping that family try to earn a living wage, even at the age of 5.

So where do the children play? They play in the fields. What's in the fields? Pesticide-related commodities. What's in the fields? Major combines, tractors, equipment of which they could be run over. What's at risk? Their lives.

What are we doing about it? Why do we allow this to continue? Well, I had said in the beginning of my comments that this was probably going to make a few people uncomfortable. Unfortunately, those congressional members are not here.

But I think a large part of the responsibility of all of this lies at the feet of Congress because what has happened is they have bought into the argument that we need to continue to have a cheap source of labor here in order to keep food costs down.

But there have been economists who have done research that has indicated that they estimate that farm wages account for less than 10 percent of the retail price of a head of lettuce or a pound of apples. Farmworker wages only account for a very small portion of the consumers' price for food.

So if we pay workers a decent wage, if we stop child labor--I mean, we have an adequate supply of laborers here. The U.S. Department of Agriculture and the Department of Labor have both issued publications in the near past, within the last year, that have indicated that we have a surplus of adult workers.

So if we have a surplus of adult workers, then why are we continuing to allow on the books laws and business practices that allow children or encourage children to work in the fields?

You know, I understand how this process works. I mean, I've been in Washington since 1981, which in terms of a lot of folks is not a long period of time. But I realize that whenever you come into legislation, compromises are made. And we all know what the true test of a compromise is: Everybody is unhappy.

But what has happened since I have been here, when minimum wage came up and there was a huge debate on minimum wage, farmworkers were not going to be discussed in that debate because of the fear that the whole bill would not be passed if farmworkers were brought in to receive minimum wage. So compromise was made.

Consistently down the line there have been laws which have come forward and because of the issue of agriculture and facing the powerful industry's lobby, farmworkers are consistently discriminated against under the law. And I'm not sure that you could really come up with another term for it other than "discrimination." They're discriminated against consistently under the law.

We have a whole laundry list of recommendations that we have made, those recommendations are provided within the text of my testimony. And I do

encourage each of you to look at those. I think that, in general, we must have education for the general U.S. population.

There have to be equal labor standard protections for these workers. And have them treated as every other worker. Force the agricultural industry to come into modern day. It's no longer the "Mom and Pop" operations the way it used to be.

There's this concept that agriculture is small business. Agriculture contributed over \$28 billion in 1991 to this economy. That's big business. That's not small "Mom and Pop" operations.

These are companies. These businesses have formed corporations, which protects the assets of the owners. So if the business goes down, the assets of the owner are not affected. These business people are also employees of their own corporations. So they're taken care of. But their workers are not!

As far as pesticide education, it is essential that the workers receive education about the pesticides that they are exposed to, about work safety and that it is communicated to them in a way in which they understand and that it is communicated in their language and that we fully fund all of the programs that are out there offering services to farmworkers, including job education, Migrant Education, Migrant Head Start, Migrant Health, the employment and training programs, and housing. These need to be funded at a level at which they can make an impact on the population.

And we need to change the laws so that we can break the cycle of poverty because eventually society is going to pay for it. We can pay for it now by changing the laws and treating this group of people like everybody else and stop the discrimination, the exploitation, and abuse, and then our society will benefit in the long run.

It's difficult for a nation to criticize itself when in full view of other nations and when so often we as a nation are seen as the champions for human rights, but I think this is, however, clearly a case where the United States needs to sweep on its own doorstep before helping another nation sweep on their doorstep to resolve the migrant farmworker problem.

Thank you.

Ms. Fisher. Thank you, Ms. Mull. You're exactly right. We need to look at our own house in the United States, which is why the commission has selected migrant worker issues as one of the key domestic issues that we need to address.

Before I open this up to questions from the floor, Ms. Filoxsian will just make one brief comment.

Ms. Filoxsian. Thank you.

I wanted to add to Ms. Mull's comments or her list there. There is a group of people that we should also consider when thinking about those who are exposed to pesticides in the farmworker community. That group is the unborn.

Women in the farmworker community work from their first trimester until giving labor. We have to consider the effects that pesticides have on those

unborn children. We also have to consider the birth defects among farmworker children.

And, Ms. Mull, I applaud you. Never have I felt so supported as a member of the farmworker community as I have hearing the extensive work that you have done to bring this to the attention of our government.

Thank you.

Ms. Fisher. OK. Let's hear from all of you now. If you have any questions, please step up to the one of the mikes and identify yourself, please.

Ms. Huerta. Hello. My name is Delores Huerta. I represent the United Farm Workers Union. And I just wanted to make some additional comments in terms of some of Mrs. Mull's statements.

Regarding laws that don't exist for farmworkers, one of these is the law allowing collective bargaining so that farmworkers can bargain collectively and form effective unions.

We do have that right in a couple of States, the State of California for one. And there is, of course, an organization in Hawaii. However, our laws in California have not been good because, unfortunately, there the political winds have blown.

The last two administrations, Republican administrations, have placed people in the enforcement of the act. And that has really gone more towards the employers, rather than the workers. So for the last eight years, we haven't really had enforcement.

A lot of these courses direct the way that the farmworker children live because when the farmworkers have a union contract, they have job security. They can't get fired. They will stay employed until they retire. They have time with the family. They have a decent wage.

And we have seen an immediate impact on the education of our farmworker children with the loss of union contracts because, again, lack of enforcement of the law.

Another point I wanted to make is that with pesticides, the children that are being poisoned by pesticides, it's not only in the field that the children are being poisoned, but also in the communities where they live because so many of these farmworker towns are located right near the fields.

They come home. They have been in pesticides out in the field. There are actually several consequences in California, one of them in Omar, California, where the cancer rate is 1,200 times the norm and one in McFarland, CA, where the cancer rate is 400 times the norm. When I think about this problem, I think about 12 children who have already died there of cancer.

Unfortunately, there has been a tremendous whitewash by our state administrations, where they have said that none of this is being caused by pesticides, but there is nothing else out there but agriculture that can affect all of these children.

In terms of educating farmworkers how to protect themselves from pesticides, you can't do it. There is no way that anyone can become educated

to withstand the harmful pesticides that are being poured on the fields right now just simply because the dosage is too high.

Not enough research has even been done to say whether it's safe for the adults or the children. There's no protection from the pesticide, which has got to be stopped totally.

By the way, there is an ongoing research project by Dr. Marion Moses called, I think it is, Pesticide Education Project that is ongoing.

The other thing I wanted to say that is very detrimental to children is racism, racism in the fields, because, basically, what you have out there is slavery in our fields right now. We have people living in conditions that are akin to slavery.

This racism exists not only in our poor communities, where they do not look at the workers as human, but as some kind of a tool, an implement. They don't see them as people.

Some work has been done in this area in the last 35 years or so. It makes me proud to say that things aren't all the same. The only place that we have any difference at all is in the areas where we have collective bargaining agreements. I would rather not say it, but this is as it has been for the last--how many?--50 years, 100 years in this country.

Racism is also extended to the schools. In most of our areas, we have very large minority populations, people of color. I won't say these are people of the minority because we are a majority in the work. But we do have the children of people of color.

The administration of the schools is still very much white. And there's very little sympathy for the problems that the children have, whether they be handicapped by language or other economic circumstances, the extreme poverty, the lack of adequate clothing, the lack of adequate nutrition. That simply does not exist there in the school administration.

A lot of the dropout rate that we have among migrant children and Latinos in general, about 60 percent, is due to racism and lack of attention from our schools.

I will make just one final comment. I'm also a member of the Commission of Agricultural Workers. We just issued our report the day before yesterday, and I would advise that everyone get a copy of that report, not just the executive summary, but the full report.

And please pay attention to the minority reports because our committee was pretty much slanted towards agricultural employers, although I must say that even the members of the commission recognized the situation that the farmworkers are in. But I would ask you to please also read the minority reports when you get the report prepared by all of the members of the commission.

Thank you.

Ms. Fisher. Thank you, Ms. Huerta.

Anybody else?

Mr. Goldstein. I'm Bruce Goldstein. I'm with the Farmworker Justice Fund. I have a comment for Mr. Gross, Department of Labor, and a question.

One of the reasons why child labor violations are not reduced more than they have been or reduced at all is that growers have increasingly in the last few years relied on farm labor contractors or crew leaders to recruit higher and pay farmworkers. One of the reasons they have done this is because the growers think they can insulate themselves from liability for the child labor violation.

The Department of Labor has taken a very weak stand under the law. The Migrant and Seasonal Worker Protection Act actually makes most employers liable for the violations of their crew leaders because they should be deemed to be joint employers under the law, but the Department of Labor has been reluctant to find that these employers are joint employers with the crew leader and have used its limited resources to go after crew leaders, rather than after the employers as well. Ordinarily it's the employers who have the resources.

If the employers were aware that they were likely to be held liable for these violations, they would probably stop using crew leaders. And they would probably make sure that any crew leaders that they did use would not be committing these violations. There are some simple ways for the Department of Labor to discourage these kinds of violations.

The question I have is about the resources that the Department of Labor has put to bear in child labor and in agriculture generally. Mr. Gross indicated that there are about 800 wage and hour investigators nationwide, including both agriculture and nonagriculture.

My understanding is--and I would like to be corrected if this is not accurate--that there are about 26 farm labor specialists across the country.

Many of the wage and hour investigators are just not familiar with the special situation in agriculture, while 26 farm labor specialists across the entire country to investigate and prosecute wage and hour violations just is totally inadequate.

In fact, our reports from around the country are that some of the farm labor specialists are not even spending full time on agriculture. So there has got to be a redirection of resources within the Department of Labor.

My understanding also is that in the last four years, the number of investigations and the amount of time spent by investigators in agriculture on the Agricultural Worker Protection Act have decreased by about 35 percent.

So at a time when problems seem to be getting worse, the Department of Labor has spent even less time and fewer resource on this problem. So I hope that this commission will be able as part of the solutions it advises to look at the resources that have been brought to bear and the policies that have been followed by the United States Department of Labor.

Thank you.

Mr. Gross. I want to just comment on your question. I don't have the statistics with me. And I'm sure that the hours spent in agricultural

enforcement have declined over the last three years and that our numbers of investigators have declined substantially in the last couple of years as well. So throughout all of the programs that we enforce, there is probably a decline in the number of hours just simply because we have fewer people to enforce.

Relative to the question on joint employment, I think that that is an area that we look to in all of our investigations to try and establish a joint employment relationship.

Our primary enforcement is against the immediate employer or the farm labor contractor, but where we can establish a joint employment relationship, we will go after the grower if we can establish that joint employment relationship.

Relative to child labor, I think one of the areas that we are looking at right now and better targeting perhaps in enforcement of child labor in agriculture is the question--and we don't simply know this right now--of whether it might be better not to focus our enforcement efforts on farm labor contractors, although we know that there is substantial abuse of the Migrant and Seasonal Agricultural Worker Protection Act relative to certain farm labor contractors. And we have focused our agricultural enforcement effort in recent years on those worst violators.

It may be that by focusing on those worst violators, we may not be focusing really on the employment of minors in agriculture. It may be that those worst violators for other purposes may not be the primary employers with minors. And so we are looking at whether we ought to redirect our focus when we are looking at child labor in agriculture.

We have talked to various outside groups. I think we have talked with Ms. Mull and with the Department of Education to try and build a better mechanism for deciding where we look to enforce child labor in agriculture.

Ms. Fisher. Thank you, Mr. Gross.

Yes, ma'am?

Ms. Bobatec. I am Bea Bobatec, the Migrant Legal Action Program. And my question also involves enforcement.

I have seen statistics over the years of all sorts of housing inspections, grower inspections, farm labor contractor inspections, OSHA inspections. I wondered if you could detail exactly what the Wage and Hour inspection does include because you've mentioned it does include child labor violations.

Could you sort of run down a list of what one of these inspectors actually does when he gets to his place of inspection or whether, in fact, he does it on site or whatever?

Mr. Gross. The two basic laws that we enforce relative to agriculture are the Migrant and Seasonal Agricultural Worker Protection Act and the Fair Labor Standards Act.

Under the Migrant and Seasonal Agricultural Worker Protection Act, there are provisions where housing is provided, that it must meet the standards that are established.

And we do pre-occupancy housing inspections. There are other agencies also that do pre-occupancy housing inspections. When we go on to do an investigation of a farm labor contractor or an agricultural employer, if housing is being provided, we will also look at the housing at that time to make sure that it meets the minimum standards required by the regulations.

We will also look to see that the employees have been properly notified of their wages that they are to get that is required by the MSPA. We will look to see that they are paid the minimum wage. And we will look to see whether there is any illegal employment of minors.

We do that in various ways. We inspect the records. We talk to the employees. And we interview the employees not only with respect to their own employment, but also with respect to their coworkers. It's primarily through interviews with the employees and the workers in the fields that we identify and establish those violations.

Once violations are found, there are provisions for civil money penalties, not only for violations of MSPA, but also for violations of the child labor requirements.

And those civil money penalties will be assessed if there's a farm labor contractor, against the farm labor contractor or the agricultural employer if we can establish that there is a joint employment relationship between the grower and the farm labor contractor.

In addition, if there are minimum wage violations, we will seek recovery of the minimum wage violations.

Ms. Fisher. Would anybody else care to comment?

Ms. Filoxian. Yes. I would like to comment on what the attorney from the Farmworker Justice Fund said about the crew leader system. That is basically the reason for a lot of the problems that farmworkers have.

The solution to that is to eradicate the crew leader system. Make the grower directly responsible for the workers. Make the grower responsible for the hiring and for the paying of the worker.

Tropicana does not hire any workers. Tropicana simply purchases the fruit from a grower. The grower is responsible for hiring a contractor, who is responsible for recruiting labor and paying the labor. When there is a violation against the rights of these workers, there is the biggest case of passing the buck you have ever seen.

In 1972 Coca-Cola signed a contract with the United Farm Workers Union. Those workers enjoy nine paid holidays a year. They have emergency sick leave. There are no crew leaders. They have a hiring home.

Coca-Cola is directly responsible for the conditions of these workers, for the working conditions. These workers are guaranteed a flat minimum rate for picking, and these rules are enforced.

Now, obviously, all of the farmworkers in this country are not going to be organized or can't be organized and can't work for Coca-Cola, but we can make the growers responsible. That is where the responsibility should fall, on the grower.

Obviously, they have a personnel department because they have other people, other than the workers working for them. You hire them. You pay them. You are responsible for paying into workmen's compensation. You are responsible for the wages.

Illegal deductions, anything that goes wrong, any labor violation is the growers responsibility. You will not pass it on to Joe Blow, who recruited this labor or who is working these people under horrendous conditions.

Make the grower responsible is a solution to some of the problems that the workers are having in the fields.

Ms. Fisher. Thank you.

I also have a question for Mr. Gross, but I want to give you a little bit of a rest. I would just say that while the Department of Labor may be under criticism here, it is not directed at you.

I have met many dedicated people, your colleagues at the Department of Labor, who are committed to trying to get some of these laws changed and to try and get more funding and to try and get more enforcement officers out in the field.

The Department of Labor officers that I have met out in the field seem whipped because until the administration directs, as national policy, that these abuses be corrected, Mr. Gross and his colleagues are fighting a hell of an uphill battle.

Now I want to, if I may, take the chairwoman's prerogative and move a little bit here to education. I was interested, Senator Perry, in what you said about the under-identification of children.

It's clear that we've got a number of programs that seem to be very worthwhile and aimed at correcting problems. There appears to be a lot of money spent here.

I'm wondering if any of these programs are specifically aimed at identifying the children and getting them into the schools. Is it as simple as just going to the parents at night and finding out how many children are in those camps and getting a bus to get those kids to the school?

Senator Perry. I think I would refer to Frank to sort of describe, if you could, what goes on. I don't know all of the details, but that's part of it. You do go to labor camps. But it's a matter of it's probably a little bit different in Texas than it is in New York. I'll put it that way. Maybe Frank could give a better--

Dr. Corrigan. Well, there are a variety of ways in the states. And, as Jack's comments referred to, the efforts that they put out vary because of some of the formula considerations that direct their attention, both to formerly migratory as well as currently migratory children.

But it runs the gamut. The kinds of identification and recruitment activities that go on include individuals who see themselves not only as individuals working for those local programs or the state, but also as advocates for the families. They will try to connect them with other services in other programs, Migrant Health and Migrant Head Start and a variety of others.

So they are out among the workers. Many times they are individuals from the migrant camps themselves. Other times they are people who are working for the local school system or for the state education agency. And this again is a case where funding has some implications for them.

Some of the small states in the reference that Senator Perry made before to the funding question is the states with small programs find themselves in the difficult position sometimes of having identified youngsters and families that are in need of services.

And, yet, the amount of funds that is generated for those families is so small because of the numbers in the state overall that they may find themselves with just enough money for identification and recruitment and not enough for some of the services.

But the bottom line is that they have--I don't know--an array of approaches that the states use for identification and recruitment that include working right out among the families and with the children and, as I mentioned, the Stopover Site.

Hope, Arkansas is an example. They try to identify families as they're moving through the state that will be going to other states. Where are they going? Many of the families go to the same areas in the country from year to year.

And, as was mentioned before, the home-based states try to do a good deal of work in some cases now of actually having teachers, counselors, and others work with the school systems in the receiving states to try to address some of those needs along the way with summer programs.

Another example, too, they're using technology, like distance learning, to have teachers in Texas teach the students during the summer month in the states like Wyoming, Montana, things like that as a part of the process.

So identification and recruitment do include an array of activities and services that begins with just finding the families and then, secondly, trying to hook them up with other services beyond migrant education.

I don't know whether that answers your question.

Senator Perry. I might just comment that I think, Frank, you should comment on industrial surveys in the briefest way possible.

Dr. Corrigan. All right. Very quickly, industrial surveys are another way in which because of the definition in the statute if the work is temporary and is defined as such, one way that it can be done is through a survey of industries and like jobs in an industry so that even though a person might suggest initially that they're coming to a job and plan to stay there for a long time, if a pattern as established by industrial surveys develops where many of the jobs are, indeed, temporary, then, in fact, that state through their employment statistics or through an industrial survey specifically aimed at certain deals, like meat-packing plants and others, may prove to be temporary in nature. And then the children would be eligible. Their families would be eligible for migrant education programs.

Senator Perry. The reason I wanted Frank to do that was that, as Wendell points out, there is a means of cooperation with the agriculture interests or early childhood services. At least he has been able to accomplish that in Florida.

This is another area where there could be a cooperative venture with the meat-packing industry, with growers in various parts of the nation to have them help identify or work with the migrant education programs to help identify people.

It doesn't do the growers or the meat packers any harm. It would enhance the Federal funds available to educate the children of their workers.

And it seems to me it's a nice combination that goes on in some areas. But, once again, it's one of those things that needs a higher visibility to bring together the community of farm labor and migrant labor.

Dr. Corrigan. Just an added comment, too, about the recruitment. Florida is an example, but a number of other states do conduct joint identification and recruitment.

They use a form where each agency, labor, health, and education, can, in essence, share information with attention to privacy considerations, of course, so that individuals can be referred to the several programs.

So joint identification and recruitment does go on in a number of the programs around the country, too.

Senator Perry. It's a big problem.

Dr. Corrigan. Yes.

Senator Perry. A lot of funds are expended on it, which is another question for the Migrant Program, whether or not they should be identified every single year.

Some states estimate they may spend 10-15 percent of their grant on recruitment. Then they have to go out and do the same thing again next year and maybe sign up many of the same children.

This is a reauthorization issue possibly, but maybe it should be conceived that once identified, they should be eligible for two or three years or something. So that then recruiters could concentrate on the currently migrant.

Ms. Fisher. Yes, ma'am?

Sister Gross. I would like to say amen to that, Senator Perry. My name is Sister Adela Gross. I work with the United States Catholic Conference. I have worked with migrants, and I have been involved with migrant education for about 17 years on some level or other. I worked as a recruiter. I've worked as a teacher.

Having been involved in work at the church level, where you are a bridge for all of the agencies involved with migrants because you're the one person with whom everyone has contact and probably they have confidence, I would like to say that they are the most over-surveyed and the number of forms that--each year when migrant people arrive, every agency has to come out and do surveys and so on.

And I want to say a word for the small states because that's where I have been involved. We don't have labor camps in the Midwest to a great extent.

Migrant people are scattered over very, very large areas. Tremendous amounts of distance are involved in finding children, in bringing children to the migrant school programs.

I had the occasion to find children in families that are very, very far from the school site and then having found that the school was unable to send a bus to pick up those children because the funds aren't available for that.

So I know what you are talking about when you are talking about the need for less monies to be spent in the recruitment and more monies to be spent in the area of education itself.

I think anything that we can do to coordinate the efforts of all of the agencies, to reduce the amount of paperwork and questionnaires and all of the rest of that would be well worth our efforts.

Thank you.

Ms. Fisher. Thank you, Sister.

Yes, sir?

Mr. Johnson. I am Leon Johnson, Chairman of the Governor's Commission on Migratory and Seasonal Farm Labor in Maryland.

I grew up on a farm. I've been a county extension agent for the last 37 years. And I'm familiar with farming and all of the problem associated with farming. There may be a few that I'm not familiar with, but it's not many.

When we're talking about farm labor, especially migrants, I think we really have to look at the power of a migrant laborer. Migrant laborers are basically politically powerless. The farmers that hire migrant laborers are powerful. You do not find someone hiring migrant laborers that do not have any power.

Sometimes they are the county commissioners. They may be in the House of Representatives or they may be a state senator, but they have power if they are not in an elected position.

Now, in the State of Maryland in the mid '80s we had and we still have the largest camp that's been identified on the East Coast. That's in a place called Westover, MD. I live only five miles from that camp, and I have seen the deplorable conditions. Some of the conditions still exist.

Back to the Washington Post. In the mid '80s the Washington Post had five front page articles, and we were able to get some changes made in the State of Maryland.

It's good to have hearings, but unless we can get the news media and other publicity behind us and supporting us, I think we are spinning our wheels and are not going to get too much done.

We have also been able to get the Federal judge in Baltimore City to make a ruling on who is the employer. The Federal judge ruled that the farmer and the crew leader are joint employers and they are responsible for the

migrants. So I think if we could get that information out across this country, we could share that some things are being done.

Now, that was a District Court judge. It was not the Supreme Court. So we may have to get this a little further, but the State of Maryland cannot do it all by themselves. We need some help.

Thank you.

Ms. Fisher. Thank you, sir.

Mr. Gross, may I ask you a question now, please? Is cane cutting among the hazardous occupations mentioned previously? For instance, can children go out into the fields and cut cane?

Mr. Gross. No, I do not believe it is one of the hazardous occupations. I can check on that to be sure, but it is my understanding that it is not.

Ms. Fisher. How is that list developed? Do you make recommendations to the Secretary of Labor? How is that?

Mr. Gross. It is developed through the rulemaking process. All of the hazardous occupations are part of the regulations. And so to either add or delete any hazardous occupation would require a notice and comment rulemaking in which if we were adding a hazardous occupation, we would need to make a record to indicate why a particular occupation was hazardous and go through notice and comment.

After analyzing the comments, if it supported the record that the occupation was hazardous, we would implement the rule.

Ms. Fisher. So the department really can initiate that review?

Mr. Gross. That's correct.

Ms. Fisher. Do you do that for occupations that you consider hazardous or for areas of work?

Mr. Gross. The hazardous occupations in both agriculture and in nonagricultural employment have not been substantively modified for some time. We have made some minor modifications to the nonagricultural hazardous orders recently, but those were mostly in the form of clarification.

There has not been a major substantive change in those regulations for some time.

Ms. Fisher. Thank you.

Mr. Rollason. Madam Chairman, in your question, are you indicating that you have had testimony of children cutting cane?

Ms. Fisher. No. We have not had testimony of children cutting cane per se. I do know that children are in the cane fields.

Mr. Rollason. Because in Florida the qualifications of endurance and physical and mental that you have to meet would certainly preclude any child. That's never been an issue that I've known about. So that's what I wanted to ask.

If I may, Madam Chairman, I would like to make one comment to Dr. Huerta. I certainly, Doctor, have admired over the years your persistence on behalf of the health and welfare of farmworker children.

I just want to take this opportunity to tell you how I view you. I have never been a strong union person, but I certainly have admired your years of devotion. I'm sure you could be in the several hundred thousand dollars a year bracket but for your heart. I want to thank you.

Ms. Filoxian. Madam Chairman, on the issue of the cane cutting, you might point out that the reason the children aren't in the cane fields in the State of Florida is because the sugar growers in the State of Florida don't use domestic laborers. They import their workers.

The way those workers are selected is that they're examined. They're asked to bend over. The muscles in their back are felt, much like being on an auction block. Their arms are felt. They're examined for strength. And then they are selected, and they're boarded on an airplane and brought to Florida to harvest the sugar cane.

They're required to cut one ton per hour. No child could do that, and no domestic worker will do it for the wages that they are paid. And they are under a very strict contract. If it's broken, they're sent back to Jamaica.

I would suggest all of you if you get a chance to see Stephanie Black's video "H2 Worker."

Ms. Fisher. Thank you.

Yes?

Dr. Zalar. My name is Dr. Mary Zalar. I'm a past Vice President of the American Medical Women's Association and currently the Chair of the Human Rights Task Force at the Women's National Democratic Club.

I would like to address two or three specifics to Ms. Mull. Regarding the infant mortality rate, do you know what the etiology is of that 25 percent infant mortality rate? Is it prematurity? Is it congenital birth defects of some sort?

Ms. Mull. I can refer you to the source of where we extracted that information.

Dr. Zalar. OK. The second question, is there any sort of identification of pregnant women farmworkers? And if there is, is there any limitation on their ability to work in the fields? I'm thinking of pesticide exposure in the first trimester.

Ms. Mull. There are no limitations under current laws or under the EPA's worker protection standards that would limit a pregnant woman from working in the fields. However, I could not speak medically because I don't have that kind of medical background myself. I can refer you to individuals, but I do know that certain pesticides are known to have an impact on--

Dr. Zalar. Neurological.

Ms. Mull. The neurological impact.

Dr. Zalar. OK.

Ms. Mull. The impact that pesticides would have on the fetus? There are individuals who are much more knowledgeable than I.

Dr. Zalar. No, I wasn't asking you to address the specifics of that type of thing.

The last question, one of your statistics alludes to the rate of parasitic infection. I was just wondering if--I hope I'm not getting too picky. Are there one or two parasitic infections that sort of are a higher incidence than any of the others?

Ms. Mull. These are reference to water, around the water.

Dr. Zalar. Water. OK.

Ms. Mull. Water is the major source of parasitic infection, as I understand.

Dr. Zalar. OK. Thank you.

Ms. Fisher. Would any of the panel care to make any other final comments before we conclude?

Ms. Mull. I would just like to make a couple of comments. I think one of the issues that has created a lot of problems for farmworker programs that are trying to serve farmworkers has been the inconsistency in the definitions that have gone across the program lines. The Migrant Education Program, when they talk about former migrants, under our definitions that's a seasonal farmworker.

Certain groups in meat processing and in other types of processing within migrant education are eligible under Migrant Education, but under other programs, they are not eligible.

Under Migrant Health and Migrant Head Start, they aren't able to serve seasonal farmworkers, which by most of the description that you find here, really, it's an occupational issue.

If you are a farmworker, whether you're a migrant or a seasonal, you are still faced with the same problems as other farmworkers. Migrants do have additional special problems because of their migration patterns, their moving from one area to another, and the impact that that has. But as an occupational group, farmworkers overall are affected.

Ms. Fisher. Thank you.

Senator Perry. I might--oh, go ahead, Wendell.

Mr. Rollason. I just want to comment on the same line as the distinction of the current and the former. We find in the public schools records that there's an infinitesimal difference between the educational accomplishments of both groups because, obviously, the damage that has been done in the migrancy, just because the family has found that they can make it in one area, it takes years to undo what the small children have already had done to them by the fact of migrancy.

Thinking that we can just say, "Oh, well. This child is now stationary, and his or her troubles are over" is far, far from the truth.

Senator Perry. I would just again refer to this report by the Administrative Conference of the United States Coordination of Migrant and Seasonal Farmworks Service Programs, which came about at the request of the commission on which Wendell served, and the issue of definitions and what is a very important issue.

What they suggest is that if there were some coordinating body put together under the statute, they should be very precise, with a charge to look at one, two, three, four, or five things and then maybe go on to other things, but one of the first things is to look at this whole definitional issue.

Ms. Fisher. I'd like to thank all of you for coming and thank all of our panelists. As we have heard, there seems to be some positive progress in the area of education.

A lot more work needs to be done, but it does seem to be an area where there is some cooperation between the growers, the government, and the workers. We need to build on that positive approach and try and work through the Congress in those areas where positive work is being done to push that forward.

On the other hand, it seems as though in regards to child labor, there are gross violations occurring and a consistent pattern relating generally to programs serving migrant workers. That is a lack of funding, lack of enforcement, and lack of political will.

It's hard not to get outraged and passionate about this issue, but we must work for solutions. There are so many thoughtful people and intelligent people working in this field trying to arrive at those solutions.

Ms. Filoxian has mentioned Coca-Cola as being a firm that has done a lot of positive things. We need to find that not every firm is the bad guy in this. There are a lot of companies in this area who are doing positive things.

It would benefit all in the advocacy field to put the pressure on Congress and the administration to build on the strengths and correct the weaknesses. So in our next briefing we will look at solutions.

Thank you all for coming.

[Whereupon, the foregoing matter was concluded at 12:28 p.m.]

FARMWORKER WOMEN'S ISSUES

Monday, March 1, 1993.

Washington, DC

The Commission met, pursuant to notice, in room 2226, Rayburn House Office Building, South Capitol Street and Independence Avenue, NW., Washington, DC, at 3 p.m., Jane S. Fisher, Deputy Staff Director, presiding.

Forum panelists: Trini Gamez, Emma Torres, Leticia Maravilla, Hazel Filoxsian, and Catalina Broyles

Ms. Fisher. On behalf of the Commission on Security and Cooperation in Europe, better known as the Helsinki Commission, I'd like to welcome member of the National Farmworker Womens' Advocacy Council.

This briefing today is part of the Helsinki Commission's ongoing series of briefings designed to examine the broad range of issues affecting migrant workers. Testimony given today, as well as the question and answer period, will be part of the Commission's final report, part of the official record.

Our final briefing, which will likely be held next month, will focus on solutions to problems facing farmworkers. Today we will hear from several women from different parts of the United States, on aspects of health care and other issues.

I think that we'll start with Ms. Torres, who is from Arizona. There's no bias here just because that's my home state. Ms. Torres will discuss farmworker health issues.

Ms. Torres. Thank you very much.

Good afternoon, everyone. My name is Emma Torres, and I come from Arizona. I represent farmworkers from Arizona and California, I would say, since we are a home base for migrant farmworkers.

In this group, we have come about, thanks to the Farmworker Justice Fund. There are representatives of nine states and Puerto Rico. By all of us gathering, we have found out the problems of migrant farmworkers are similar or the same, we might say. It doesn't matter where they're coming from or what the state is.

We have decided that we would speak in representation of all of the group in regards to different topics. My responsibility today is to speak about health. And then from then on, each of my companions here will take their turn.

All the migrant farmworkers are the ones to put the food on the tables of this country. They are the group that has been the most ignored and neglected, especially in regards to health care.

This group is--I don't know if I'm just saying it because I come from that background. It's the group that works the hardest. And it also has the highest rate of work-related injuries. But, again, they're the least protected in regards to health insurance and medical care.

We have been seeing that this problem has been going on and on for years and years. And we are tired of that. We have seen how our people are getting sick with pesticides. We are seeing how our children are getting sick with gastrointestinal diseases, how our older migrant farmworkers get tuberculosis, diabetes, all the problems that are silent killers, I would say, and many times is just because of the work that they perform and the living conditions that they have.

Migrant farmworkers, again, have been always neglected. And they don't have a voice. It seems like nobody listens to them. So that's our hope today. We are here to represent them from all the nation. And we want to become a voice for them.

Thank you very much.

Ms. Fisher. Ms. Maravilla? Ms. Maravilla is from California, and she will speak about farmworker exposure to pesticides.

Ms. Maravilla. (via interpreter) Good afternoon. My name is Leticia Maravilla, and I'm a farmworker. Thank you for inviting us here to be able to speak to you today.

We're here to bring a message regarding pesticides, to inform you how this affects our diet and our daily living for those of you who don't understand or don't know.

For those of you who don't understand, our children are affected by the use of pesticides, just like your children are, but only more so. Our children work and play in the fields. Your children eat the foods that come out of those pesticide-treated fields. And you need to learn something about this. We hope through this effort to be able to express to you the truth regarding this use.

The threat posed by the use of pesticides is very important because it affects all of our communities, especially because many women farmworkers lose their children before they are born.

I have passed through many areas of California where we have seen the impact of pesticides, where there are women who are incapacitated by heart problems, by diabetes, by vision problems, and this is because they work in the pesticide without adequate protection.

The reason we have come here today is we are tired of losing time visiting the state governments because they have been unable to adequately protect us.

We have got very important cases in California where children have been born with birth defects as a result of the pesticides. This is the reason that

we have all come here today, that you take immediate action regarding the use of pesticides.

And we hope that the decisions made here will in the end assist us because we form the base for all of us here because the farmworkers depend very much on the money that you all spend on buying vegetables and farm products.

Thank you.

Ms. Fisher. Thank you, Ms. Maravilla.

Now we will hear from Ms. Gamez, who is from Texas. And she will discuss housing issues.

Ms. Gamez. I am Trini Gamez from Hereford, TX.

Just like my sisters here, I feel like that the farmworker from the beginning of this nation has been the backbone of the country because we put the food on the table. And we have been the most ignored and neglected group.

Our people work under very stressful jobs with no affordable housing, sometimes with no housing at all. You can go to west Texas and find people camping out in the fields in the summertime and living out of their cars.

The field sanitation is not enforced. Therefore, the health problems are many, just as Ms. Torres and Ms. Maravilla have already expressed, because of the pesticides.

They have to live in shacks. They have to live in the parks sometimes. And they will have to go out to the service stations to use the bathroom. That's how bad it is.

And we are here because we want everyone to know the conditions that the farmworkers have to live under and being underpaid, not being able to afford to go to a doctor because if they go to the doctor, they don't have money, they cannot be treated. Then the questions are asked, "Well, why didn't these people come to see a doctor on time?"

And there are many, many problems facing our farmworkers today that have not changed from the '30s, '20s and '30s and '40s and '50s. The problems are still there. And we are hoping that now with this new administration, things will change.

I think that if at least our farmworkers are paid what they should be paid, they would not have to have their children working in the fields because if their parents could earn enough to make a living, then they could afford to pay a day care center or baby-sitter and live just like the rest of our society.

Thank you.

Ms. Fisher. Thank you, Ms. Gamez.

Ms. Filoxsian is from Florida and will address issues of justice for farmworkers.

Ms. Filoxsian. I guess in closing the whole issue is telling you that our problems are many, but the root cause of our problems is a lack of justice for farmworkers in labor.

The abuses by the crew bosses are rampant. We have crew leaders who work their crews under the gun, and I mean that literally. We have contractors

who have senior citizens confined to labor camps enclosed by six-foot chain link fences topped with barbed wire. These citizens are worked seven days a week and are paid in two-fifths of wage and a carton of cigarettes.

We have contractors who force workers to ride in vans that have no seats, no safety belts. One in particular--I don't know if you've ever heard his name--Willie Lee Simons, in 1991 forced 11 workers into a van en route to work at a horticultural job.

A rock truck ran a stop sign and broadsided the van. These men were forced to sit on boards thrown across cinder blocks. When the van was hit by the truck, it flipped about four times. Those blocks and those boards were like missiles.

Four of those 11 men died. The other seven were severely injured. One lost hearing in--I don't know right or left ear, but he lost his hearing in one of his ears. They suffered broken bones.

They were forced back onto the labor camp to live with the contractor. They were charged double the cost of their medical prescriptions once they were filled. They were charged to be taken to and from the hospital for examinations and for the doctors to keep seeing them.

On that same labor camp, as I mentioned to another group this morning, there is a cab of an 18-wheeler. Inside that 18-wheeler, chained inside, I might add, is a Vietnam veteran who is worth over \$1,000 a month to the contractor in veteran's benefits. And he's only let out when those benefits arrive so he can go to the bank and sign them over.

There is no justice in our labor. And the work we do, it's a thankless job. It's not a demeaning job. Ours is hard, honest work. But it's a thankless job.

It seems that for every dinner the citizens of this country enjoy, that's the less farmworkers are thought of and appreciated. And that does not help us at all.

In 1956 on a labor camp in Belle Glade, FL, a 6-year-old girl was raped repeatedly by a contractor. Twenty-eight years later that same girl was on a labor camp in Wilson, North Carolina and held and forced into sexual slavery, right here in the United States of America. There was no justice then, and there is no justice now.

The crew bosses and contractors or crew leaders illegally deduct wages from the workers' pay. There is no justice in that. There are laws that would protect us against that if there were enforcement. There is no enforcement. So there is no justice.

The disclosures that we are required to get about our pay, about the locations of our jobs, what we will be doing, whether the fields have been sprayed, what is the time limit before reentry into the groves, many of us have asked our crew leaders for those papers.

Many of us have asked for receipts for our pay with our hours noted on it and the Social Security deduction noted on it. And those of us who did ask were looking for another job the next day. There's no justice in that.

And I guess what we are here to tell you is that until we, the farmworkers of this country, are viewed as something other than second-class citizens and given the justice that the rest of this country takes for granted and that etching into the Supreme Court Building includes those of us who make up the farmworker portion of this population, then our problems are going to continue.

Unless we can really salute the flag of this country and say "with justice for all" and have that "all" include the farmworkers of this country, those of us who set the tables of America, our problems will go on.

And 50 years, nearing 50 years, after Edward R. Murrow's documentary on "Harvest of Shame," the only thing that has changed for us is that those that were alive and able to work when that documentary was made are not now and have absolutely nothing to fall back on.

We can't retire from our work. We have no pensions to count on. And only if we are very lucky can we go apply for Social Security and not be told that ours was a nonworking number. There's no justice in that either.

Thank you.

Ms. Fisher. Thank you, Ms. Filoxian.

And, finally, but not least, we will hear from Ms. Broyles, who will talk about child care and education for farmworker children.

Ms. Broyles. (via interpreter) I would like to say that the children from several weeks after they are born are out in the fields. So there they're picking up all of the pesticides which are sprayed over the fields. Also they live in cars or the families are forced to live in those ditches.

Also I experienced discrimination when I was growing up. The people who are in charge of bringing us to Head Start, it appeared it wasn't important for them to assist us.

What happens in the schools is that children are moved from one room to another. And they're removed from school after they have actually not learned anything at all. For that reason, many of our young women leave school.

Also many of the young women have been abused sexually by the men who are in charge, by bus drivers. Also they're punished if their mothers don't know how to read because if you can't read, you can't accurately fill out the necessary papers. And the children are punished by not allowing them to eat for several days.

Also for the farmworker children, in some schools they're only giving them cookies and water to eat instead of proper school meals. And so the discrimination continues and continues.

What we don't want is for our culture to be taken from us. We want our children to get more attention in the schools. We don't want our children to be left alone when they are coming home from school because they can be sexually abused then.

And there are some children who are manifesting lesions which are the result of pesticide contact. Children have been born with brain damage or

without brains, without the top of the head. And that's why we want justice for our children.

Thank you.

Ms. Fisher. Thank you, Ms. Broyles.

Well, we have heard in a nutshell many of the problems that we have been hearing over this series of Helsinki Commission. Farmworkers have little or no access to our justice system, and laws designed to protect them, although sometimes adequate are often not enforced. In other cases, migrant workers are excepted from laws that apply to everybody else. They also face discrimination and often lack adequate health care, day care, and education.

Are there any questions of our panelists?

Ms. Filoxsian. I would like to add something, if I may. There was a bill that Congress wanted, some members of Congress would have passed. I believe it was about a year ago. And I knew it as the Stenholm-McCullom bill.

Just to make a point about the justice for farmworkers, they would limit the service of the Legal Service attorneys, which are the only legal representation that farmworkers can afford.

They would have tied the hands of our legal representation in the course of law. The Legal Service, our attorneys would not have been able to continue in the outreach service that is so important to farmworkers when they go into the labor camps. They would have put a stop to the outreach.

And this was probably the most outrageous thing that could have happened to us. To show you the lack of justice for farmworkers is to be represented in a court of law by an attorney who can only go so far on your behalf.

Ms. de Anda. If I may, my name is Irma de Anda. And I would like to add a little bit on child care. I come from the State of Oregon, and our funding has been cut back a lot on child care.

In our city or in our county that I know of, there's only one day care facility. This is to service all the migrant people that come up to Oregon and the seasonal farmworkers. It is located 20 to 30 miles away.

How many of you mothers would feel comfortable leaving a child there at 5 o'clock in the morning and having to go pick up that child maybe at 3 o'clock when the center closes or maybe at 6?

What happens if that child gets sick? If you're working out in the fields picking apples and pears, which a lot of us women have to do during the picking harvest, what happens to that child?

It's happening. It's a living reality where I come from. I don't like my baby being that far away from me. Because of that last year, a child was out in the orchard, and it was run over by a tractor. Its head was run over by a tractor's wheel.

It's happening. Let's stop it. You can do something about it. Pass laws. Give the funding. We need it.

Ms. Filoxsian. Enforce the current ones.

Ms. de Anda. I don't want this baby out there, and I'm sure that you wouldn't want your children out there, too. Please help us. We need your help.

[Applause.]

Ms. Wilk. My name is Valerie Wilk, and I work with the Farmworker Justice Fund, which is sponsoring the Farmworker Women's Health Project, and now the group has changed the name as to the National Farmworker Women's Advocacy Council.

I would like to introduce the women who are not up front and have them stand and turn around if you would like to say your name and the state that you're from. Do you want to start here with Blanca?

Ms. Moreno. My name is Blanca Moreno, and I come from Apopka, FL. I'm a worker in a plant nursery.

Ms. Macias. My name is Marina Macias, and I'm from California and represent the farmworkers and the voice of the farmworkers.

Ms. Barreras. My name is Dora Barreras, and I am from the State of Washington. And I'm a farmworker.

Ms. Sirirathasuk. My name is Pang Sirirathasuk. I represent Pennsylvania.

Ms. Velasquez. (via interpreter) My name is Vicenta Velasquez. And I come from Toledo, OH. And I used to be a farmworker, but I still help migrant laborers.

Ms. Jimenez. (via interpreter) My name is Carmen Jimenez, and I represent Puerto Rico.

Ms. Diaz. (via interpreter) Good afternoon. My name is Margarita Diaz, and I represent New Jersey.

Ms. Fisher. Would you like to make any comments, Valerie? Do you have anything to add?

Ms. Wilk. I was wondering maybe if any of the other women would like to add anything to what has already been said, but come up to the mike.

Ms. Macias. I want to thank you, first of all, for letting us come and taking the time to meet with us. I do want to add to some of what Leticia had said. Like I said, we're both from California.

We know how much our farmworkers have suffered and we're suffering now because I'm also a farmworker and the children in the fields, the farmworkers, their parents, how they got their kids working out there in the fields, how they're getting hurt every day by picking the grapes, by tapping the garden with their--they've got to have a sharp tool to work with.

These kids work to 8/9 hours a day and to make like maybe \$2/\$3 because they want to help their parents. What happens with these children? They don't take the time to go to school or they can't go to school because they've got to help their parents.

These kids, they have a dream just like all of us. We all have a dream, hoping that one day their dream will be a reality. But what happens? They turn to drugs because they don't have the money to go to school. Their dreams just disappear.

That's one thing that maybe if we had the funds to send them to school, to read, have them learn something, to become something, then maybe we wouldn't have so many gang members on the streets.

And that's what I wanted to add. Thank you. And I hope you guys can help us. Thanks.

Ms. Wilk. Would anybody else care to make a comment?

Ms. Diaz. (via interpreter) I would like to speak to you a few minutes about the organization that I work for, the Farmworkers Support Committee (CATA). We've been fighting for eight years to get the right to know law passed in New Jersey.

We have gone to Trenton, where the senators are. We have brought farmworkers to testify. We have helped protest. But until now they haven't listened to us.

I think for me this is because they don't have any interest in helping the farmworkers. This is an injustice because a farmworker, just like any other worker, should have the same rights.

Farmworkers are the only workers in the country that don't have the right to know what pesticides, what toxics are used in the work site. Farmworkers are human beings, like everyone else, and they should have the right to know about the pesticides.

And I hope that you will join us and offer your support to change the situation to get the right to know. Thank you.

Ms. Moreno. (via interpreter) Good afternoon. My name is Blanca Moreno. And, as I said before, I'm from Florida, from Apopka. I'm here to represent the Farmworker Association of Central Florida, which is a group that was formed about 10 years ago to represent the rights of farmworkers.

As you may know, Florida is a right to work state. We don't have the right to organize unions, which is the main reason why we organized and formed the association.

In our area 80 to 90 percent of the farmworkers are women. I think that now is the time for us women to get together to push to force, to demand that something be done. And one issue is the lack of resources, of funds.

I want to emphasize again the importance of the right to know law. As farmworkers we don't have the right to know what pesticides are being used. We don't have the right to get training about what chemicals we're working with.

In our area we, the association--I say "we" because we're talking about the association and our area, but we have housing, the labor camps. And there's no right to access for people to get into the camps to see farmworkers. This is the way that we're trapped. It's a way that we are denied our justice.

We want this message to go to Mrs. Clinton and also to the new administration that farmworkers need to be respected. We need to be considered.

Thank you.

Ms. Fisher. Go ahead.

Ms. Broyles. (via interpreter) OK. Also I would like to send a message out to Mrs. Clinton and to the administration that our women who are working in the fields are--that as they're picking the fruit, they're also dying in the fields by the contact with the pesticides and because they eat what they pick when it's not safe.

As a result, the rest of us in farmworker families are also affected by this use of pesticides.

Ms. Fisher. Could I ask any of you to comment on what happens when you try to bring the problems to local federal officials in your area?

Ms. Moreno. (via interpreter) Last year we were taking a bill to Tallahassee on right to know. We spent so much time going from room to room to room, going from legislator to legislator to legislator.

Even though we spent all of this time, we still don't know if anything is going to happen. And for that reason, you lose heart that anything will change.

Ms. Fisher. Ms. Filoxsian?

Ms. Filoxsian. As a registered lobbyist for farmworkers in the State of Florida, I can tell you what it comes down to in our legislature is big money versus the people. And it's obvious who wins.

Agriculture is a \$2 billion a year industry in the State of Florida. But what is forgotten is the people that harvest for that industry. The only concern on the floor of our capitol towards any of the lobbyists is: Can the people you represent afford me a vacation in the Bahamas? And we can't.

Ms. Fisher. But you have local Department of Labor officials, for example, in your areas. Can you not go to these men and women and say "This abuse is happening" or "That abuse is happening"?

Ms. Velasquez. (via interpreter) My name is Vicenta Velasquez, and I come from Ohio. I'm talking about what happens when we visit the Department of Labor.

We go there and we present our case, and they say "OK. We're coming now or later. Tomorrow we'll get to you." And later they call us by telephone.

And that's why in Toledo, OH, we have had demonstrations. We have had boycotts of tomatoes, cucumbers, apples, and all kinds of products, farm products.

But the laws protecting us from pesticides, assisting pregnant women workers have not affected us, have not reached us. This is something serious because our children are working in the fields, walking in the fields with their mothers. I have nine children, and all of them were working in the fields with us. But now my husband died 10 years ago.

And I tell you that we were working in the fields when an airplane flew over and sprayed pesticides. And he said, "Don't worry. The spray won't hurt us." But I took the children to the car. We left the field, but he didn't. And so then he later developed ulcers on his hands and arms, his skin, and headaches.

And even cleaning the clothing didn't take out the pesticides. We had to wash his clothing separate from everything else, separate from our clothing. This is why I want our message to be taken directly to Mrs. Clinton.

Thank you.

Ms. Fisher. Thank you.

Ms. Filoxian. I'd like to try and emphasize if I can what happens in our local areas. In 1989 a 15-year-old boy was killed in the groves during school hours in Fort Pierce, Florida. We called the Department of Labor. OSHA was notified. OSHA fined the grower, Evans Properties, \$1,000.

Now, that same year "Forbes Magazine" listed Mr. Evans as one of the 10 richest men in the State of Florida. So I'm sure all he had to do at the time was just go right into his pocket and give the guy the \$1,000.

That is the reason that we still have these problems because the fines are not strict enough. The own language men in this category understand is when you hit them in the pockets.

So in order for us to be sure that there would be no more problems on Evans Properties with school children working, we called attention to the issue. We found an ambulance-chasing attorney.

Evans settled out of court for half a million dollars. And whenever you pass any of his groves now, there are huge signs, probably the size of the square in that wall, "No One Under 18 Admitted."

The Department of Labor couldn't get it done. OSHA couldn't get it done because a \$1,000 fine for that violation was a slap on the wrist. So when we go to our local offices, we file a complaint. Sometimes they're not fined. Sometimes they're not even cited. They're given a warning.

If we don't get enforcement from these offices, then what happens is we become "What's the use? Why go and take a day out of the field and sit up in their office all day answering questions and they're going to get on the phone and call Mr. Evans" or Mr. whoever it is that owns the property "and say 'Listen. We've got a complaint here. You don't have any bathroom facilities in your fields. You should do it'?"

The next day he may have some in there for a couple of weeks, but what's that going to do to me? How is that going to erase the humiliation I felt when I had to relieve myself in the trees and was the only woman in the grove?

That's not going to help me any because all of a sudden he has them. He should have been observing those laws in the beginning. And the only reason he wasn't, because he feared nothing, no fines or citations from the Department of Labor.

In other words, the Department of Labor in the State of Florida is a joke. We need a cellar to attic cleaning job. We need to replace the people who are employed with the Department of Labor with people who work for the Department of Labor.

We have 16 compliance officers to oversee the work of over 5,000 farm labor contractors. It gives you an idea what kind of shape it's in down there.

Ms. Broyles. (via interpreter) Many of the farm women have fear of going to the Department of Labor because ultimately the word gets back to the grower, to the farm owner. And then we lose our work. And how are we supposed to take care of our children after we have been fired?

In October or November I was in a meeting with various agencies. We were watching a film about the conditions and how farmworkers live, which also showed the places where the people had to sleep, which were inadequate.

We were trying to show these agencies how the farmworkers are forced to live. And the agency people just started laughing and saying, "Gee, look how those people live. See what those farmworkers are like."

In the next meeting they said, "Those things are OK for farmworkers." And the grower arrived and denied all of the things that had been said, that they keep the water at 85 degrees. It's always one excuse after another.

There are no bathroom facilities. The growers could carry the toilet paper in the truck.

Ms. Wilk. What was happening is that the agency people were saying to farmworkers one thing, what the laws and regulations said. They would turn around and talk to the growers and say, "Oh, you don't have to do this. You can provide hot drinking water. It doesn't have to be cool. And you can just keep the toilet paper in the truck," rather than putting it in the toilets where the workers would have access to it.

Ms. Broyles. (via interpreter) And also people from OSHA said that "We have all of these laws, but we don't enforce them." They laughed and they said, "Well, you know, do what you want because we're not going to do anything about it."

I have the name of the person that said this to me, and I can give it to you.

Ms. Fisher. **Ms. Gamez?**

Ms. Gamez. Yes. Just to reinforce what Hazel just said, in Texas we had a case back in 1986 or 1987. There were about 150 farmworkers that had been sprayed in Fort Stockton.

We received a call about 3 days after they had been sprayed. When we got there and saw how sick they were, we--the doctors in Fort Stockton would not treat them. So Legal Aid attorneys arrived. They flew a nurse in from Odessa to do the blood tests and everything.

The Department of Labor came, and they did all of the investigation. They took pictures of the fields, and they did everything. It was a proven fact that they had been sprayed.

So Jim Hightower was with the Department of Agriculture at the time. And he conducted an investigation. As a result of that investigation, he lost the elections that year, and nothing was done. So that's how powerful the Ag Department is.

Ms. Filoxian. Yes. And in our legislature in our various states, we have too few who are sympathetic to the issues that farmworkers are faced with. We are met with the most bigoted of attitudes.

One, for example, the representative of North Palm Beach County, a very affluent area, the wife of Congressman Tom Lewis, Marian Lewis, stood before the entire legislature and said, "These people don't live like you and I. There needn't be a commode in there or a stove in there. How many of you have gone to these labor camps when they were new? And then six months later, you go back after those migrants have ripped out the commodes and ripped out the appliances. They're not used to those facilities where they come from. If you give them money, they don't know how to use the money, how to spend the money."

And I'm sitting, feeling very discriminated against, but the humor in this thing is I'm trying to get a picture in my mind of a Latino or a Haitian or some immigrant standing over a commode saying, "I no got this in my country. I don't want it here."

None of the people that I know would do that. But that is the mentality that we are met with in our government. And that is the most frustrating part of the work that these women here have before us dealing with that type of ignorance.

Ms. Fisher. Any other comments? Yes, ma'am?

Ms. Jimenez (via interpreter). I wanted to add, Ms. Fisher, you asked if we have gone to our officials in our states, someone to help us. I tried to present a case to the Labor Department.

We waited like about 4 or 5 hours before the official could see us. We weren't even there five minutes when he said that he couldn't do anything about it, that we had to get some proof of the work that the farmworker did and the money that they owed her.

So we had to make a court date. By the time she got all that proof and went back, she was fired. They still couldn't do anything. And they keep us just jumping from one office to another to another. So I would like to know: What could we do about it?

Thank you.

Ms. Fisher. God, if I had the answer to that. I wish I did have the answer to that. I know it's very disheartening. You need to do what you're doing this week on Capitol Hill. And you need to keep bringing it to the attention of groups like ourselves and your representatives. It will change. There are more people who are becoming a little more familiar with your problems.

And I have to say that I'm so impressed by everybody who is working in this field by the Legal Services people--they are doing extraordinary jobs--and by the various NGO groups. You just have to keep speaking out. You will be heard.

Well, thank all of you very much for--oh, yes, ma'am?

Ms. Maravilla. (via interpreter) I'd like to respond to the question: What can we do when facing these agencies, especially related to pesticides?

I worked for John Harris. It was a world-famous case. A whole crew of workers, of men and women, were poisoned. These injustices were later publicized worldwide.

Afterwards we got together, and we decided to organize and call the reporters from Sacramento. And they went to the archives and found the check for the fine, which amounted to only \$200 for this case. There were 150 workers poisoned, and 14 died. And this is not only unjust. It's inhuman.

Ms. Filoxian. Yes, yes.

Ms. Fisher. OK. Valerie, would you like to say something?

Ms. Wilk. Yes. One of the things we have on the table, I think, outside is--there are seven members of the House of Representatives who are cosponsoring a reception for the women tomorrow between 5:30 and 7:30 at the Library of Congress in the Mumford Room, which is on the Sixth Floor. And we would cordially like to invite the entire staff of the Helsinki Commission.

Ms. Fisher. Thank you.

Ms. Wilk. Thank you very much for your interest and for the ongoing work that you're doing and all of the other congressional aides and folks who are here and have expressed an interest in farmworker issues.

Ms. Fisher. Thank you.

[Whereupon, the foregoing matter was concluded at 4:13 p.m.]

**POSSIBLE SOLUTIONS TO PROBLEMS FACING
FARMWORKERS, THEIR FAMILIES, AND THEIR EMPLOYERS**

Thursday, April 8, 1993.

Washington, DC.

The briefing was held in Room 2226, Rayburn House Office Building, Washington, DC, at 10 a.m., Ambassador Samuel G. Wise, Staff Director, presiding.

Present: Samuel G. Wise, Staff Director, and Jane Fisher, Deputy Staff Director.

Also present: Robert A. Williams; Arcadio Viveros; Sharon Hughes; Encarnacion "Chon" Garza; and Gloria Hernandez.

Ambassador Wise. Good morning everyone. Welcome to our hearing of the Helsinki Commission.

I welcome those of you who have come inside to our briefing. My name is Sam Wise, and I am the Staff Director of the Commission on Security and Cooperation in Europe. We're also known more familiarly as the Helsinki Commission, based on the fact that the international documents, international legislation that we are charged with monitoring was agreed in Helsinki in 1975.

More often the Commission focuses on human rights issues in other CSCE nations, but today we will explore possible solutions to problems facing migrant farmworkers, their families, and their employers in the United States. This is the fifth and final briefing convened by the Commission to examine migrant farmworker issues.

It is the Commission's belief that examinations of problems in our own country enhances both our understanding of our problems and our credibility when discussing similar issues in other countries.

The primary purpose of our briefings has been to promote public awareness of issues related to migrant farmworkers in the context of international human rights obligations undertaken by our Government.

Last summer at the Helsinki summit, leaders of 51 states of the CSCE, all of the states of Europe plus the United States and Canada, reaffirmed their

commitment to promoting tolerance, understanding, equality of opportunity, and respect for the fundamental human rights of migrant workers.

Over 17 years mutual CSCE commitments have grown to encompass not only conditions of employment for migrant workers, but also health, housing, vocational training, education, special needs of children, cultural rights, social security, and equality of opportunity.

Since the Commission began its examination, a myriad of concerns have been brought to our attention. Instances of wage fraud, intimidation, harassment, and physical violence, including sexual and racial discrimination have been recounted. Substandard housing conditions, unsafe transportation, exposure to pesticides and other routine dangers lead to hundreds of deaths and injuries each year, and rates of infectious diseases and other serious maladies are much higher among this vulnerable population.

Farmworkers' access to services of all types is limited by the transient nature of migrant work, cultural and economic barriers, rigorous schedules, and fears of losing increasingly precarious jobs, and while the entire nation faces an economic and health care problem, safety net programs designed to help the neediest are most often unused or unavailable to migrant farmworkers.

It seems apparent in many cases migrant farmworkers are not adequately protected by federal laws, regulations and programs, and as a consequence, their health and overall welfare are at risk.

Today we have with us an impressive group of individuals who we expect will explore possible solutions to problems facing farmworkers and their employers. We will hear about working health care and education models, as well as community empowerment and labor organizing strategies.

We also believe it is of utmost importance to examine strategies through which growers and agri-businesses can protect the rights of their workers, while also maintaining the economic viability of their agricultural enterprises.

Next month, the Commission hopes to publish the proceedings of its briefings, along with statements submitted by interested groups and individuals. We sincerely hope that the attention we have focused on farm labor issues will help lead to at least some solutions in the important area of migrant farm labor.

And now I'd like to turn to our panel, and each of our members will have a chance to make an opening statement, and then we will have some discussion among the panel and entertain questions from the floor later in the morning.

May I start with Mr. Arcadio Viveros, who is Mayor of Parlier, CA, and chief executive officer of United Health Centers of the San Joaquin Valley, Inc. He is co-founder and Vice President of the California Hispanic Health Care Association of Community Health Centers, and has been appointed to the National Advisory Council on Migrant Health.

As Mayor, he has highlighted the effects of pesticides on local residents and has worked to provide affordable housing to farmworker families in Parlier.

Mr. Viveros.

Mr. Viveros. Thank you very much, Mr. Wise, honorable members of the Commission.

As indicated, my name is Arcadio Viveros. I am the mayor of the City of Parlier, a farmworker community in the San Joaquin Valley in California. I'm also the executive officer of a migrant health center that operates five clinics in California in the San Joaquin Valley, the highest migrant impact area in the nation, and as you know, California has 1.5 million migrant and seasonal farmworkers of the five million of the nation. So as you can see, we're in the midst of providing services to this population.

My involvement as an advocate for farmworkers and migrant needs has brought me here in a very humble way because I am not an expert. I'm a person that has worked and labored with farmworkers in my life and in my professional experiences.

As indicated, I'm a member of National Migrant Advisory Council on Migrant Health that advises Secretary Donna Shalala on issues affecting the health of migrants and seasonal farmworkers. I am also in the Executive Committee and founding member of the National Hispanic Housing Council. The Council is working with Secretary Cisneros of HUD to implement policies that would assist the housing needs of migrants.

First of all, I would like to thank you for inviting me to testify on finding solutions to assist the migrants as they arrive to the community like mine. Also in a humble way I would like to share with you my experiences working with this population so that in finding solutions, we can probable replicate what I'm about to tell you and what I have done in my community.

I am a migrant. I came to this country at the age of 15. I remember vividly crossing the border in June 20, 1961. I came with my family to join my father, who was a "Bracero" working in the Bracero Program. For the 15 years of my life, I basically grew up without a father because he was a "Bracero" working in all the states in which he could get a contract from year to year in the Bracero Program.

As you can imagine, not having a father, I was happy that we could join together, but I found out as soon as we came into the country that our family had to split again because two of my family members and myself immediately became migrants and had to travel to the San Joaquin Valley from Southern California to pick grapes, peaches, plums, nectarines, you name it, I did it.

Two weeks right after I arrived in this country, I became a migrant immediately, and that was done because my father could not afford feeding us, and therefore, we had to go and work ourselves to help them with the finances.

So I arrived Parlier as a migrant laborer picking the fruits of the valley, and Parlier is a typical farmworker community that you will find in the

Southwest. It's 8,500 population. It's 99 percent Hispanic. We have the highest, I guess, in percentages of Mexicans of any city in the United States, and also the population, 8,500 people, actually is the official U.S. Census count, but our count, in city hall we say we have about 12,000 people, and the differences between that count is because about 8 to 9 months out of the year, we have the migrants and seasonal farmworkers that arrive at our community, and so our population swells for the majority of the year, although the U.S. Census doesn't give us our credit for the population.

Therefore, the United States has cheated us in the allocation of federal dollars that are distributed according to population to a community, a migrant community like mine. So that has been a fight with the U.S. Census since the 1990 census was done.

In terms of housing, as you can imagine, there's people or there have been people living in the cars in the park, in garages doubling up with relatives and in the backyard under trees, and so as a mayor, I was elected basically two and a half terms ago. I'm in my third term now. When elected, 10 years ago, I decided that my principal obligation to was find people ways and means in which we could house them somehow.

I inherited a \$1 million deficit in my city. Therefore, the resources were very limited. We could not even file for bankruptcy because in California, you've got to pay the fees before you can actually file. No attorney would take your case if you don't have money ahead since you're going to file for bankruptcy.

I tried bankruptcy, but I could not do it. So I had no choice but to bite the bullet and come out of the stuff. Parlier is now financially stable, but it has been a trial for us.

In order to do that, I found out there was a law in California which we could utilize in which it's called the redevelopment law. The redevelopment law allows you to actually take a blighted area, register with the state and with the county so that this area is designated redevelopment area. Any construction, any improvements to the area would actually give the redevelopment area tax increments. The agency that administers the area receives the tax increments.

So if a particular area started in a particular tax base, and if you went ahead and build something on it, then the new taxes, the differences between the old tax levy and the new one, the agency keeps the difference.

So what I did, I actually convinced the county government and the state to allow me to have the entire city be in this redevelopment area plan, and so therefore, I started attracting development. I told developers, "come to my city, you know we don't have any money now, come to my city and build something on it--I want housing; I want housing for farmworkers--we could therefore probably share the city's tax increments if you prove to me that you need some money; if so probably we can share the tax increments with you."

And so we can calculate very easily what tax increments are possible. For example, if you are a developer and you want to build affordable housing

in my community and you are going to invest \$5 million, I can calculate that the city's agency will get about \$700,000 in tax revenues. Therefore, as a developer and you need the city's assistance, first of all you have to prove to me in some way that this money can go toward the reducing the price of the home, or if you are going to build apartments, that you are going to pass this money to the renters in rental subsidies.

The redevelopment program can be utilized to attract developers because nobody wanted to build on our community. It was blighted. No one wanted to invest, but I was able to do investments in my community.

The first one was a developer that had an interest in farmworkers, and they invested \$5 million, and so we were able to share \$200,000 with them. We floated a bond, and with that bond, we built the streets, sidewalks, and we put lighting. They build stucco homes with tile roofs, very nice. The value of the homes in the metropolitan area in Fresno, which is about 30 miles away, would have been a value of \$100,000 or so. The homes we sold basically were for \$40,000 or \$60,000, and we also got the State of California to contribute toward additional price reduction. So another \$10,000 were knocked down from the sales price, the California's program in which a farmworker gets a subsidy from the state reduces the price so the buyer could afford making the monthly payment. For collateral the State puts a lien on the house for the next 10 years. If the farmworker sells the house, then the state gets the money back, and therefore, nobody loses any money, but if you keep your home after 10 years, then that loan becomes a grant and nobody will bother you after. The program officials want farmworkers to own their home and prevents them from making money on real estate.

The city council of Parlier was very grateful that we got into this program. The new idea permitted us to build a lot of new homes. Over 500 homes have been built, and we also have over 300 apartments that have been built.

In the national scene, it is estimated that in order to house the migrants in this country, we need 800,000 units. There has been some legislation that has allowed some monies to be used by Farmers Home Administration to build affordable housing for farmworkers and migrants, although some of that money had been allocated. Apparently there had been some problems in actually distributing it out into the rural areas of this country.

In talking to Secretary Cisneros, I was very encouraged that for the first time HUD has indicated a willingness to do something about migrant farmworker housing. The past Secretary, Jack Kemp, invited me, along with other Hispanics, to his office, and we asked him specifically if HUD had a policy on housing for farmworkers and migrants. Sadly, he said, no, it was mainly an urban agency that was there to provide housing in urban areas, housing and urban development.

So for some reason there is a division of responsibilities between HUD and Farmers Home Administration, and I see that that is not good. So as soon

as Secretary Cisneros came in, we proposed the same action be taken. He is very much interested in providing housing for farmworkers, and in fact, he has made that as a commitment of his administration.

So I see that cities like mine throughout the country that receive CDBG funds from HUD, that in some way through the block grant allocation of Federal dollars the cities are required that 20 percent of their subsidy should be set aside for housing. This should be a mandated responsibility to the cities that receive these funds.

In California, the redevelopment law does provide that 20 percent of the redevelopment money made by the redevelopment agencies, 20 percent has to be set aside for affordable housing.

This is my proposal and I would like to offer it as a solution. I know that in some communities the word "migrant" scares people. They just want to use migrants for the harvesting of their crops. They do not realize that farmworkers because of low wages provide cheap food on their table. Everyone knows farmworkers get paid very little. They work hard. We have worked very hard. I suffered because of the sure hold situation in the past. My back is not very good. I have a shattered disc in my lower back, and so we worked very hard for the building of this country. Therefore, this country should pay attention to the needs of this very hard working population.

I would like to stop there. As a director of my health center, we did include other health issues that I think that Commission already has heard through the migrant health program that testified before today, but as a provider of health care, I feel very responsible that as the clinics that receive Federal funds, we do not see ourselves as providers of health care in four walls of a community clinic. We see ourselves as community oriented primary care providers that see housing, water contamination, work injuries, and so forth. We see the spray of pesticides having a potential effect of chronic conditions for those been documented.

And so we work in all arenas, social and transportation service arenas, trying to address the needs of this very vulnerable population that many people do not assist.

I think that sometimes we become callous to hear this over and over again, and it seems like we do not do too much about it, but I think that there are a lot of people out there working who are making the migrant farmworkers welcomed in this country, welcomed in their communities, and although there are some racist attempts to basically to harm this population. The Mexican Revolution was fought against the idea that you owe your body and your soul to the company store. There are cases in which this is evident in California. There are people out there replicating that system of servitude and slavery, and I think that we need to speak against it everywhere we go.

I'd like to stop here because I know that my time is up. Thank you very much for the opportunity to be here.

Ambassador Wise. Well, thank you, Mr. Viveros. I am sure we will be hearing from you later as we move into more of a discussion mode. You've

already given some interesting ideas, and I hope we hear some more as the morning progresses.

Our next speaker is Chon Garza. Chon is in parentheses. So if there is another name you can tell us, you can. Mr. Garza is the son of migrant farmworkers who immigrated to the United States in the 1940's. A former farmworker himself, Mr. Garza is now the principal of an elementary school in Rio Grande City, TX, where he attended classes as a child.

He has been an educator for 22 years and has focused on the special needs of migrant children. Mr. Garza.

Mr. Garza. Thank you.

First of all, I want to thank the Commission for allowing me to come here and share some of my experiences and to perhaps have some kind of influence, impact on what's happening to our migrant children.

I know you went around my first name because it is very long and hard to pronounce. Well, don't worry about it. It took me 5 years to learn to pronounce it, another 10 years to learn how to spell it. Chon is short for Encarnacion.

I come from an area in Texas that's highly impacted in many ways not only by a high population of migrant students, but also immigrants that keep coming into our district almost on a daily basis. I know that in our district, which is a small district in the valley with about 7,500 students, we have grown in the last 4 or 5 years an average of about 300 to 350 kids a year, and most of these children are coming across the border, who a high percentage of them become also migrant.

Our school district is 99.9 Hispanic. Our staff is 99.999 Hispanic. We are probably the area in Texas or the state that sends most of the migrant students out to the different states, including to Mr. Viveros' area. So we have the two sites here.

The way I got here is kind of exciting because it was a spinoff of something that has been happening at our school. Our district is situated in a county that's last report was the second poorest county in the nation, and our district has been going through some trying times as far as test scores and just some other practices that the state had been really looking hard at the past few years.

We were under the spotlight for a while, and it looks like we're coming back out. Not too long ago, in the fall, we had a test administered, which is a state test, to different grade levels, and that's really how this--it weighs very heavy in the accreditation and evaluation of school districts. So needless to say, the media was there quickly to see what the scores were, and our campus, the campus that I'm principal at, did exceptionally well, and the reporter who came to do the article was very surprised. Well, she was looking for something negative to keep writing about, but by chance, she found something positive.

Anyway, as a result of that, National Public Radio came down, but the intent there was that they were going to come in and look at the poverty and what it does to the children as far as education is concerned.

They had to do two programs, one on poverty and then one on the school itself, because they found that we were doing a lot of really good things for the children there. So we were real thrilled about that. That was heard nationwide, and Mike called me and said, you know, "We'd like for you to come over and share with us what it is that you're doing and what's working for you." So that's how I got here.

Personal experience, you know, as Mr. Viveros was talking, it kind of looked like my own experience. My parents came to the United States in the late 1940's, and I was a farmworker for a long time, up until I graduated from college. Even after I had a degree, I was still working in the fields looking for a job.

Someone asked me some time back as I was making a presentation how much experience I had in migrant education. I told him 43 years, when I was born. So I've been on both sides of the situation here, not only as a student and then a teacher. I have been a teacher. Then I was a counselor. Now I'm an administrator, and I have also done considerable work in other states. So I have seen what we do in Texas and what other states are doing for our children, specifically in the States of New York, Ohio. I've been in Colorado, and I've done some work in Maine, which is a new frontier for our children.

There's a lot of work to be done, lots of work. The intent, the rationale, the purpose, the commitment is there. However, there is still a lot to do on both sides.

Our school district, and I would think that throughout the valley our dropout rate for migrant students is still very, very, very high. I want to take a guess, but you know, if I look at our district, 50 percent of the children that start as freshmen at the high school do not finish. So that is still pretty high.

Test scores continue to be very poor. However, I've experienced as a principal very positive results. Test scores at our campus have doubled for migrant children in the last two years, and I'll share some practices that we have and why I think it has worked for us.

Education for migrants, I think we're missing the boat somewhere because we're concentrating or we're placing a lot of emphasis on secondary programs for migrant students at both ends, and more so at the receiving end, in California, Washington, New York, Ohio. A lot of emphasis is placed at the secondary level, trying to provide programs that will prevent kids from falling further behind or just help students catch up, and once they fall behind three or four credits, they give up. Most of them give up and drop out.

I think that's where we're missing the boat because we need to put some more emphasis, funding and otherwise, at the elementary level, early childhood. You know, all of us know that prevention is probably less costly than intervention, and I really feel strong about that because our academic programs for the primary and elementary children in early childhood are adequate. I think the need there is for the children to--to provide some programs that will help these children feel good about who they are and where

they come from and build up their self-concepts, their self-esteem. I mean if they feel good about themselves, there is no doubt that they will perform really well, and I have seen it. I have experienced it.

In the last 2 years that I have been a principal, our philosophy revolves totally around that concept of making the children feel good about who they are, and I think that we need to train staff. We need to spend some time, put some effort to make our staff, our people who work with these children on a daily basis, sensitive to the needs of the individual children, not just necessarily migrants. I think that migrant students--we are not asking for any special treatment, and I think many times when we give them that special treatment, we just nurture that feeling of negative worth in the children.

We need to just treat them with dignity and respect like we would everybody else. We are just asking for equal treatment, tolerance, opportunity and respect, as Mr. Wise mentioned before.

What is our model and why is it successful at Ringgold Elementary? I was called many, many, many times after the National Public Radio program came on, and I was asked several times if we had anything in writing, if we had our program design in writing, and my answer to that was that, sure, we have the basic curriculum in writing, and we have a basic program that all schools in Texas have. However, what makes it work, I think, could not be put in writing. You know, everything we do is from the heart, and the children respond to that, just like the staff does, too.

So both my assistant principal and myself, the counselor, and about 15 other teachers at our campus are former migrants themselves. So that helps. You know, I was asked how did you manage to recruit all of that staff, and I said, you know, 30 percent of the time chances are that when you recruit somebody, he's a former migrant in that area. So that was not difficult.

We have done some things differently in the past two years. We put every child through a computer lab for about 30, 35 minutes regardless whether they meet the guidelines or not. Maybe I am putting my foot in my mouth here, but we're not leaving any kid out that belongs in that lab. We're just serving everybody, and that has highly impacted not only the test scores or the measurement, but we could throw those out, and you could come into the campus and you'll know that something positive is happening there because the children just seem to turn on to reading, and it's come a long ways as far as performance from the teachers and the kids.

We went to heterogeneous groups totally, from first through fifth. This year there was some minor resistance from staff and parents and even some students. We mixed them all up, gifted, talented, special ed., migrant, limited English, and that has worked very well also because there again we go back to the idea of everybody being treated equally, and the expectations were much higher for the students who had problems in the classroom.

There was a lot of cooperative learning, peer tutoring. Both types of students were feeding or are feeding from each other, and the teacher

consequently also has raised her expectations of these students that needed the extra help.

Also the students are speaking more English because they're being exposed and in many ways forced themselves to speak it, too, so that they can communicate. They're playing together. They're going to P.E. together. They're eating together, and you talk about different types of groups. These are kids that are 99.9 Hispanic, and even within the Hispanic population, you have subgroups. So we mix those up, and it has worked real well.

We have gone to team teaching, and one of the things that I think has really made it easy for me as the instructional leader is that we've gone to site-based decision-making. We have empowered our teachers. We involve our staff in major decisions which will affect them and, most of all, the children. So they have ownership. If it works, all of us get the credit. If it doesn't work, all of us get the blame, and that works well for me as a principal.

Let me look at my notes here a little bit.

Some things that we do specifically for migrant children which have great impact? We personally welcome every migrant child that walks onto our campus late in the year, late September, October and November. And by "we" I mean either myself or the assistant principal, and that's a heavy, heavy, heavy, powerful message for the children.

We not only welcome them in. We also walk them to their classroom. We make sure that we assign another student to work them into our school, to follow them around and guide them, and after they are here, they have to leave early, too. So we also personally check them out, say goodbye, and that's very powerful for the children. The message there is that we really take the time to show them that we care. That works real well.

Some of these things don't cost any money. It's inexpensive to do things like this, and it works. It's very successful.

If I were to make some recommendations to the Commission to look at things that will specifically for sure impact how to help the migrant child, I want to say that we need more funding or money, but technology is very expensive. We had some creative ways of scheduling the children into two labs, really three labs, where we have a total of about 60 stations, and some of those computers are obsolete. We are trying to update those, but certainly money is needed, funding needs to be earmarked for specific use in technology.

Probably even much more important, there needs to be intensive training for parents, parenting training, parenting sessions, parenting skills. That certainly needs to be in place, and of course, the other part of that would be the parental involvement with the schools, where administration, school teachers, and the school district needs to make a special effort also to invite these parents.

There are no better advocates for the children than the parents themselves.

And, of course, I think that special training programs for teachers to provide the sensitivity training to be able to understand these invisible children who sometimes as we say fall through the cracks, but those are big cracks. They are such big cracks that children are falling in great numbers.

Those three things, really, if we would really concentrate and put some special effort and emphasis on that, I think that would be just the beginning, and it would make a great impact.

Thank you very much.

Ambassador Wise. Thank you, Mr. Garza.

So those are some more ideas that I think will be part of our discussion later, too.

Our next speaker was to have been Delores Huerta, co-founder and First Vice President of the United Farmworkers, AFL-CIO, the largest farmworkers union in the United States, but she hasn't arrived yet, and I'm not sure she will. I hope so, and we'll have her speak later if she does.

I will pass then to Rob Williams, who is an attorney with the Florida Rural Legal Services, Incorporated, and he represents farmworkers in cases involving employment, immigration, other issues.

Mr. Williams.

Mr. Williams. Good morning.

Today I wish to discuss how the United States might better live up to its obligations under the Helsinki Accords to provide equality of opportunity in respect of working conditions for lawfully residing and working migrant workers.

First, I'd like to talk about a relatively small set of the farmworker population, the foreign workers who enter the country each year under the H-2A program, and then I'd like to speak more generally about the situation of migrant farmworkers throughout the United States.

About 25,000 jobs are filled each year by H-2 workers in apples, sugar cane, tobacco, and sheep herding in the West. These are true transnational migrants. If there are any workers in the United States who are protected by the Helsinki Accords, these workers are.

And our government, through the Department of Labor, in theory, regulates every aspect of their employment in this country. One would expect that the United States would certainly be in compliance with respect to these workers. However, all too often the Department of Labor has been slow or done little to enforce the laws and regulations meant for their protection.

As an example of the legal barriers to securing equal treatment that are faced by H-2 workers, I want to give the case that rose out of a labor dispute at the Okeelanta Corporation, a large sugar company in South Florida.

In 1986, the workers were very unhappy about their pay. They attempted to protest by staging a work stoppage. The police were called, and K-9 dogs were used to roust the workers from their barracks. Three hundred fifty-three workers were immediately repatriated to their home countries without any hearing or process.

Subsequently, DOL wage and hour investigators found that the workers' hours of work had been seriously underreported and that as much as \$1 million in back wages was owed the workers. However, DOL took no action and kept its investigation secret.

In 1989, the Secretary of Labor told the House Education and Labor Committee that no violation had been found. DOL acted only after an investigative report was brought to light by the House Education and Labor Committee.

Six years after the event, DOL began an enforcement action which a DOL Administrative Law Judge recently dismissed as untimely. Thus, our government has totally and utterly failed to protect these workers' rights.

This is not an isolated instance. Two years ago I filed a complaint with DOL which involved a serious violation of an H-2 worker's contract and affected many other workers, as well. Still no action has been taken on that complaint, even though I understand the investigation substantiated the complaint.

DOL has yet to take any enforcement action to recover hundreds of thousands of dollars in unreimbursed transportation expenses charged to these workers, which it has known about since 1989, despite the prompting of both the House Education and Labor Committee and the General Accounting Office.

Where DOL is unwilling or incapable of protecting workers, it becomes all the more important that the workers have access to the courts to redress their grievances. The Migrant and Seasonal Agricultural Workers Protection Act does provide that workers may enforce their working arrangements with their employers. However, H-2A workers are specifically excluded from its protections.

In the case I described at the Okeelanta Corporation, the U.S. District Court subsequently ruled while U.S. workers may have an implied cause of action to enforce the DOL regulations which protect both the H-2A and domestic workers, the H-2A workers had no such remedy and were, thus, relegated to whatever remedies they might have in state court.

To me the treatment of these workers under our laws clearly violates the spirit, if not the letter, of the Helsinki Accords. I have two specific recommendations to make with respect to the H-2A Program.

First, the exclusion of H-2A workers from the Agricultural Worker Protection Act should be removed. H-2A workers should be permitted to enforce their working arrangements on the same terms as other farmworkers.

The AWPA reform bill introduced by Congressman Miller does this.

Second, because H-2A workers' visas only permit them to work for a specific employer for a limited period of time and do not provide for any right to employment in future season, H-2A workers are even more vulnerable to retaliation than other migrant workers.

Currently DOL work regulations prohibit retaliation. For example, a worker cannot be fired in mid-season for making a complaint to the

Department of Labor. However, H-2A workers are universally concerned not just about whether they will keep their job this season, but also whether they will be requested back in future seasons, and at present that decision rests solely with the employer.

U.S. workers, by contrast, at least must always be given preference over H-2A workers and, thus, have a limited right to future employment in the H-2A context.

I believe the DOL could provide by regulation that an H-2A worker who successfully completes the season should be given preference future seasons subject to the job opportunity being available and the absence of qualified U.S. workers.

Eventually Congress may wish to consider giving resident status to H-2A workers who have worked a certain number of years in the United States. The Helsinki Accords state that the participating countries will take effective measures to promote equality of opportunity and adopt appropriate measures that would enable migrant workers to participate in the life of the society of the participating states.

I think Congress sought to do just that when it created the Special Agricultural Worker Program as part of the Immigration Reform and Control Act of 1986, which legalized over one million foreign agricultural workers in the United States.

One group of workers, the H-2A sugar cane cutters, were excluded from the program not by Congress, but by a decision of the Department of Agriculture. Over 8,000 workers who applied under the SAW Program were, thus, deprived of their dream of becoming U.S. residents.

I strongly concur in the recommendation of the Commission on Agricultural Workers that these workers be given resident status.

Turning to the question of the general situation of migrant farmworkers in the United States, I don't think one can overemphasize the findings of the Commission on Agricultural Workers that for many farmworkers in the United States real earnings and working conditions have deteriorated further since the passage of the Immigration Act.

It is time to end the exclusion of farmworkers from the protection of our labor laws. Sometimes, as is the case with collective bargaining and the fundamental right to engage in concerted activity, that exclusion is explicit. In other instances, such as the case of AWPA and the H-2 workers, the exclusion is based on one's immigration status.

Too often the exclusion is created by bureaucratic inaction and indifference. For example, the Occupational Safety and Health Administration. We know that agriculture is one of the most dangerous jobs in the United States. Yet OSHA has made only token efforts to improve farmworkers' safety.

While all other workers currently have a right to information regarding toxic substances in the work place, under OSHA's hazard communications

standard, OSHA has ceded jurisdiction over farmworkers in pesticides to the EPA, which thus far has failed to issue final regulations.

Thus, only farmworkers, many of whom are daily exposed to known carcinogens, are denied the right to know what toxic substances are being used where they work.

Where statutory protections do exist, we often have a regulatory structure that seems designed to fail. I think the single greatest barrier to achieving higher labor standards in agriculture is the crew leader system, which in effect creates a giant loophole in every protective statute.

For example, we know there's rampant underreporting of wages for purposes of social security and unemployment taxes, which puts thousands of migrants and their families in economic jeopardy. Agricultural employers are three times more likely not to pay or to underreport those taxes than other employers.

Yet we persist in our tax laws in treating the crew members as the crew leader's employees unless there's a written agreement designating the crew members as the employee of the grower. Predictably, tracking down delinquent crew leaders has proved to be a hopeless task.

It is true that farmworkers have some protections under the Agricultural Worker Protection Act that are not available to other workers in the United States. Unfortunately, that Act has never been fully or effectively enforced, nor will it be until the Department of Labor shifts its enforcement strategy from the much maligned farm labor contractor to the agricultural employers who utilize their services.

I believe the past 20 years have abundantly demonstrated the futility of attempting to secure basic job rights for farmworkers by regulating the activities of thousands of individuals who in most cases are poorly educated, ill informed about their responsibilities, and financially irresponsible.

In Florida, there are nearly 5,000 labor contractors with a 20 percent turnover every year. It is totally unrealistic to think that revoking 20 or so licenses a year has any effect on a system when, at the same time, 1,000 new contractors are entering the labor market.

In order to change a culture which seeks to put the blame for every problem on the crew leader, I think any change in our policy must send a clear message that the grower is now to be held accountable. For this reason, I fully support the approach taken in the Miller bill, which proposes to hold growers strictly responsible for the actions of their labor contractors.

Our goal here is not more fines or regulation or litigation, but a fundamental change in behavior. We want agricultural employers to take responsibility for the day-to-day management of their work force away from the crew leaders, the majordomos, the contractistas, and to see themselves, not the crew leaders, as primarily responsible for insuring that their workers receive all of the protections and benefits mandated by law.

There are some farms that do this now. It does work. It's not something that is theoretical or is untried. We do have growers in Florida that do just that,

and we don't see the problems at those operations that we see throughout so much of the rest of the system.

The present approach, based on the joint employer concept, does not go far enough. The use of labor contractors is becoming more, not less, frequent, and that's why I think we need a clear statement of national policy.

If we could close this crew leader loophole, I think we will have taken a major step towards securing equal employment rights for this nation's farmworkers.

Thank you.

Ambassador Wise. Thank you, Mr. Williams. That gives us certainly another perspective, a useful one, to our discussion.

Our next speaker is Sharon Hughes, who is Executive Vice President of the National Council of Agricultural Employers in Washington, D.C., the only national agricultural trade association dealing exclusively with labor issues.

Previously she served as manager of government relations at the Synthetic, Organic, Chemical Manufacturers Association.

Ms. Hughes.

Ms. Hughes. I appreciate this opportunity to testify here today on behalf of the National Council of Ag. Employers. I understand that I am the only grower representative that has appeared before the Commission, and I'm glad to have this opportunity.

I am proud that I've been invited since I believe that there is a good story that the growers have to tell, and I want the Commission to be able to hear both sides of the issue.

Due to scheduling problems, I am sorry I was unable to prepare a formal statement, but I will be providing one to the Commission shortly.

The National Council represents growers involved in labor intensive agriculture across the United States. We estimate that the member grower companies employ about 75 percent of the farm work force that's out there.

Agricultural employers, therefore, are very concerned about the conditions of farmworkers. And, we commend the Commission for exploring this issue and look forward to working with the Commission in developing recommendations for further improvements.

Growers and agricultural associations have a history of working with federal, state and local bodies to develop programs and laws that both protect and serve the agricultural workers. NCAE worked hand in hand, for instance, with members of Congress, farmworker advocates, and the Reagan administration to gain passage of the Migrant and Seasonal Agricultural Worker Protection Act.

The Council worked in good faith with EPA during its development of the worker protection standards for pesticides, which is final and in effect, and is now working with their focus groups to develop implementation plans and training modules.

The Council also was active during the passage of the Immigration Reform and Control Act, and currently is working with the Department of

Justice's Office of Special Counsel for Immigration Related Unfair Employment Practices under an educational grant to go across the country and educate the growers on what their responsibilities are under the anti-discrimination provisions of IRCA.

The Council has supported full funding of the migrant education and migrant Headstart Programs, and a number of our member companies are working with these programs to set up educational efforts and day care centers.

We also have member companies working with migrant health programs to set up health care clinics, such as the one in Winchester, Virginia.

I would now like to present a short video which shows the strides which growers have made in Florida to better the conditions for farmworkers.

[Whereupon, a video was shown. Transcript in appendix 5.]

Ms. Hughes. Obviously this video shows conditions in Florida, and similar conditions and programs appear in places such as California, with other states slowly following their leads. But while conditions are improving through grower and migrant program efforts, we are only treating the symptoms of the core problem.

To get at the core problem we must have improved job placement across state lines in order to afford workers longer and more stable employment.

We can continue to improve migrant services.

We need to improve data collection so that at the Federal level we'll be able to properly direct funds and enforcement efforts.

We need to educate all growers on what their responsibilities are under the laws and regulations currently in place. And, we need to end the adversarial relationship between farmworker advocates and employers.

But all of these things will not bring stability and appreciable change to farmworkers until we begin to better match jobs with workers through an effective Federal employment service.

I want to thank you again for allowing me this time to appear here this morning.

Ambassador Wise. Well, thank you very much, Ms. Hughes. As you mentioned earlier, this is the first time that you or anyone from your organization has been here, and we welcome the new perspective and the new vision that we saw on the screen. I'm sure it will be discussed later as well.

Before introducing the next speaker, I would like to introduce two other members of the Helsinki Commission staff. Mike Amitay over here, who many of you may know, has been responsible for organizing our briefings and is the primary one at the Commission who follows this question, and he is going to be the one also who is going to prepare the report which he has, I think, promised in my remarks will be ready this month or next month?

Mr. Amitay. As soon as possible.

[Laughter.]

Ambassador Wise. A good Government phrase.

And Jane Fisher, who is our Deputy Staff Director and who will be taking my place here for the remainder of the discussion.

Our next and last speaker today is Ms. Gloria Hernandez, who was a former farmworker and is presently a community worker for the California Rural Legal Assistance Migrant Farmworker Project in Fresno, CA. She is a volunteer with the El Concilio Immigration Project, assisting seasonal workers with immigration procedures.

Ms. Hernandez.

Ms. Hernandez. As you can see, I have no social life.

I am Gloria Hernandez. I'm 38 years old, have been advocating for farmworkers since I was about 16 years old. I have a daughter. She's bilingual, bi-cultural, and she is slowly learning to advocate also.

I'm real honored to be here. I was telling Arcadio on the way up I'm the only one that doesn't have a title here. I'm not a CEO or anything like that, but I'm honored to be here because I think I am not like a real good speaker, but I draw pictures very well, and that's what I'm going to try to do today, draw pictures for you.

This video actually drew a lot of pictures in my mind that are like fantasies. I don't see that in California, and I'm real shocked, and I just pray that one of these days that will happen in California.

I'm here to talk about community empowerment. Under the LSC regulations, you should be aware that I am not allowed to do community organizing. I'm not allowed to do a lot of stuff that I do on my own time.

As a community worker, I work not only as a paralegal, process server, investigator. You name it; I do it. But I also do a lot of volunteer on the side, and under the California IOLTA funding, I'm able to do a lot more stuff for people.

Another thing the LSC regulations doesn't allow me to do is to represent undocumented people. So I'm able to do that also under IOLTA in California, and I also do it as a volunteer. I just want to clear the air here so that people understand that I hold many hats, and because I hold many hats, I'm able to do a lot of things. I'm able to help a lot of farmworkers.

To me a community is anything from a town, like Parlier. I'm a product of Parlier, by the way, but it's also a case that involves 300, 400 men that take on the grower because the housing conditions are so bad. They have no toilet. They can't take breaks. They're entitled to 20 minutes a day, work 10 hours, sometimes up to 14 hours during the week; do receive no overtime.

We go in there because we're called. I don't need to be looking for cases. I have an 800 phone number that works statewide. They call me. I go there, and I look at the conditions, and I'm amazed that here we are in 1992, 1993, and these things are still happening. I'm amazed.

I remember seeing the Harvest of Shame. I was the young kid. I was living that, and I'm amazed that it's still happening.

I'm amazed that in November 5, 1992, the border patrol, along with the Farmersville local police department, had the audacity to go in at five o'clock

in the morning to people's houses, not even knocking on the door, and dragging people out; going into people's houses that the Farmersville police supposedly thought were undocumented.

In one case, they knocked on the door. It had a chain. The man opened the door. He forgot the chain. So he pushed it back so that he could open the chain. The cop didn't wait long enough. He went in through the bottom of the door and told the old man (speaking in Spanish), "Throw yourself on the ground," and he pulled out his gun, and then he asked the man for his document.

And the old man turns around, and he goes, "Is that all you want? You should have asked me. I'm not a delinquent for you to treat me this way."

And that's the attitude of the community in Farmersville. They're not going to take it anymore. They took it to the street. They had a walk. They were going to tell the people that they were dissatisfied that the Farmersville people could not protect and serve their community.

What happened the next day when they took it to the street? They got attacked by the local police, the SWAT, the Sheriff, everybody. People got arrested for inciting riots.

But what was born there was a committee of immigrants who were not affected by the raid and who were not arrested and who did not participate in the demonstration, but they started this dialogue with this Farmersville Human Relations Commission, and I've spent hours and hours translating stuff for them because the Human Relations Commission never even thought of providing an interpreter so that the dialogue could continue.

I spent hours translating what the Human Relations Commission's obligations were into Spanish so that the "campesinos" would be able to know who they were dealing with.

On Monday of this week, the "campesinos" decided to walk out because the Human Relations Commission could not understand how the "campesinos" felt, that the local police were going to be allowed to continue to do investigation along with the border patrol.

When asked why the word "investigation," why don't you just call them raids, one of the Commissioners responded, "It's a personal choice of words."

I'm just the interpreter when Senior Ramos gets up and says, you know (speaking in Spanish), "That's enough. We're walking out." Now we've got to regroup. We've got to think what we've got to do now, and it's really amazing to me because to me empowerment of the community, even though it was seven or eight people, were going to report back to a community of almost 600 "mixtecos," "campesinos."

To me it was having the patience to deal with the Human Relations Commission. That to me was empowerment because I remember when the early 1960's, I went to jail a lot of times on First Amendment. The anger, I was young; I was angry. Now, I have a lot of patience. I'm able to share a lot of

patience with the people. I'm able to translate and explain to them how the system works.

And once they know how the system works, they themselves will work with the system if they're given an opportunity. But how can you have an opportunity to participate if you have no interpreter? You have no language skills to understand.

You know, this IRCA thing people talked about; you have to have 40 hours so that you can eventually become a citizen. You have to speak English. The newscasts are in Spanish. There's magazines in Spanish.

People are aware of what's going on. People know who Clinton is. People know who the border patrol are. They know what the Declaration of Independence says. They know what the Constitution says.

But people have this expectation that if you don't speak English, you don't look white, you're not entitled to the Constitution, and that's what we're fighting for in Farmersville.

Kettleman City, a little community of 5,000, most "Raza," farmworkers. I remember going there in '79 doing outreach, talking about minimum wage, you know, the same old thing, and I asked them, "Well, how come there's a lot of trucks going up there?"

And they told me, "Oh, they mine gold."

And I go, "What?" So I arranged a field trip on a Sunday. I told the manager of the waste lands that these people were coming in from L.A., and they wanted to see the rural areas and all of this bull shit, and we ended up going inside, and I translate for them.

Now, the first thing was, "If you're pregnant, go home. If you've got high blood pressure, go home."

Farmworkers kept saying, "What's going on?"

I go, "Well, let's find out." We get on this little van, and we go into the waste land of Kettleman City, a toxic dump. They are literally building plateaus of toxics. What they do is they ship all this toxic waste to Kettleman City from all over the United States, 50 gallon tanks. They bury them, level, then they put so much clay, and then they bury more and then more.

I mean there's literally hills being built. They have ponds they call evaporation ponds where they put all of the stuff that's able to evaporate and go into the air, of course.

Well, after the field trip the "campesinos" knew that they weren't mining gold, and they said, "What can we do to stop it? How can we get them out of our town?"

I said, "You can't. They've got the paper work in order." I said, "But one day they're going to want to expand. They're going to want to do something. Keep your eyes open, but remember when there's public notices, they're only put in the newspaper, the English newspapers, and they're in English."

But luckily somebody remembered what I had told them. So when the Kettleman City waste lands wanted to put up an incinerator, the people

remembered, and they contacted us. Now we have a couple of lawsuits going on, and we've stopped that incinerator.

And the people have also gotten into Button Willow. They've even crossed borders and are going into the Tijuana to stop the incinerator over there. Green Peace came in. I mean it's exciting that this little seed was planted back in 1979. They understood. Just a simple little knowledge, and they took it upon themselves, and they've gone and they've run with it.

Another example when we talk about farmworkers, let me give you an idea. This Tuesday 14 farmworkers came in. I'm going, "Oh, man, the season's on already." And I go, "So what happened?"

They go, "Oh, we're working for so-and-so," this famous grower in Fresno who happened to be president of the Farm Bureau a couple of years ago.

And I said, "So what's the problem?"

They said, "Well, we live there. We pay \$18 a week for housing. We pay \$3 a day for the ride in, transportation."

And I go, "So what's the problem?"

"Well, they're not hiring us. They're bringing in people from outside." So then I go into this whole spiel how, you know, in the United States there's no seniority. Unless you have a contract with your "patron" or the "patron" has a personnel policy, no seniority, not like in Mexico.

So I said, "Does the 'patron' know what's going on?" Because it was the majordomo that was doing this thing and changing.

He goes, "No. So-and-so, the boss, is in Oregon on vacation."

And I said, "Well, maybe you should talk to the boss's son and see if the boss's son feels comfortable about what the majordomo is doing."

They said, "No, he'll fire us."

And I'm sitting there, and I'm saying, "But, Raza, you're not even hired. How can you be fired?" But they've got them so intimidated that it angers me.

Another example, simple knowledge. To me empowerment is simple knowledge. The crew comes in. This was last year during the summer. It was apricots. About 25 of them come in, in from the field. I'm going, "What happened?" I took them all in my conference room, and I let them all tell me everything, and then I finally get it together, and I go, "OK. This is what I understand you're telling me. You're telling me that you're picking apricots. You more or less work for this grower 5, even 9 years. You ask the grower for five cents more an hour. They pay you 4.25, and that the grower got mad, and you just continued working, and the grower got so mad he started getting apricots and throwing them at you and telling you to hurry up because it was real hot, and the apricots were freshening, rotting."

And one of the men said, "No more. You're not going to hit me with that apricot no more." He got his suspenders because they carry the budget in front of them, threw it down and walked out, and stood outside on the road. And all the other men followed him.

I go, "That is concerted activity. That is covered under the Agriculture Labor Relations Board Act. You can file an unfair labor practice."

And they said, "Well, what's going to happen?"

And I said, "Well, you know how the bureaucracy is. You go through an ALJ. The ALRB will investigate it, finally go to a hearing, and then maybe you'll get to the Board, and then maybe there'll be an appeal, and then maybe in ten years from now you'll have justice." And I said, "Or you can go work for another 'patron.'"

And they go, "What would you do?"

I said, "I think I would go back and talk to the 'patron' and say, 'You've got a crop to pick. I'm willing to work. Let's talk.'"

"But, no, the 'patron' is real mean."

And I said, "So is there someone there you can talk with?"

He goes, "The mother of the 'patron.'"

Mother, right? So I encouraged them to go back and talk to the mother, but I also made arrangements for them to talk to the ALRB staff, and then I write them a letter, you know, cover your back. You've got 6 months to file. I told you this. Let me know what happens.

Well, one of them calls me, and he said, "You know, we went back and we talked to the mother, and the mother agreed to give us a nickel more an hour, and she also told her son not to be out in the fields hitting us with apricots."

So that case was solved. Simple knowledge, but then there's other ones that even though I tell them what their rights are and we go through the process, it doesn't happen. Let me give you an example.

In 1989, talking about "contractistas," and I can relate to what Rob is saying; in 1989, I got a call from Pajaro. Pajaro is a foreman with mixtecos. Indigenous farmworkers are coming more and more into the valley, and he tells me that they have gone to the Labor Commissioner for eight days now, and they had not gotten any response, and so I said, "What's the trip?"

He said, "Well, we worked for this 'contractista.' Her name is Marizela Gamino." G-a-m-i-n-o. I want to make sure you all know her, "and she didn't pay us."

And I go, "How long has it been?"

He goes, "20 days. Labor Commissioner has had the case eight days. Nothing's happened."

So I go, "OK. Bring me the addresses and phone numbers of the 'patrons' where you worked out," not the "contractista" because the "contractista" is obviously ignoring them, right? So then I send one of the attorneys to go talk to the "patroness," and the "patroness" said, "We have already paid the 'contractista.' We don't know what's going on. These farmworkers keep coming back to our house."

I kept calling the "contractista," and I'm saying, "Look. Pay these people."

She wouldn't return my call. So I called the Labor Commissioner. I got Pajaro to go back to the Labor Commissioner, get me copies of the wage claims. I set up all night calculating the wage claims. It came out to \$23,000. This is about 120 workers, less the helpers, which are the family, the kids and the wife.

So then I set the clock for 4 o'clock in the morning, and I called the "contractista," and she answered. I asked for work. So, of course, she needs workers, right? She's burned all of these other people, and so she answers the phone, and then I talk to her, and I said, "I want you at 5 o'clock at the park term, and I want you to bring the money."

She goes, "You're not going to tell me what to do."

And I go, "We'll see." I faxed a memo to the Labor Commissioner. I insisted that one of the Labor Commissioner's deputies be present. She shows up. There's 300 people at this little park. They're all Mixtecos. She shows up. The first thing she does is pushes me, tells me who in the hell do I think I am trying to help this bunch of animals, and I said, "Look. We'll deal with it afterward. You pay them."

She goes, "I'm not going to pay them. The Labor Commissioner is helping me."

And I go, "Well, that's funny. He's right here."

So she starts paying. She started paying at five. She was still there at 12 midnight paying. She would pay in cash. She would pay by check. She wouldn't pay some because they didn't have papers, and I said, "You're going to pay them. Because you worked them, you pay them."

She goes, "I'll report you to INS."

"Fine. I didn't hire them, but you're going to pay them." She paid \$18,000 out of the 23. So we took her to the Labor Commissioner, filed a wage claim, held a hearing a year later, 1990. The farmworkers are back in the area. We go to hearing. We lose.

I don't know why we lost. I still don't understand why we lost. Took it to court. She filed bankruptcy. 1992, I'm out going to a labor camp down in Kerman, CA. "Mixtecos" are calling me, telling me that the Sheriff is trying to evict them, but so I took a letter telling them the sheriff, "Hey, man, you're violating their due process," and so forth.

On the way back from the labor camp, I run into this car accident. It's a farmlabor van situation. The van was going this way. This woman decides to cut a U-turn in front of the van. The van spills all of these farmworkers out. I pull over, and I said, "How can I help you? Start giving first aid, start interpreting for the CHP, start interpreting for the medical units?" There were four ambulances.

And I started saying, "Well, who are you working for?"

"Marizela Gamino. She hasn't paid us in four months. We're living in her mobile home."

Marizela Gamino continues to function as a contractor. She has a license. I've asked the Labor Commissioner, "Pull her license." I've asked

Mr. Mayor.

Mr. Viveros. I'd like to talk about the collaborative efforts that could be done with farmers. I think to a certain extent national farmer associations sometimes promulgates antagonistic attitudes that they pass on to the local level, and so nothing is done in terms of working with community health centers, working with cities, or working with other advocate groups.

In one case in point, I went to the Farm Bureau Federation local office in Fresno, CA, to get backing to a program that we want to establish nationwide, and that's the food and vegetable share program. A lot of the fruits and vegetables are thrown in the fields. They're disked, and food is wasted. We wanted to distribute this food throughout the United States.

And we said, you know, this would be a good opportunity for the ag. industry to really get something good on a national basis. We have farmers and packers willing to give us tons of food. Could you help us get this cleared through agricultural inspections so that we can get these fruits and vegetables to all parts of the United States, and it will require your cooperation because with the Farm Bureau's backing, we can open a lot of doors in terms of the U.S. Department of Agriculture, as well as the California Agricultural Department, so that we can transport food from state to state because there's a lot of regulations regarding transportation of food.

I mean they took about three years. They basically never responded, but recently we've been sort of meeting together around another issue that affects the farmer's pocket, and that is the work injury. As you know agriculture has one of the highest work injury incidence of any industry, and so we've been talking about AGSAFE, Agriculture Safe. It's an organization we created, and we invited them to participate and said, "Look. If we can reduce the number of work injuries in the fields, in the farm, you don't have to pay this huge insurance premiums in the workmen's compensation system."

They're participating because they have a vested interest in reducing cost of operation, and so I think that sometimes whatever devices we create to get them to the table and talk, like we're talking here, face to face, the interest that we have is having a healthy worker. The healthy worker will basically work for you and be most productive. If the worker is not healthy, then he's not going to be productive as you would want him or her to be.

So why can't you sit down with us and let's talk about all this that is going on in your farm, and let's see how working together farmer and health provider; we can help each other.

And so recently, two weeks ago, I signed up two major employers in the west side of Fresno County for us to be their exclusive health provider for their workers. We've got 600 employees now signed up. So there's really opportunities out there for us to work together.

Unfortunately sometimes the message doesn't get to the local level for those leaders and those ag. industry organizations that they need to work together. Maybe the national organizations can tell their local chapters,

“Listen. It’s to your benefit to work with all of these advocates because these advocates can help you educate the workers about how to be more careful, and to protect themselves from getting into accidents in the fields.”

So that’s something that we’re working on.

Ms. Fisher. Thank you.

If I could just give Mr. Garza a chance to respond, then we’ll take your questions.

Mr. Garza. Just an observation that I think that we wouldn’t be talking about all of these problems if we would really take care of the children at school, you know, if we would help them get out of this vicious cycle, and you know, we need to speed up the process.

Very few break the cycle within the first generation. You know, I think Arcadio and I are exceptions rather than the rule, and if we speed it up, we wouldn’t be worrying too much about these other issues.

Ms. Fisher. Thank you.

Mr. Goldstein. I’m Bruce Goldstein. I’m an attorney with the Farmworker Justice Fund.

I feel I have to say that the reality that Ms. Hughes portrayed in the video is really a false one, and I think that there are so many falsehoods about the facts and about the legal status of farmworkers, both what was said in the video and here, that it makes it obvious why there is going to continue to be an adversarial relationship.

I think that there’s some ways of solving those problems, and I think a large part of the reason for this marked adversarial relationship is the failure of the federal government and the states. The federal government’s refusal to enforce the laws on a daily basis that affect farmworkers has just emboldened many employers to consistently violate the law in the most egregious way as possible, and it has also emboldened employers to believe that they can continue to gain special benefits that no other employers get.

It’s not true that a Fair Labor Standards Act and Worker’s Compensation and Unemployment Compensation treat farmworkers like other workers. That’s just blatantly false, and these employers, many of whom are very active in their national associations, are convinced that they can get away with murder, and there has to be an across-the-board recommendation that the United States government will take an active role in enforcing farmworker protective statutes.

Once there is the message out in the agricultural employer community, like there is in other employer communities, that the laws are really going to be enforced or at least there’s a threat that they’re likely to be really enforced, a lot of employers will be deterred from violating the law. This is particularly true for large employers because they’re easier targets.

A. Duda & Sons was mentioned, and in some sense they’re a model employer. In no way are they representative of employers in agriculture in this country, but they and others like United States Sugar Corporation have taken

upon themselves to improve conditions, in part, because they recognize that as they got larger, they were easier targets.

Well, these other, smaller employers and medium sized employers need to understand that there is a credible threat that when they violate the law, they are going to be punished severely. Once they know that, they are likely to change.

In addition, once the larger employers know that they are going to be hit, they tend to want to police the smaller employers because they don't want to pay higher labor costs than the smaller employers do.

So I would hope that the Helsinki Commission recommendations would include a powerful statement on the need for all the agencies involved in regulating migrant farmworkers to take a very active enforcement role.

Finally, I just have to tell you that I found it really ironic to watch the video trying to portray the Harvest of Shame as being an anachronism now. A year and a half or 2 years ago I watched a video of a 1987 TV series that was done locally in the District of Columbia, and the reporter had done five days' worth of reports on the migrant farmworkers, and he'd actually been focusing on the Eastern Shore of Maryland, but it could have been anywhere in the country.

And at the end the anchor said to him, "You did a great job. Do you think things have improved in the last few years, now that you're an expert on migrant farmworkers?"

And the guy said, "You know, Edward R. Murrow did the same story 30 years ago and certainly did a much better job than I could ever hope to do, but you know, as far as I could tell, no, nothing has changed."

I think that's the reality.

Ms. Fisher. Thank you.

Mr. Goldstein. Thank you very much.

Ms. Fisher. Although I have to observe that there are examples of programs that are working, and I would agree strongly that if at the national level there was as policy a change in attitude and; as you said, enforcement of existing laws and the closing of the loopholes that Mr. Williams mentioned, then I think these positive programs--I am familiar with the program that Ms. Hughes mentioned in Winchester, what Mayor Viveros has done, what Mr. Garza and Ms. Hernandez have done--these things then would come together, and I think that they would be expanded that much faster.

We were very disappointed at the Commission that nothing was done with former Secretary of Labor Ms. Dole's Farm Labor Strategy, which stemmed from when she went down to tour the Immokalee area. She had some good recommendations. Regrettably, at the national level nothing was done, and so I couldn't agree with you more that until there is the political will in this country to do what all of you are trying to do in this room, we're still stuck.

And I have a feeling that there is going to be progress. I don't know why. I just have a gut feeling that there is going to be a faster rate of improvement coming on the horizon if we just keep at it.

Mr. Williams. Can I respond to one point?

Ms. Fisher. Sure.

Mr. Williams. You know, I think, of course, videos can be somewhat deceptive. I mean you can show both the very good or you can show the very bad, and maybe the truth is somewhere in between, but it's not true that we don't have the data. We've got data running out our ears from all of these researchers, and I think the data paint a picture which is at odds with what was shown on the video.

I mean the data from the National Agricultural Workers Survey and the other studies that have been done show farmworkers being grossly underemployed. They show a large surplus of farmworkers in the United States. They show that wages are stagnant or are falling. They show that most farmworkers are living in substandard housing. They show that few farmworkers are able to benefit from the various government programs and benefits, such as unemployment.

So I don't know. I mean, I think the excuse for not acting that we don't have enough data; I think we have plenty of data that show the condition, and we don't have to rely on a battle of who's got the most appealing or slickest produced video to make up our minds. I mean we've got some hard information about the national picture, and I think you're right. I mean it's time for some action.

Our problem on farmworkers isn't that we don't know what the solution is. We've just lack the will for 30 years to really say that we don't want the substandard conditions to go on anymore, and because people are critical of the substandard conditions which are the norm, it doesn't mean that we shouldn't applaud the people who are doing the right thing.

One further point on the problem of job placement and job continuity. I mean, I agree. I mean I think programs like Duda's, I think those are a good idea. My own feeling is that we don't need the government to do that. I'll guess that wherever those things are going to work, it's going to be because it's going to be grower-to-grower contact. I personally think the government is incapable of organizing or planning or, you know, movement of workers.

When employers see it in their interest to provide for continuity of employment, either to maintain a skilled work force or to lower their unemployment compensation taxes, then I think they will take those steps. They're not going to do it without an incentive.

I think, again, that comes back to this whole thing. Yes, some growers are providing good housing. Some growers are doing these things. Some growers have adopted the so-called modern management techniques, although those seem to be techniques that are not modern anymore. I mean they were thought of 50 years ago.

But what is the incentive for all growers to take those steps? Where is the incentive to do those things?

Agriculture is a highly competitive industry. People are very cost conscious. We have a lot of foreign competition. In the face of that, where will

the incentive come from to take those steps if not from increased enforcement by the government?

You know, if it's just altruism, the guy who spends a lot of money building nice housing and pays the workers a little better, he's going to lose out to his competitors who don't do those things. You know, I think that's what we have to focus on. Where is the incentive? What is going to be an incentive for making those changes?

Ms. Hughes. As far as the incentives go, what did prompt A. Duda to build a lot of these programs is they did want to have a more skilled labor force that they knew would be coming back. I think they have something like 70 to 80 percent of their workers coming back each year.

I think that will be the same incentive for other employers, in order to have a stable work force, to have a knowledgeable work force that's been there in the past and they know will come back the following season.

Right now there is a lot of consolidation going on in the agricultural industry. The small growers are basically dropping like flies, and so the growers are becoming larger entities, and I do think that the things like A. Duda is doing will start expanding more to other groups.

The video is just to show you some of the good examples that are out there, to let you know that it's not all bad, that there are improvements being made, and that it is a slow process, and that hopefully the other growers in time will be progressing that way also.

Of course, it's going to be larger employers that are able to do it first. It's the larger employers who have more growing operations in different parts of the country so they can move the workers themselves.

For the small employers, frankly, their problem is that they don't know the laws. I've been out there giving these workshops on IRCA around the country, going into different regions, pulling in the smaller employers, and you know, they really thought that all that was required of them from IRCA was filling out that I-9 form, and when they got the answers onto that I-9 form, that was it.

They didn't know about the anti-discrimination provisions. All they knew about was from INS and the border patrol coming around doing raids, stalking at their doors, looking for illegals, and, "Oh, my God, I'd better not hire an illegal." And so they became overzealous in trying to fill out those I-9 forms and checking the documents, not realizing that they were violating another part of the law.

They need to be educated on it, and there really isn't a concerted education effort going on. The Council is able to do this particular education effort because we have a grant from the Department of Justice. I wish the Department of Labor would come up with a similar grant program so we could do other, additional workshops.

Right now the only workshops I know of are ones helping the farmworkers know their rights, but that's only half the story if you're not telling the growers their responsibilities.

Probably--Libby Whitley just left from the Farm Bureau--they would have some funds to do some educational efforts, and I know that the county extension services try to do their part, but there's not a consistent effort to get the word out there on what to do. All that's out there is the enforcement actions that scare a lot of employers into trying to find out the laws if somebody near them, you know, gets hit. But I don't see that really helping workers. It helps the workers for those few little instances.

You need to educate all of the growers so that everybody knows what they should be doing.

Ms. Hernandez. I want to address that.

Mr. Williams. Just to respond to one point.

Ms. Fisher. Mayor Viveros, then Mr. Williams.

Mr. Viveros. Thank you.

I think that the responsibility, although the employers are the first in the tier of responsibility, responsible for the workers; I think the responsibility is also for all of us consumers in this country that buy the fruit and produce of that farm laborer.

In my written comments, I was proposing 25 cents per box attached to the sale of every box of produce sold in this country. We could create a national fund to address those needs for farmworker's housing and health care, as well; that the whole consumers in this country would pay for assistance to this population.

The consumer would never feel it because we're talking about maybe one cent per pound of produce produced in this country, and certainly I think that where there's a will, there's a way. We can find a way to assist the population. So that was my recommendation on that issue. The responsibility lies with all of us as well.

Ms. Fisher. Mr. Williams.

Mr. Williams. Well, I agree with that. I want to give one example and then go back to something Ms. Hughes mentioned.

We just passed in Florida a bill which prohibits communities from zoning out migrant housing. In many cases, where we want to build housing we find the "not in my backyard" phenomenon, and I mention this because A. Duda helped us pass that bill, and I appreciate that.

But to go back to what we were saying, I happen to know personally exactly why A. Duda instituted these changes: because in 1976, I brought a lawsuit against A. Duda, and at that time A. Duda's camps at Naples and LaBelle were, in my mind, the worst situations I've ever seen in years of representing farmworkers, and they were dreadful situations that went far beyond Harvest of Shame.

And at the same time, there was a series of three Jack Anderson columns about the situation of A. Duda. Now the company got the message. They got rid of the labor contractors. They tore down the camp. They put in a new camp, day care, and they essentially have been a model employer since that time.

But I think that somebody needed to send the wake-up call before that happened, and you know, people need to have incentive to act, and it can't just be based on people's good feelings, and obviously just the incentive of being raked over the coals in the press every few years hasn't been enough to do the job during the last 25 years. So, again, I come back to the point that the solution for our problem is an emphasis on enforcement, and not just picking on people, but a fair and firm policy of enforcement so that everyone realizes that they have to change and not just have a few people change.

Ms. Fisher. Ms. Hernandez.

Ms. Hernandez. Yeah, I just wanted to say that ignorance of the law is not a defense. That's always being told to the farmworkers, and I get very upset because we all know the minimum wage is 4.25. How can the grower tell me they don't have to pay 4.25 if they're paying piece rate?

So this thing about teaching growers, yeah, teach the growers, but it doesn't go to the contractor. So again you get the same damned problem happening every time. Get rid of the contractor. Make the grower responsible. Teach the grower, yes, but make sure that the grower is responsible for what you teach him.

When he passes on that responsibility to a "contractista" or the "majordomo" it does not flow down to the ground.

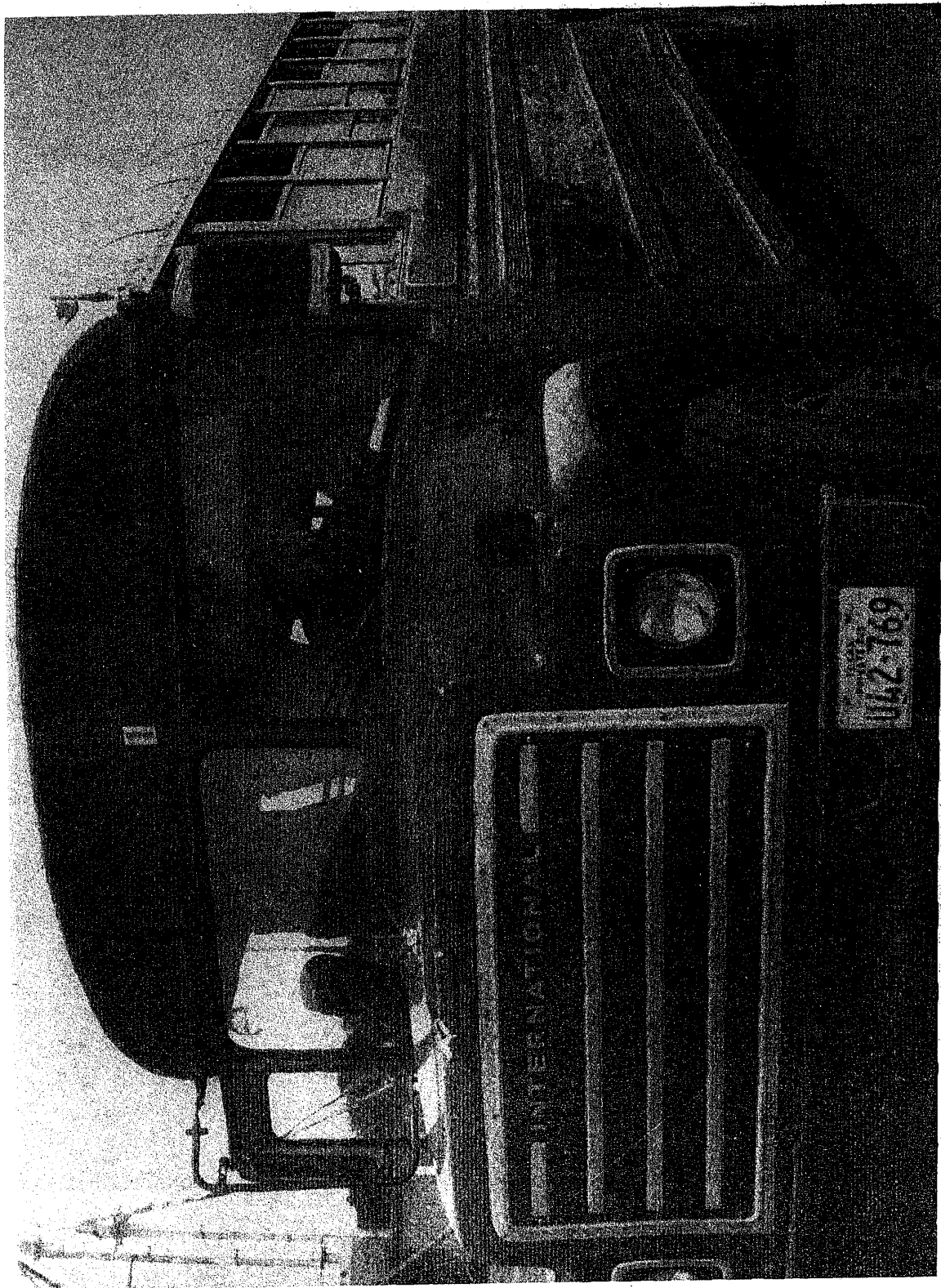
Almost three weeks ago I went to San Quintin, Baja, CA, on my own. I financed my grassroots organizing on my own. I went to go meet with approximately 4,000 Mixtecos who were ready to come up north, and the Mixteco, when I started the migrant unit, there was three streams, east, middle, California. It was mostly coming out of Texas.

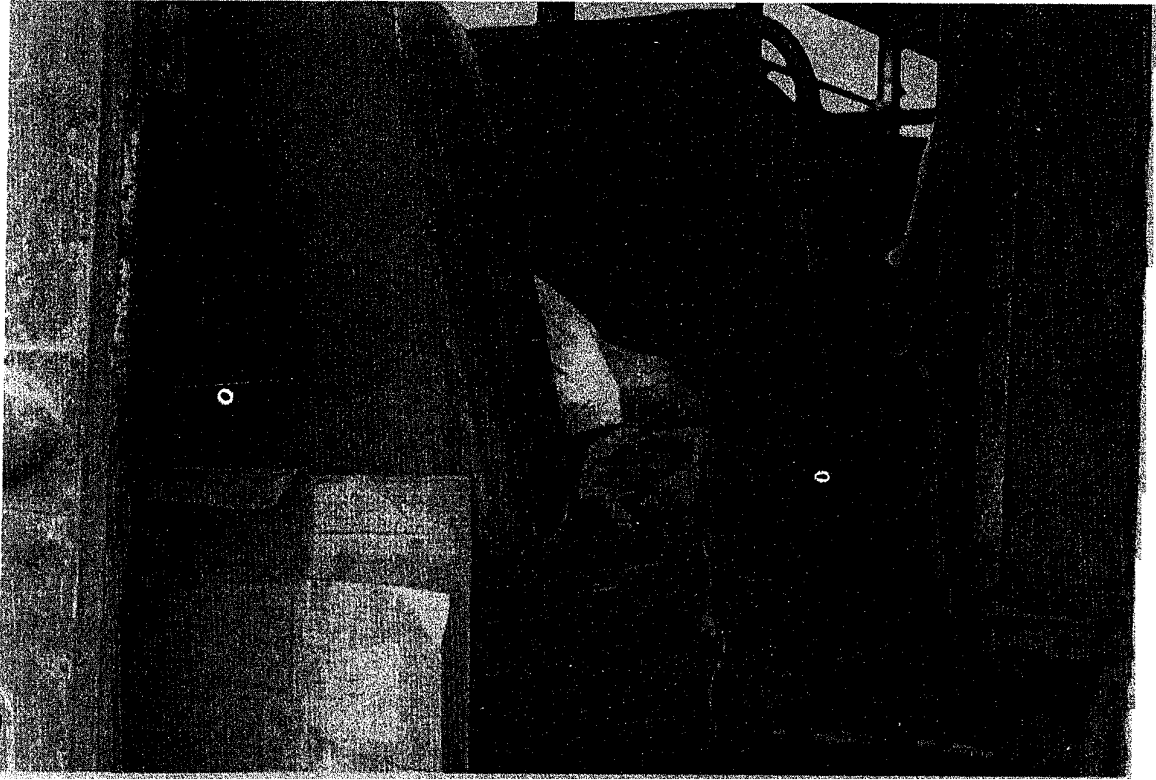
Now we get people all the way from San Salvador, Honduras, the Mixtecos, Guerrero, Guatemala, and the only thing I have in common with most of the farmworkers is some of them happen to speak Spanish. Some of them have their dialogue. I have to get interpreters to translate for me, but these guys go all over. One day they're in Fresno. The next season they're in Immokalee, FL. They're in Maine, north Virginia. They travel a hell of a lot of places than I've ever gone.

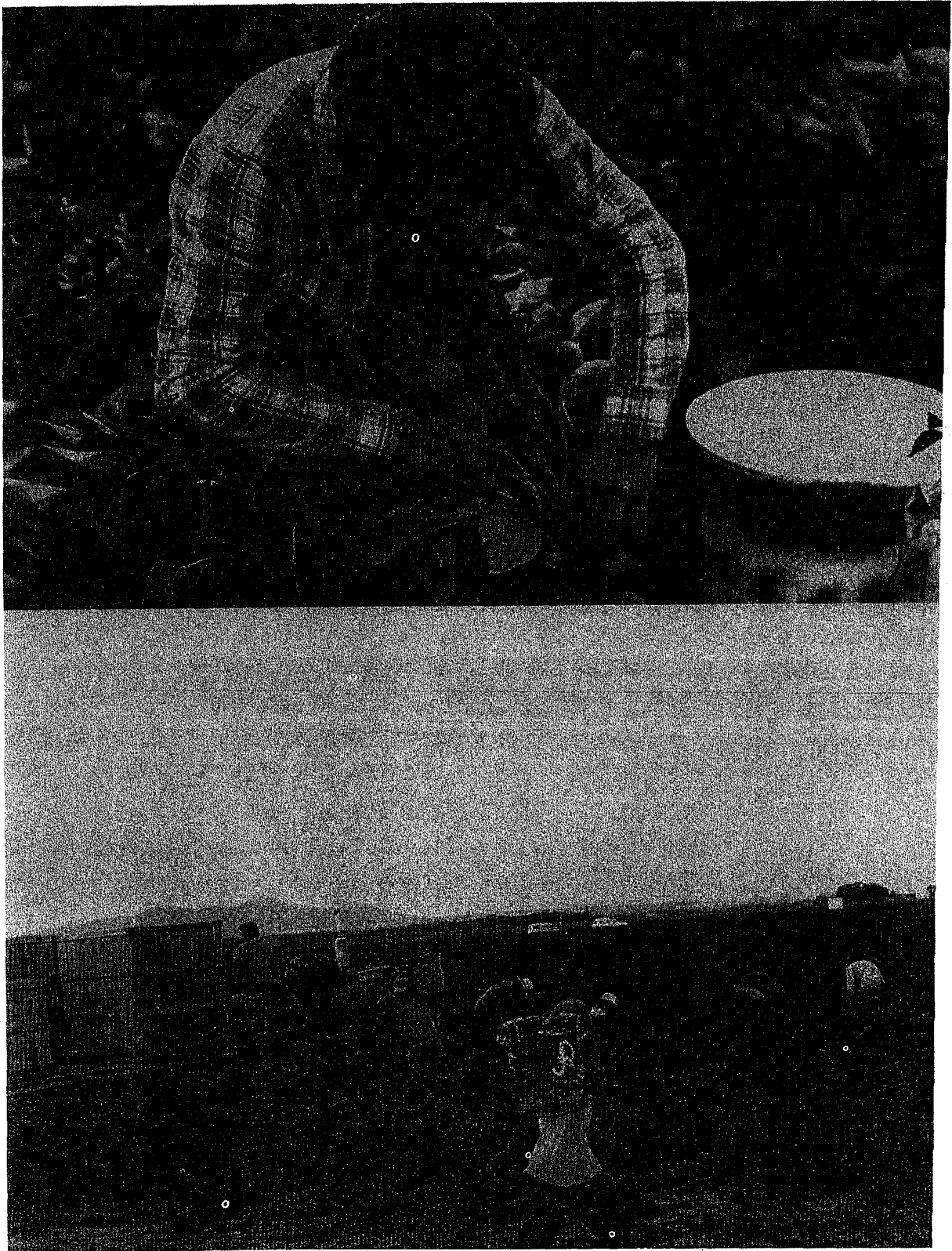
But they should know that the minimum wage is 4.25 all over, and if they know, the grower should know. I mean it was advertised.

The other thing I wanted to say is that because I think the Helsinki Commission also has to look at international boundaries. I'm starting to see more and more the Mixteco people come up. I met with some Mixtecos from Oaxaca last Sunday again on my own, 5 hours. They were talking about how because of the free trade agreement negotiation, Mexico dropped out of the Cafeteria Association, coffee. So now the coffee in the Mixteco is not sold because there's no price.

That's forcing the people to migrate up north, and they were saying if you could develop some kind of economic development in the Mixteco, we wouldn't have to come up north. If we could have a price on our coffee, and







one crisis or another. Such support can include "coaching" to improve a given workers' productivity in performing an unfamiliar crop task, support in negotiating with an employer about remaining in housing during a slow period, and negotiating support in the event of conflicts with a supervisor.

Fairly ambiguous-sounding discussions among relatives, *compadres*, or *comadres* about what is "most convenient" mask the complex balancing of various considerations on the part of a network representative who is recruiting workers to go with them and, on the part of a prospective migrant, about which of several possible options yields the best returns. Decisions about what is "convenient" may well incorporate a full set of understandings about reciprocal obligations, including housing arrangements, responsibility for child care, cooking, and transportation.¹³

From the employer perspective, the strongest point of network recruitment has to do with the link between worker recruitment, worker supervision, and worker stability. Family-based network recruitment also provides for long-term workforce planning. In the most stable networks, growers can be advised that some workers from the extended family have decided to stop coming north, are getting married, or are going to be in school. Workers can be advised if a grower decides to increase or decrease acreage in production, or change cropping patterns or if a neighboring grower has solicited workers.

Family migrants also provide an important "buffer" in terms of labor supply. When labor demand peaks, all family members can work long hours. When demand is lower, some family members (e.g. mothers of young children, or young teenagers) will be happy to work less or not at all. In contrast, a labor force consisting entirely of heads of household exerts constant pressure on an employer to maximize every workers' hours and days of work.

Finally, network recruitment serves to provide both employers and workers with incentives toward a variety of behaviors which serve to stabilize the labor market --

¹³ Allocation of household tasks such as cooking, cleaning, and child care to household members who would earn less in the fields or who don't want to work in the fields is an efficient means of maximizing the family's earning power. However, in some cases, the assignment of household chores to women who, then, also work in the fields puts tremendous stress on wives. See Allen Burns' ethnographic description of recent Guatemalan immigrants' household life, "Immigration, Ethnicity, and Work in Indiantown, Florida", (mimeo), 1988.

potential workers are screened by the family members who "invite" them to migrate, employers are motivated to be responsible in over-recruiting because news rapidly spreads within the network if workers who are "invited" to migrate don't in fact find employment, incentives and intermediaries to serve in negotiations when tensions arise can be found among long-term "trusted" workers charged with serving as labor market intermediaries.

Implications of Research Findings for the Role of the Employment Service in the Farm Labor Market

In the most general terms, our research in the Farm Labor Supply Study and our case studies in Washington and Michigan for the Commission on Agricultural Workers indicate that there are intrinsic formal characteristics of the farm labor market which make it *structurally difficult for a system of formalized public sector to fill the role of labor market intermediary effectively or efficiently*. Network recruitment, which is relied on by both agricultural employers and farm labor contractors is a highly structured response to the unique characteristics of the farm labor market.

While "informal" network-based recruitment, when used by farm labor contractors, can result in worker exploitation and mistreatment, it is essential to recognize that efforts to "rationalize" or "formalize" the farm labor market must address the same formal problems¹⁴ which have given rise to the current the structured system of informal network recruitment.

In particular, whatever system of labor exchange is used must successfully cope with the problem of managing the risks of mismatch of labor supply and demand under conditions where demand changes rapidly and unpredictably and where workers constantly face the risk of underemployment.

In the following section I discuss several points to consider carefully in examining the practical implications of this perspective on farm labor dynamics and in analyzing policy options regarding the proper role of the Employment Service in the farm labor market of the 1990's and the coming century.

¹⁴ Richard Mines has adapted the term "caciquismo" which originally referred to abuse of power within village networks to refer to some of the aberrations to be found in network recruitment such as favoritism, arbitrariness, and abusive behavior toward workers.

1. The Interstate Clearance System (ICS) has low probability of success.

The Interstate Clearance System provides a mechanism to fulfill a need which exists very seldom, if at all -- i.e. the need to supplement a "local" labor pool with workers from another state. While the ICS might conceivably play a role in responding to slowly-developing large labor shortages, it is doomed to failure in attempting to respond to "transient" labor shortages. The "natural" mechanisms of farm labor recruitment serve to meet labor demand needs more efficiently than the Employment Service can because informal network recruitment can provide stronger assurances to potential workers considering migration to a "risky" destination and because they can move more rapidly to broker employer-worker arrangements. Successful brokering in such conditions requires, among other factors, close linkage between labor recruitment and labor supervision -- a condition which it is virtually impossible for the Employment Service to meet.

There is no practical reason to expect that medium-term expectations of labor shortages which give rise to ICS job orders have any empirical validity (since supply and demand change too rapidly to predict whether there will, in fact, be a labor shortage) and even less reason to expect that real-time recruitment will be performed more effectively through formal bureaucratic processes than through informal networks. The most dramatic cases of successful interstate clearance orders we have observed -- in the Central Washington asparagus harvest -- were cases where the federal-state bureaucracy "rubber-stamped" pre-existing traditional arrangements in which Texas-based *troqueros* recruited workers for large firms with better-than-average housing arrangements. The fundamental arrangements for worker recruitment were established in the 1960's, well before the NAACP v Brennan case and have continued since.

One of the failings of the ICS is that it cannot "guarantee" prospective migrants jobs. Consequently, the ICS cannot respond to migrant farmworkers' primary concern -- the risk that a prospective job does not actually exist. In fact, the ICS cannot even guarantee that the terms of employment are as represented. At the core of the ICS failure is the disclaimer at CFR 653.501 which states

...neither the ETA nor the State agencies are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor does any job offer accepted or recruited upon by the JS constitute a contractual job offer to which the ETA or a state agency is in any way a party.

This disclaimer could best be put in perspective by noting that a farm labor contractor who recruited without guaranteeing the accuracy or truthfulness of a recruitment offer could be sued under AWPAs and be liable for substantial damages. There would appear to be little reason to spend taxpayer dollars on supporting a parallel system of farm labor recruitment which cannot live up to the minimal legal standards applied to private sector farm labor contractors.

A fundamental proposition of an information-based economy is that successful brokering of virtually all distance transactions must have provisions to make the information broker liable for the consequences of their representations. If the ICS is to exist, it is essential that it be liable for any damages suffered by workers who entail opportunity costs in responding to job recruitment offers or even in basing their seasonal migrant itinerary on such representations when the job recruitment offer turns out to be misleading, is cancelled because a need no longer exists, or which lasts only a few days.

2. The role played by the ICS in processing H-2a requests is unnecessary and has extremely low cost-effectiveness.

Otherwise responsible farmworker advocates and Employment Service staff have argued that the Interstate Clearance System has an important role to play in blocking H-2a requests and "saving" jobs for U.S. farmworkers. Given the fact that U.S. agriculture is employing about an additional 150,000 non-authorized farmworkers each year, it is hard to envision how the elaborate game strategies used to block H-2a orders have much impact on wages and working conditions for U.S. farmworkers.¹⁵ The argument that the ICS must be preserved to make the H-2a system work right is unfortunate evidence of an inability to establish priorities within the farm labor policy arena.

From a technical perspective, it is fairly clear that strong "positive recruitment" plans requiring H-2a requesters to utilize effective recruitment techniques in a local area, region, or state before processing an interstate clearance order is the strategy of choice. I, frankly, do not know what the legal subtleties of requiring a "prescriptive" recruitment strategy of potential H-2a requesters might be. If the Employment Service's legal authority

¹⁵ This estimate of increasing numbers of non-authorized workers is a fairly conservative one. The basic data are that a wide range of CAW case studies, as well as the NAWS, show a steadily increasing proportion of non-authorized farmworkers in the U.S. My estimate of 150,000 workers per year is equivalent to an 6% increase per year in a total labor force of 2.5 million workers, which appears consistent with a 1990 farm labor force in which 20-30% of the labor force is non-authorized. For data on regional variations see the forthcoming CAW report to Congress (CAW, forthcoming, 1993).

to prescribe effective recruitment strategies is not strong enough now, they should be strengthened. The labor recruitment strategies of agricultural employers who regularly succeed in meeting their labor needs on their own are a great deal more complex than placing an ad in the newspaper. "Positive recruitment" should entail not the charade of a recruitment process but employer commitment to a long-term labor recruitment and management strategy.¹⁶ If staff development is needed within the Employment Service, the staff development efforts might well be oriented to training staff as to what kinds of employer efforts in the realm of worker recruitment and management will be effective in filling job orders locally.

From a public policy perspective, the cost-effectiveness of a regulatory apparatus requiring the involvement of five or six high-professional staff to process a single job order which involves at most a few hundred workers when the U.S. farm labor market has chronic labor surpluses, is highly questionable. Assuming that ICS operations require approximately 50 professional person years of staff time per year, the charade in which an employer purports not to be able to recruit workers in order to get a favored "kind" of work costs the public sector approximately \$3.0 million per year at a minimum. If we add to this the cost of a variety of "enhanced recruitment" experiments such as the Farm Labor Information Bulletin which have, at best, regularly reported labor surpluses in upstream demand states, continued investments in ICS are a sort of bureaucratic tour-de-force which cannot and should not be tolerated in a public sector committed to "putting people first".

3. While local Job Service offices can play an effective labor market intermediary role, there are policy considerations which mitigate against this form of intervention.

Our research indicates that local Job Service offices can play an effective role as labor market intermediaries. But such effectiveness rests on skills similar to those of successful labor contractors -- intimate understanding of the day-to-day labor demands in key crops locally, the ability to respond very rapidly (within a matter of hours) to job orders, and enough "market penetration" among both producers and workers to assure a high volume of job orders and to provide incentives for workers to congregate at the office in a form of mini shapeup.

¹⁶ Such strategies often involve practical and solid commitments regarding employment for an entire family (e.g. processing work for wives and daughters combined with harvest work for men), preferential access to work during off-season periods of high competition for favored, highly reliable workers, "extended seasons" of work due to complementary cropping, and downsizing of pruning crews in tree fruit to allow each worker an adequate number of hours of work per week.

However, the availability of the Job Service makes it feasible for agricultural employers to cling to personnel strategies based on offering worse-than-average wages and working conditions, accepting high turnover rates, and relying on the local Job Service office to provide a continuous stream of casual workers. Structurally, effective local recruitment of workers has effects similar to those of the widespread availability of farm labor contractors. Thus, the role played by the Job Service in some labor markets may hinder employer movement toward improved labor recruitment and management practices.

In assessing the Job Service's role in facilitating employment in local labor markets, there is a significant trade-off between short-term benefits and long-term structural changes in the farm labor market. The benefits of a labor exchange are real. Workers who have finished work in one crop task can have their movement to a new crop task facilitated, improving the total amount of work available to them and, consequently, their annual earnings. At the same time, employers can have their labor needs met. The policy question hinges in reality on whether there is a rationale for public sector involvement in the labor exchange activity. Would there be any difference if farm labor contractors fulfilled the function now filled by the Employment Service? Would there be a difference if there were in every farm labor community a drive-by street-corner labor market or shape-up like the "bus station" in Immokalee, Florida instead of a Job Service Office? I doubt it. The Job Service offices which function effectively in this role essentially mimic the behavior of good labor contractors. Those which do not function effectively in this role, fail because they cannot establish rapport with agricultural employers, because their paperwork processes are too slow, or because they cannot bootstrap themselves into a position where they do function effectively.

In summary, I would argue that there are serious policy questions about the rationale for the Employment Service's current mission in the farm labor market, the efficacy with which it is possible to carry out that mission, and cost-effectiveness of even attempting to duplicate a function which is now extensively carried out by the private sector. However, I believe there are valuable roles which the Employment Service can, in fact, play. These are described below in the section on **Recommendations**.

Recommendations regarding a viable role for the Employment Service in the Farm Labor Market

1. Technical Assistance and Training Support for Structural Change in Farm Labor Recruitment, Hiring, and Supervision

The Employment Service has the potential of providing across-the-board support for agricultural employers who are willing to work collaboratively to improve the functioning of the farm labor market. Types of support which the federal-state Employment Service could provide in order to effect structural change in the farm labor market consist of training and development efforts targeted to farm labor contractors, farmworkers themselves, and to agricultural employers. Such efforts to leverage structural change in farm labor recruitment, hiring, and supervision include the following:

a) Training Farm Labor Contractors

The Department of Labor should advocate tighter regulation of farm labor contractors, combined with increased availability of technical assistance regarding way to comply with regulations -- a "carrot and stick" regulatory strategy. As in other industries dominated by small entrepreneurs, many farm labor contractors' technical expertise in running small business operations is limited. The Employment Service could play a valuable role in providing training opportunities for FLC's. Such training should include attention to the legal and regulatory framework, but also to basic topics in business planning, accounting, and personnel management. Limited, informal technical assistance is currently available to FLC's informally. There is no reason why there should not be a structured purposive effort to upgrade FLCs' employment practices.

b) Training Farmworkers regarding their rights

The bulk of America's farmworkers are not aware of the complex network of laws, regulations, and overlapping bureaucratic jurisdictions intended to protect their rights as workers. Legal services offices have promulgated pamphlets and handbooks giving an overview of this framework and, on an individual basis, MSFW outreach staff from Job Service Offices, JTPA 402 agencies, and Department of Labor Wage and Hour offices have responded to personal and call-in inquiries. This isolated, piecemeal strategy does not

provide a structured and effective strategy to build farmworkers' awareness of the regulations and laws which apply to their worklives.

I would recommend that a program be established to make small grants to legal service providers, adult education programs, and JTPA 402 agencies as well as to fund in-house efforts to conduct classes on farmworkers' rights. Classes in the order of 10-20 hours (i.e. one three hour class meeting over a period of three to six weeks) would be likely to draw large, interested, audiences and make a significant contribution to farmworker welfare. The advantage of grants to adult education providers and to JTPA 402 programs is that "workers' rights" instructional modules can easily be incorporated into a general, multi-purpose ESL/ABE curriculum.¹⁷

Investments in adult learning to promote increased reporting of regulatory violations within the farm labor market, improved documentation of allegations, and increased worker confidence in seeing tangible outcomes from taking initiative must be assessed in terms of cost-effectiveness to increased investments in regulatory staff. My expectation is that global investments in adult learning will be more cost-effective than increased levels of field inspection staff.

c. Technical Assistance to Agricultural Employers in Labor Recruitment and Supervision

Federal and state agencies' role has often been seen to consist only of informing the public of the provisions of laws and regulations which affect them. However, there are powerful arguments that in general the law enforcement role should, ideally, be much broader and include a variety of "community change" roles. These arguments are relevant here. The role of the Employment Service should expand beyond provision of "bare bones" information on what is legal and what is not in terms of farm labor recruitment and supervision to address the key issues related to what constitutes effective management of farm labor.

¹⁷ For an outline of this curriculum, see Ed Kissam, "El Pais Desconocido: Conocimiento de Derechos y Estrategias para Sobrevivir en los Estados Unidos", a curriculum outline presented to the U.S.-Mexico Border States Queretaro Conference, May, 1992. This curriculum framework is scheduled for completion in March, 1992 and copies can be requested from the author at (707) 829-5696 or from the OTAN network at (800) 894-3113.

As in the case of worker training, a program of small grants to educational providers has great promise. There currently exist professional organizations such as the Agricultural Personnel Management Association (APMA) which have substantial practical in-house expertise in practical and effective labor management practices. Employer associations such as the Washington Growers' League have also demonstrated that industry-based technical assistance programs can be an effective means of changing employment practices. Such organizations, or the Employment Service itself, are prospective providers of short-term workshop/seminars focusing directly on practical problem-solving and strategies to minimize employer-worker tensions.

It is, of course, critical that technical assistance provided to the private sector be of high quality and plausible. Currently, efforts by agricultural extension personnel are seen as being overly academic, unrealistic, and dated by agricultural employers who are inclined to feel that the public sector does not understand their situation.

2. A Tightened Linkage of Unemployment Insurance to Employers' "Best Efforts" to Stabilize Agricultural Employment

Tax policy is known to be an effective means for leveraging structural changes in business practices in general or in specific industries. Structural reform to the Unemployment Insurance system has tremendous potential to provide more equitable treatment to agricultural employers, powerful incentives to encourage employers to restructure labor demand to use the existing labor pool more effectively, and to dramatically increase farmworkers' annual earnings (and decrease public assistance costs) as a result of marginal improvements in numbers of days of employment per year.

The current structure of the federal-state Unemployment Insurance system provide inadequate incentives to agricultural employers to engage in job and task restructuring in order to stabilize farm labor employment. In a forthcoming paper, I describe in detail a proposed reform which could effectively link these now-disparate facets of Employment Service Activities.¹⁸ In summary, the required changes require "uncapping" the UI contributions schedule so as to increase the UI contributions costs for high-turnover employers while decreasing the UI costs of low-turnover employers. One promising

¹⁸Ed Kissam, "Everyday Realities and Effective Public Policy: The Case of Migrant and Seasonal Farmworkers" (forthcoming, January, 1993). This paper explores the across-the-board implications of post-IRCA farm labor market research for redesigning human service delivery systems.

policy option would be to build into the restructured UI rate schedule an UI discount for employers demonstrating "best efforts" in labor recruitment such as participation in industry-sponsored labor exchanges designed to facilitate workers' movement from one crop task in a local area to the next crop task, provision of guarantees of minimum amounts of work per day and per week, etc.

Farm labor demand is, inevitably, seasonal and there are, clearly, limits to the degree to which farm labor demand can be smoothed in order to use less workers while yielding more days of work for each worker. However, our case studies (Kissam, Garcia, and Runsten, 1992; Kissam and Garcia, 1992) show that employers can, in fact, use various strategies to extend the number of days of employment available to a labor force of "regular returnees" while maintaining their profitability (and probably increasing their workforce productivity). At the same time that labor demand is recognized to be sensitive to many different extraneous factors, making it essential for agricultural employers to maintain small labor supply buffers, it must be recognized that current surpluses are larger than necessary and that it would not be a burden to require the industry to tighten up in terms of effective use of available labor supply.

NAWS data show that even regular experienced farmworkers who are strongly attached to the farm labor force work only 165-170 days per year in farmwork. Even marginal improvements in labor force utilization (e.g. an increase of 8 days of work per worker each year or 5% increase in total hours worked) would yield about \$400 in increased earnings per farmworker, an aggregate benefit of more than \$500 million. to the farm labor force.¹⁹

3. A Revised Research Agenda

Current farm labor market information efforts are oriented primarily toward generating information on hourly wage rates and aggregate labor demand. In order to develop rational and effective farm labor policy, it will be necessary to redirect farm labor research efforts toward the dynamics of labor market processes.

¹⁹ This estimate is conservative in that it assume that only 1.2 million farmworkers of the 2-2.5 million farmworkers in the U.S. fall into the "regular, experienced, professional" group of farmworkers most likely to benefit from improved labor force utilization. In actuality, increased earnings would be generated both by increases in average work day and in average work week.

The most striking shortcoming of post-IRCA farm labor market research is that the research agenda was focused on macro-issues to which the answers soon became evident. Most researchers came early on to discover that, yes, there was a farm labor surplus and, no, employer sanctions were not working. While we readily answered these questions, our research, at the same time, allowed us finally to pose new questions in a more precise and challenging fashion. For example, we know that post-IRCA migration patterns are changing in important ways. The NAWS shows new "pioneering" migrants diffusing into areas of the U.S. which did not previously rely on Mexican immigrant farmworkers (Mines, Gabbard, and Samardick, 1991). Our own research (Kissam and Griffith, 1991; Kissam, Garcia, and Runsten, 1992) has suggested that Mexico-U.S. shuttle migration is increasing in the post-IRCA period and that new migration networks are becoming important. These findings need to be quantified and extended. The policy and program planning implications are particularly relevant in terms of regional allocation of funding, program staffing requirements, and regulatory strategies.

Yet there is much that we still do not know, even in the areas which have commanded most of our attention. In particular, research on the relationship between farm labor management and worker productivity is very badly needed if, in fact, we are to hope to convince U.S. labor-intensive agriculture that there do exist "win-win" scenarios which can serve, in part, to decrease the extent of adversarial conflict between farmworkers and their employers. Researchers such as Susan Gabbard have just begun to scratch the surface in terms of modeling farmworker decision-making; the practical implications of such research is substantial. My colleagues and I have yet to followup with quantitative modeling of the implications of our findings regarding the ways in which different sub-groups of farmworkers' decision-making process differs when confronted with the ambiguous piece rate offers and how this serves to structure farmworker economic strategies for risk management.

From my perspective as a member of what is admittedly a "special interest group" it will be crucial to involve researchers more directly in determining the applied research agenda with respect to farm labor. While it has generally been held that virtually all research should be driven by peer review, Congress has pushed bodies such as the National Science Foundation to consider more carefully the link between pure and applied research, between science and technology. In the farm labor field, we are, ironically, in a different situation; we need to determine how practical policy development might possibly benefit from fundamental research.

If regulatory concerns alone are allowed to drive farm labor research, we run the risk of wasting public dollars on studies such as a study of the terms of employment and working conditions of California sheepherders, Nevada woolshearers, and Michigan dairy workers -- just to mention a few of the obscure job classifications which occupy the attention of H-2a system processors. Eventually a balanced decision-making process is needed to assure that farm labor research dollars are spent on research which has scientific merit, practical utility, which is affordable, and which is "important" in terms of policy formation or program planning implications.

Summary

Recent research on the dynamics of the U.S. farm labor market suggests that it is necessary to embark on a fundamental re-examination of the Employment Service's current role in the farm labor market. *Public sector involvement in the farm labor market* can be justified only if programmatic objectives are well-founded, greater attention is given to cost-effectiveness, and if policy and program options are carefully examined within a broad policy context.

There are several roles which the Employment Service might fill in efforts oriented toward improving the functioning of the U.S. farm labor market. Direct involvement in interstate clearance system activities is not, however, one of the roles which promise most cost-effectiveness. Recommended roles include training and technical assistance activities oriented toward agricultural employers, farmworkers, and farm labor contractors; structural revisions to the Unemployment Insurance system as it affect agricultural employers and farmworkers, and forging a new collaborative farm labor research agenda.

Farm labor market research has given little attention to the dynamics of farm labor market functioning, thereby providing an inadequate basis for rational policy development and program planning. In order to effect anything more than marginal improvement in the *welfare of migrant and seasonal farmworkers*, it will be necessary for the Department of Labor and leading agricultural states to initiate a coordinated effort to simultaneously address issues which are now dealt with in a piecemeal fashion. At the same time, it will be necessary to seek a closer and more productive linkage between immigration policy and employment policy. Higher staffing levels, more spending, more regulations, and more coordination among bureaucracies responding to narrowly-defined legislative and

regulatory missions will mitigate neither the chronic inequalities in the farm labor market nor the tensions between public demand for immigration control and business demand for immigrant labor. A new break-the-mold approach is needed; otherwise there is little justification for continuing with strategies which have a long history of failure.

On the industry side, it will be necessary to engage in an equally searching and serious re-examination of labor recruitment and management issues. Efforts to improve supervision and to stabilize agricultural employment will be critical in U.S. labor-intensive agriculture's ability to compete in a global agricultural market, whether or not the North American Free Trade Agreement is implemented in the immediate future.

"Win-win" scenarios are conceivable but only if there emerges a new sense of commitment to addressing fundamental farm labor market issues to replace a half-century history of business-labor jockeying for comparative advantage.



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1 CFR §305.92-4

OFFICE OF
THE CHAIRMAN

Recommendation 92-4

Coordination of Migrant and Seasonal Farmworker Service Programs

Adopted June 19, 1992

Since the 1960s, the federal government has established numerous service programs to help meet the needs of migrant farmworkers. From the early days, migrants have been considered a uniquely federal responsibility, primarily because of their interstate movement, which makes it hard for the workers and their families to qualify for local assistance and disrupts other services like schooling for the children. As these programs have evolved, many have come to serve nonmigrant seasonal farmworkers as well.

The programs to meet health, education, housing, job training, and other needs of migrant and seasonal farmworkers (MSFWs) have developed separately. There are approximately 10 MSFW-specific service programs, and farmworkers also draw upon the assistance of numerous other general programs such as food stamps or Medicaid. The four largest federal programs are Migrant Education, administered by the Department of Education; Migrant Health and Migrant Head Start, both administered by the Department of Health and Human Services; and the Department of Labor's special job training programs for MSFWs under Section 402 of the Job Training Partnership Act.

Each program has its own definition of migrant and/or seasonal farmworker, as well as other eligibility standards. The result is a potential for overlap of some services and gaps in others, and there is no overarching provision for effective coordination among the programs. Various efforts have been undertaken at the national level to improve coordination, but with mixed success to date. These include an Interagency Committee on Migrants, a staff-level group that meets quarterly, largely for information-sharing purposes; an Interagency Coordinating Council, established informally as a forum for policy-level decisionmakers involved in the various programs, but now inactive; and a Migrant Inter-Association Coordinating Committee, involving nonprofit grantees and other organizations representing direct service providers.

In addition, MSFWs often qualify for other services provided by state and local governments or funded through private initiative, each governed by its own particular definitions or eligibility standards. These services are especially important in areas where some or all of the major federal programs are not present. Effective local service providers therefore have to be adroit in locating those available services, from whatever source, that can best meet the needs of their clientele. Because of the great variety in locally available services of this kind, much of the task of coordination among MSFW service programs necessarily takes place at the local and state level. Many states are finding ways to encourage this process by the creation of a governor's committee or task force, involving service providers, growers, representative government officials, farmworkers, and others.

The federal government should also take steps to improve coordination of services. For example, the intake procedures for each service program (now typically undertaken separately by each of the agencies, despite considerable duplication) should be streamlined. To effectuate such efforts, and to provide better interagency consultations before program changes are introduced, the President should establish by executive order a policy-level Interagency Coordinating Council on MSFW programs. This Council is not intended to replace, and indeed should promote, existing coordination at the program staff, state, and service delivery level.

To facilitate interagency coordination, whether or not such a Council is created, a reliable system for gathering data on the nation's population of MSFWs is needed. Although each agency has its own mechanism for generating program statistics and estimates of the target population, these vary widely in method and scope, and each suffers from specific inadequacies. They produce widely varying pictures of the nation's population of MSFWs, to the continuing frustration of legislators, service providers, researchers, and others. Agricultural labor data have always been left out of the Department of Labor's regular employment data system, and no other adequate permanent data source now fills the gap. The recommendation provides some guidance on the goals of such an information-gathering effort.

RECOMMENDATION

I. Coordination at the national level

An Interagency Coordinating Council on migrant and seasonal farmworker (MSFW) programs should be established to strengthen national coordination of MSFW service programs. The Council would be charged, *inter alia*, with identifying specific coordination tasks to be accomplished, in most cases under the primary responsibility of a designated lead agency.

A. To ensure an enduring structure and a clear mandate, the President should issue an executive order creating the Council, specifying the policy-level officials from appropriate agencies who would be permanent members and designating a chair. The order should also designate an agency that would initially have primary responsibility for staffing the Council's meetings and other functions. The Council should be specifically charged to coordinate and review MSFW service programs, giving particular attention to gaps in services and unjustified overlap. It should encourage public participation through public meetings, creation of an advisory committee, or other means.

B. The executive order should provide that the Council, in cooperation with the Office of Management and Budget, review proposals for significant changes in any agency's MSFW service program (including proposed legislation, regulations, and grantee performance standards). OMB should consolidate or coordinate its own oversight of all federal MSFW service programs.

C. The executive order should assign to the Council the initial responsibility to develop, through delegations to the appropriate agencies, a reliable and comprehensive MSFW population census system, independent of any of the specific programs, along the lines described in part II. Other specific coordination tasks that the Council might wish to take up include development of consolidated or streamlined intake processing for MSFW programs, provision of better linkages among existing MSFW information clearinghouses, and encouragement of cooperation among direct service providers.

D. The Council should identify and assign priorities to the coordination tasks to be accomplished, with a strategy and timetable for their achievement. In most instances, it should assign lead responsibility for each specific coordination task to a designated agency. That agency's coordination efforts with other agencies may include suggesting regulations or other implementation measures.

E. The Council should study the differing eligibility standards of MSFW programs and identify, if appropriate, where consistency could be achieved without substantial impact on the beneficiaries of those programs.

F. The Council should also study and make recommendations on the strengthening of state and local coordination of MSFW programs.

II. Information gathering on migrant and seasonal farmworkers

A. To improve coordination of and service delivery in MSFW programs, the executive order should:

(1) Authorize the Council to develop an integrated, cost-effective system for gathering data on the number, characteristics, and distribution of MSFWs and their dependents;

(2) Authorize the Council to designate an appropriate agency to have responsibility for collecting the data, with the cooperation of federal agencies with MSFW service programs;

(3) Direct appropriate federal agencies with expertise in gathering these kinds of data, such as the Bureau of the Census, the Bureau of Labor Statistics, the National Center for Education Statistics, or the National Agricultural Statistics Service, to cooperate with the Council's effort; and

(4) Provide opportunities for submission of data and information from the public.

B. This data system should ensure that the information gathered on MSFWs and their dependents sufficiently describes workers employed in a broad spectrum of U.S. agriculture and related industry. This means that the data should include and distinguish among workers employed, for example, in crop and livestock production, the packing and processing of farm products, and fisheries. Data should be collected on workers and their dependents, including such factors as recency and frequency of migration, farm and nonfarm earnings and periods of employment, and health, education, and housing characteristics. These comprehensive data should be collected in a form designed to be useful to service programs with differing definitions of eligible workers and their dependents.

C. This data system should be designed to help the Council identify general trends—including changes in the total number of MSFWs and their dependents and employment patterns—and opportunities for coordination among MSFW programs. To help achieve this goal, the Council should consider whether there are areas in which a consensus on a set of common characteristics of MSFWs should be developed for statistical purposes.

HAC

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For at least two generations the United States has pursued an agricultural policy designed to keep food costs for American families both plentiful and low in cost to the consumer. There can be little doubt that the policy is successful. Overall, food prices and the abundant supply have made our retail supermarkets the envy of the world.

While consumers enjoy significant advantages from this policy, as usual, someone has to pay. Without going into detail, it is apparent that the taxpayer subsidizes the growers in a variety of different ways - marketing orders, low-cost water, farm-to-market roads, enormous research expenditures, and of course direct payments of various kinds to growers, ranging from direct price supports to payments for not growing certain crops.

We do not suggest that this policy is misguided or wrong, or that tax dollars should not be used to implement the policy. Virtually all taxpayers are beneficiaries and there is nothing inherently unequal about asking taxpayers to meet the bill.

THE REST OF THE COST

What we do suggest is that the taxpayers do not foot the entire bill. Two other groups bear a disproportionate share of the cost - small family farmers and, of particular interest to HAC, farm laborers, including hundreds of thousands of migrant workers.

While it is arguable, there is a considerable body of thought which believes that the various subsidies have at least contributed to the loss of thousands of family farms in this country. Those farm families have sacrificed their livelihoods to the implementation of the cheap and plentiful food policy. Perhaps it is inevitable, but the family farm is disappearing, replaced by the corporate farmer, better positioned to take advantage of the opportunities available to modern farm entrepreneurs.

But an even greater subsidy payment is made, year after year after year by the farm laborers who plant, cultivate and harvest the bountiful, low-cost food we take for granted. No one knows with any certainty just who or how many there are. The USDA publication, "Agriculture Statistics" has nearly three hundred pages on commodities - soybeans, tree fruits and nuts, dairy products, tobacco, etc. - but only four pages on hired farm labor. Another USDA report, "The Agricultural Work Force of 1987" (an annual publication now discontinued "for budgetary reasons") places the number of farmworkers at 2,463,000, but it includes neither the Special Agricultural Workers (SAW's) gaining legalization under the

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Immigration Reform and Control Act of 1986, an estimated 1.3 million, nor does it include many of the undocumented workers who are notoriously difficult to count. The official count is unlikely to contain the thousands of underage children of migrant families who also labor alongside their parents in the field in an effort to boost the family income. It is HAC's considered estimate that there are a minimum of 5,000,000 farmworkers working annually in the United States. The huge majority are migrant farmworkers, and most, according to the House Select Committee on Aging, are young married foreign-born males, over two-thirds of Hispanic origin.

How do these farmworkers subsidize our table foods? By accepting minimum and even sub-minimum wages. By traveling long distances in often unsafe vehicles to accept those low-paying jobs. By tolerating working conditions unsafe by any health standard. By living in abandoned chicken houses, exorbitantly expensive motel rooms, doubled up with two or three families in one room shacks, or living in orchards, dry stream beds or abandoned vehicles. By permitting their children as young as six to work in the fields with them. By indenturing themselves to farm labor contractors who all to often "short-weigh" "short-count" and consequently shortchange workers on pay and withheld taxes, while charging excessive fees for food, lodging, transportation and life's necessities. In short, hundreds of thousands of farmworkers subsidize our food by surrendering their dignity to the demands of survival.

The principal result of Edward R. Murrow's CBS broadcast of 30 years ago, "Harvest of Shame", detailing the misery and neglect of migrants has been an increased public awareness of the problems. But there has been but little tangible change. Five cabinet level departments - USDA, Labor, HHS, Justice, Education and the EPA have regulatory or program responsibilities for migrant farm laborers. Laws are on the books. Administrators we have. Amelioration of the deplorable working and living conditions has not yet occurred.

HAC is in no position to discuss the migrant health, education, headstart, or job training programs administered by those departments, but we do understand the desperate need for decent housing and the inadequate response. Further, it does seem apparent to us that inadequate living conditions must contribute materially to the precarious state of health so many migrants suffer. Lack of pure drinking water or even of water to bathe off field applied chemicals is commonplace.

HOUSING FOR MIGRANT FARM LABORERS

The most recent survey (in 1980) of the national need for migrant farmworker shelter indicated a shortage of nearly 800,000 units. More rigorous enforcement of health and sanitary standards since that time have meant the loss of even more private labor camp units, while the only federal farmlabor housing program has

financed, since 1980, fewer than 5,000 new units, virtually all of those in states with nearly year-round need for farm labor. The existing farmlabor housing program administered by the Farmers Home Administration (FmHA) in the U.S. Department of Agriculture, is wholly inadequate to the task.

Funded at roughly \$27 million in FY 1992 (40% grants), the Section 514/516 farmlabor housing program simply cannot meet the need. Furthermore, the nature of the program financing virtually necessitates year-round occupancy of the units which are built, making it totally impractical in agricultural areas with a labor demand of only three or four months.

The National Affordable Housing Act of 1990 did establish a new Homeless/Migrant program which would permit interested local governments or nonprofits to apply to FmHA for 100 percent financing of shelters to be used for migrants during their residency in the community, and for homeless individuals and families in the off season. While \$10 million was authorized, nothing was appropriated. FmHA is attempting to utilize money from the 514/516 program to initiate the program, but the legislative requirements that an area have both migrants and homeless has made the program almost unworkable.

In short, there is no workable program to address the need for decent housing for migrant farmworkers in the agricultural communities which need such labor for a few months each year. There is not even an adequate program to provide decent housing for farmworkers in those areas which need their labor 8, 10 or 12 months of the year.

WHAT MUST BE DONE

The Housing Assistance Council has, over the past twenty years, made a series of suggestions addressing the housing plight of migrant workers. While this particular briefing is not the place to discuss those suggestions, HAC does wish to make the Commission aware of the problem, and recommend that a future briefing be devoted to the housing problems of migrant farmworkers. We would be happy to address the problems in detail at such a time.

**STATEMENT OF THE AMERICAN FARM BUREAU FEDERATION
TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE
WITH REGARD TO AGRICULTURAL LABOR POLICY ISSUES**

July 20, 1992

The American Farm Bureau Federation is the largest voluntary membership farm organization in the United States with nearly four million member families in fifty states and Puerto Rico. We appreciate the opportunity to brief the Commission on our perspective on agricultural labor policy issues.

Farm labor has always been an important issue to farmers. We estimate that Farm Bureau member families include some 85 percent of the nearly one million farmers who employ hired farmworkers.

Farm Bureau's interest in agricultural labor policy has spanned the development of the agricultural labor statutes and regulations currently in law. Farm Bureau's policies dictate our involvement on each specific issue. Farm Bureau is not opposed to workable and effectively-administered programs to upgrade the welfare and skills of migrant and seasonal farmworkers. Many examples of Farm Bureau's cooperation in the areas of worker protection and rights exist:

- * Farm Bureau worked at length with Members of the House and Senate, other agricultural organizations, farmworker advocacy groups and the Reagan Administration on introduction and passage of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA). That bill became law in 1983, and Farm Bureau has worked since that time to educate farmers and ranchers about their responsibilities under the law.

- * In 1985 and 1986, Farm Bureau worked with EPA in the revision of the 40 CFR Part 170 regulations governing farmworker pesticide protection. When these regulations are finalized, Farm Bureau will educate its members about compliance with these complex requirements.

- * Farm Bureau was a participant in passage of the Immigration Reform and Control Act of 1986 (IRCA) which resulted in the legalization of over one million formerly undocumented alien farmworkers. State Farm Bureaus and other agricultural organizations around the country held training seminars and workshops to help the industry understand the employment verification and other requirements under IRCA. As a result, compliance with IRCA is higher in agriculture than any other industry group.

- * In 1983, we supported the transfer of CETA's Migrant and Seasonal Farmworker Programs into the Section 402 grant programs of the Job Training Partnership Act.

- * Many of our state Farm Bureaus work with migrant education and training programs, Migrant Head Start and other farmworker programs.

* In 1992, Farm Bureau joined with the Department of Justice to educate farm employers about their responsibilities under the anti-discrimination provisions of the 1986 Immigration Reform and Control Act.

* Farm Bureau publishes a labor law handbook to ensure farmers' compliance with laws and regulations. We provide regular notices about current agricultural labor policy developments so that farmers share their concerns about labor policy and regulatory requirements' effects on the industry.

Farm Bureau is concerned about the representations made by Ambassador Samuel Wise in his June 5, 1992, statement to Working Group Three. Mr. Wise seems to have accepted at face value representations made by groups including "government officials, advocates, service providers, legal assistance groups and migrant farmworkers themselves."

From these meetings, the Commission has drawn bleak conclusions:

"...wage fraud, intimidation, harassment and physical violence including sexual; unsafe exposure to toxic pesticides and chemicals; substandard housing; racial discrimination; restricted movement; restricted access to legal assistance; child labor violations; inadequate and restricted access to health care; unsafe and potentially deadly transportation and inadequate or ineffective law enforcement mechanisms...."

Farm Bureau does not share this assessment of present conditions in American agricultural employment. Further, we note with dismay that the Commission's research on this issue was not balanced by any discussions with employer groups. Such a biased position for drawing conclusions in this subject area will not be helpful in assembling a credible report.

The Commission's initial approach is flawed. It's clear from an examination of existing laws and government programs that the framework is in place to address such problems as may exist.

The agricultural employer community is already one of the most heavily-regulated employer groups in the United States. Further, it is not known how many migrant workers there actually are. Existing problems would be more easily solved if the data were available to properly define the actual extent and significance of employment-related problems.

The Commission may be aware that the Administrative Conference of the United States (ACUS) recently has concluded that greatly expanded coordination in the area of migrant data collection and program delivery will go a long way toward alleviating migrancy problems. Consider how improved data collection would be useful.

The USDA Quarterly Labor Survey shows that, in most quarters, from 600,000 to 2.5 million people are employed in agriculture in total.

This agrees with the USDA "Hired Farm Work Force" publication which shows that, out of a total farm work force of 5 million persons, less than half--2.3 to 2.4 million--are actually hired. That is, they are paid to perform farmwork instead of being an unpaid family member.

Beyond this, the USDA's 1987 Current Population Study shows that only 954,278 of the 2 million farms in this country had labor expenses. Of these, on 682,184 farms the farmer hired and paid the workers himself. An additional 135,931 used farm labor contractors or custom harvesters; 136,163 used a mix of both direct hires and contractors.

It's not known how many farmers who employ labor fall beneath threshold coverage of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) and the Fair Labor Standards Act (FLSA). Both of these laws contain a small employer exemption for employers of less than 500 man-days of labor per calendar quarter.

Similarly, we don't know how many farmers are exempted from OSHA enforcement by the appropriations rider preventing OSHA enforcement on farms with ten or fewer employees.

The "Hired Farm Work Force" reports that the majority of farmworkers are employed on a casual (less than 25 days) or seasonal (25-149 days) basis. Combined, this represents 68 percent of the hired farm workforce. Regular and year-round workers who worked more than 150 days each year make up 32 percent of the workforce and account for 77 percent of the total days of paid farmwork.

Additionally, the "Hired Farm Work Force" reveals that almost half of all farmworkers work outside the labor force most of the year. Thirty-four percent are actually students and housewives who are not in the workforce otherwise.

Earnings and unemployment statistics are skewed by factors such as these.

Accordingly, it would be helpful for the federal government to determine exactly who the workers are, where the jobs are located and how long during the year the workers are employed in migrant and seasonal jobs.

Migrant advocates claim that 4-5 million individual migrant and seasonal farmworkers are employed annually. We believe this figure is inflated at least two-fold because workers are transient and are counted more than once.

Accurate data would be helpful in targeting migrant education, training, health, day care, legal services and other benefits. Currently, almost \$500 million federal tax dollars are appropriated for these purposes. There are also state and private monies dedicated to migrant services. With accurate data, the funds could be more effectively spent where the jobs and employment of actual migrant workers are located.

It is difficult to comment specifically on the Commission "findings" without more details. However, in brief:

* **Safety.** National Institute of Occupational Safety and Health points to agriculture as one of the two most dangerous occupations in America. However, the vast percentage (60+ percent) of accidents happen to the farmers themselves, not to hired labor, and they are equipment and tractor accidents. Pesticide exposures are estimated to be the lowest occupational injury--about 5 percent of all accidents. No government data exists which is any more specific than this.

* **Intimidation.** The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) specifically prohibits "intimidation" of workers. Farmers are rarely cited, if ever, for such violation.

* **Health Care.** Farmers are self-employed. As such, they, too, have "inadequate and restricted access to health care." Nevertheless, Farm Bureau is strongly opposed to mandatory employer-paid health insurance or nationalized health care.

* **Child Labor.** In 1990 the U.S. Department of Labor conducted a nationwide child labor enforcement action in "Operation Child Watch." Fewer than .25 percent of 60,000+ violations uncovered by that coordinated enforcement effort were in agricultural employment. Hiring children to perform the heavy manual labor required in farm jobs is not cost-effective for farmers. Child labor law violations are not a problem in agricultural employment.

* **Legal Assistance.** Far from "restricted access to legal assistance," farmworkers have the undivided attention and deep pockets of federally-funded legal services attorneys. Litigation in agricultural employment is an increasingly large problem for agricultural employers.

Farmers' responsibility under the law is clear, and Farm Bureau works to help growers comply with the myriad of requirements in housing, field sanitation, taxes and FICA withholding, worker recruitment notification, safety training, transportation, wage and hour recordkeeping, immigration and civil rights laws, child labor, general safety and pesticide protection areas. The vast majority of Farm Bureau members and farmers in general try to the best of their ability to meet the letter and spirit of these laws.

At the same time, most farmers are small, independent businessmen. National average farm income is about \$15,000 per year. Most farmers have no office personnel other than a family member who might keep the books. At the same time, farmers have a genuine regard for the law and for the welfare of their workers. They want to comply with the laws and make the best working accommodations for their workers that economics, time and ability will allow.

Government should foster a spirit of cooperation between grower and worker rather than the adversarial attitude which now exists. Farm Bureau believes that additional data collection and a much greater emphasis on employer education would be more appropriate than additional regulation and legal responsibilities. We urge the Commission to reexamine its findings and broaden its research activities to develop a less biased view of the actual conditions in agricultural employment in the United States today.

APPENDIX 3. Briefing Two: Health and Safety Issues

TESTIMONY TO THE COMMISSION ON SECURITY
AND COOPERATION IN EUROPE
OCTOBER 9, 1992

BY MARILYN H. GASTON, M.D.
ASSISTANT SURGEON GENERAL
DIRECTOR, BUREAU OF PRIMARY HEALTH CARE
HEALTH RESOURCES AND SERVICES ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Introduction:

I am Dr. Marilyn H. Gaston, Director of the Bureau of Primary Health Care. It is a privilege to speak before you today and I applaud the efforts of the Helsinki Commission on behalf of migrant and seasonal farmworkers.

My professional career has been dedicated to improving the health of children and their families, especially poor and minority families. I assisted in the establishment of a community health center in Cincinnati and served as its first Medical Director, meeting the needs of low income African Americans.

I am now the Director of the Bureau of Primary Health Care. This is the largest Bureau within the Health Resources and Services Administration, with a budget of over \$1 billion dollars. We are responsible for improving access for underserved, minority, poor, disadvantaged populations across the country to high quality, comprehensive, primary health care services with an emphasis on prevention. Our community-based programs are designed to meet the needs of over six million persons that experience unique barriers in the receipt of appropriate primary care services. Our programs target those who are also at greatest risk for poor health outcomes.

Since coming to the Bureau, I have actively supported a renewed focus on the health needs of the migrant and seasonal farmworker through the Migrant Health Program. In spite of my previous experience, I must confess I am still learning about the significant challenges we face in delivery of services to a mobile, multi-cultural population with significant health problems. I, like many of you, first learned of this population on a Thanksgiving evening in 1960 when Edward R. Morrow presented the documentary, *Harvest of Shame* to millions across the country, exposing the bitter experience of the migrant condition.

This is not a stable population bounded in a specific geographic service area. This is a population at high risk which is often hard to reach because of their mobility. The health problems of stable communities can be clearly identified in county or hospital data. A population that is constantly on the move presents enormous challenges for data collection and for service delivery. Although reliable data are limited, what we do know about the overall health status of these poor, hardworking people is very disturbing.

The health profile of the migrant farmworker population resembles that of a puzzle with many separate pieces of health status information. In an attempt to provide a more complete picture, the Bureau was pleased to support a comprehensive study conducted last year of four migrant health centers in three States. The study points out that the disease patterns of this population are similar to those found in the general population of the United States well over sixty years ago. They have high rates of parasitic and infectious diseases including food and water borne disorders, as well as chronic diseases. The rate of diabetes is as much as 300 percent higher than that of the general population. Migrant farmworkers and their families are more likely to experience significant maternal and newborn health problems, such as high risk pregnancy, as well as hypertension, infectious and dermatological diseases.

The recent report of the Centers for Disease Control indicates the distressing fact that farmworkers are approximately six times more likely to develop tuberculosis (TB) than the general population of employed adults, given their substandard and over crowded living conditions. We are developing a strategy that recognizes this re-emergence of tuberculosis as a public health issue. Expanded research on their overall health status of farmworkers will allow us to respond in a much more directed fashion.

Today, I want to tell you about our efforts to meet the health needs of migrant and seasonal farmworkers. I will focus my comments on several key areas of the Bureau's strategic plan: Access, Clinical and Integration/collaboration. I am proud that 1992 marks 30 years of health care service to migrant farmworkers through the Migrant Health Program. The Migrant Health Act was enacted on September 25, 1962, largely as a result of the public's outrage over Harvest of Shame. The program also came about to protect the farm community from communicable diseases and to assist an already overburdened rural health care system.

Access:

Our highest priority both now and in the future is increasing access to family-oriented, community-based primary health care for migrant and seasonal farmworkers and their families. The Migrant Health Act authorized the provision of primary and supplemental health services to farworkers. We have grown from an initial appropriation of \$750,000 to an appropriation of \$57.7 million. Today, the 104 organizations we support operate clinics in over 400 locations and serve the needs of over 500,000 patients annually. We attempt to fill a gap and create a network of health centers up and down the migrant streams where none had existed before.

The Migrant Health Center Program serves the most vulnerable among us through a community-based system of care. The National Agricultural Workers Survey recently reported that the average farmworker earns less than \$7,500 per year. Fewer than 18 percent were recipients of needs-based social services such as Food Stamps and Aid to Dependent Children. The exposure of these people to environmental and occupational hazards and substandard living conditions challenges the very fabric of our delivery system. A system which must continue to face the serious challenges of recruiting and maintaining qualified health care providers and keep up with the spiraling cost of care.

The Migrant Health Program appropriation increased from \$51.7 million in fiscal year (FY) 1991 to \$57.7 million in FY 1992. The President requested an appropriation of \$62.9 million in FY 1993. It appears the final appropriation for FY 1993 will be \$57.3 million. On September 25, Secretary Sullivan announced \$27.9 million in awards to establish and expand community and migrant health centers in urban and rural areas throughout the country. Of that, approximately \$5 million was used to expand services directly to migrant and seasonal farmworkers.

The economic, geographic and social disadvantages often found in rural areas, present recruiting difficulties for our Migrant Health Centers. A key component of our access plan has been the revitalization of the National Health Service Corps (NHSC), to address this recruiting problem. During 1992, the National Health Service Corps celebrates 20 years of recruiting, placing and supporting primary care providers to improve access for the underserved of our Nation. The NHSC Revitalization Amendments of 1990 (Public Law 101-597) provided the mandate and re-authorization for the NHSC to continue to place providers in settings which serve those most in need, such as migrant farmworkers and their families. We will target our recruiting efforts to multi-ethnic, multi-racial providers. In FY 1992 approximately \$57 million was available for the NHSC Loan Repayment program, NHSC Scholarships, and State Loan repayments.

In order to expand access for farmworkers, we must expand and facilitate financing coverage under the Medicaid Program. As was pointed out in the recent **General Accounting Office Report: Hired Farmworkers ...Health and Well-Being at Risk**, Farmworkers who qualify for Medicaid face enormous barriers in enrollment procedures and administrative requirements. Trying to get through the various enrollment and eligibility requirements as they move from State to State, as well as, problems associated with the lack of transportation, inconvenient hours of operation, and language difficulties represent insurmountable barriers to most migrants.

We are currently working with the Health Care Financing Administration (HCFA) to conduct a feasibility study of multi-State Medicaid Reciprocity program for migrant farmworkers and their families. The study would examine ways of establishing a reciprocity program to facilitate and improve the administration of Medicaid coverage for migrant farmworkers. The study will analyze existing barriers to Medicaid services to farmworkers, such as eligibility standards, enrollment processing time, maintenance of eligibility, provider acceptance of patients with out-of-state Medicaid cards, claims processing and provider payment. The results of the feasibility study may serve as the basis for implementing a Health Care Financing Administration demonstration of a reciprocity program in several States. The HCFA plans to initiate this study by February.

Clinical:

The foundation of our clinical efforts are the Migrant and Seasonal Farmworker Health Objectives for the Year 2000, a copy of which has been provided to the Commission. Clearly, a multi-disciplinary effort is needed to improve the overall health status of farmworkers in this country. The 15 Health Objectives reflect the agreed upon current priorities for migrant health service needs covering such things as goals to reduce environmental health hazards, HIV infection and infectious diseases. Another major priority for the Bureau deals with a new data strategy and health center reporting system. This will allow us to capture demographic characteristics, the nature and level of services, diagnostic trends and program accomplishments.

The nomadic life of the migrant farmworker creates associated problems with compliance and followup. We continue to look for new technologies in the area of data transfer and telecommunications networks to respond to this dilemma. The economic condition and health status of the farmworker requires that the migrant health delivery system and providers adapt to respond to these demands. That is why we have supported the fine efforts of the Migrant Clinicians' Network since 1985 in sensitizing providers to the unique issues of delivery of

services to migrant farmworkers. Also I must tell you we have the most caring and committed providers I have ever been associated with in my career.

Integration and Collaboration:

As may be self-evident, providing health care for America's harvesters requires cooperation at every level: local; State and Federal. At the Federal level, programs designed to serve the farmworker evolved under separate legislation resulting in some fragmentation of services. That is why services integration and collaboration has always been a key goal of the Migrant Health Program. We must avoid the duplication of effort among migrant service providers in order to provide a more efficient comprehensive package of services.

In 1991, we supported a major study by the National Migrant Resource Program to evaluate the extent of integration and coordination of services among our health centers and other organizations at all levels. Early in this fiscal year we will be assigning three Federal staff to serve as Migrant Stream Coordinators. These positions are designed to remove obstacles and improve the ability of farmworkers to access health and other services as they move along the three migrant streams.

Since 1985, the Migrant Health Program has been an active member of a Federal Interagency Committee made up of the key Federal Departments serving migrants as well as interested private advocacy groups like the Farmworker Justice Fund. The mission of the Committee continues to be to share information, identify barriers to coordination and develop a common strategy to achieve the goal of improved services to migrant farmworkers and their families. I am very enthusiastic about recent ongoing collaborative efforts that I have mentioned with the Health Care Financing Administration on the problem of Medicaid coverage. We are also working with the Department of Housing and Urban Development on the alarming housing conditions which most migrants experience.

Our relationship with the Centers for Disease Control (CDC) continues to be strong. We have a joint evaluation project in which CDC will provide technical assistance to five health centers on improving their pre-school immunization rates. We also have an interagency agreement with CDC to target additional dollars for childhood vaccines in Bureau programs. Ongoing collaboration continues with CDC on Hepatitis B, TB and Sexually transmitted diseases initiatives. We also work closely with our sister Bureaus, the Bureau of Maternal and Child Health on special maternal and child health activities and the Bureau of Health Professions on expanded support of nurses in Migrant Health Centers.

We have supported and strengthened the work of the National Advisory Council on Migrant Health. This is a legislatively mandated Council whose members are appointed by the Secretary of Health and Human Services. It is also the only organization that hears public testimony from farmworkers from around the country on a regular basis. Their participation in this meeting speaks to their overall commitment to farmworker issues and the leadership of their Chair, Mr. David Duran.

In closing, let me say we will continue to build upon our long range plan to:

- improve access to care for farmworkers
- recruit and retain multi-ethnic and multi-racial health care providers who provide high quality health care
- improve integration/linkages/collaboration at the local, State and Federal level

Our job is enormous---and growing. The fact that States are suffering financially increases the burden on our programs. There is increasing recognition that our kind of health care---community-based, comprehensive, culturally and linguistically sensitive, family-oriented primary care is the answer to improving access to quality cost-effective care.

It has been said that the farmworker's struggle is still going on with the dignity, not to mention the lives of so many people at stake- it has been waged by others in earlier years, even as it will be waged in the years to come. I think all of us want to have a positive vision of the future for farmworkers....founded on the belief that the gap between the promise of a better life and their current reality can one day be closed.

TESTIMONY BEFORE THE U.S. COMMISSION
ON SECURITY AND COOPERATION IN EUROPE
BY EDWARD ZUROWESTE, MD
OCTOBER 9, 1992

Good Morning. I am Dr. Ed Zuroweste from Chambersburg, Pennsylvania. As the chair of the Migrant Clinicians Network, I represent the doctors, nurses, dentists and other front line providers caring for migrant and seasonal farmworkers and their families in remote, rural areas.

I want to offer you a glimpse of what it is like to be a migrant clinician who cares for those who work to put food on our tables.

Farmworkers are wonderful people. They are smart and hardworking and they are survivors, accustomed to doing without or receiving very little. Sadly they have to be, because we can do so little for them with what we have.

Our health centers function in isolation not only isolated from one another but from the larger, main stream health care communities. We do not choose this isolation but in reality we function as islands of care for an often misunderstood and undervalued population in communities where residents do not have adequate access.

In addition, farmworkers are barred from traditional health care services by differences in language, cultural differences, lack of transportation, poverty, poor access to referral sources, and the absence of continuity of medical care and follow-up.

Migrant Health Centers are tasked with creating a viable, culturally relevant system of care and they do a tremendous job with what they have, but what can be done with \$100 per person, per year? That is the average spent on each farmworker seen in a migrant health center in a year, and at current funding we are able to care for less than 20% of the farmworkers in this country.

The needs of these people are great and they are ignored by much of America. While working to feed us, migrant farmworkers survive in substandard housing, labor long hours for low wages and are exposed to powerful dangerous pesticides. This occupation takes its toll as seen in an incidence of parasitic infection that is thirty-five times more common than within the general public (20 - 40% of all migrant farmworkers have tested positive for intestinal parasites); rising rates of tuberculosis that are 50-300 times more prevalent than among the general public, and the lack of or late prenatal care. Farmworkers have a third world pattern of infectious disease a pattern not suffered by the general public in this country since early in the century. The magnitude of these problems is complicated by the fact that when the clients finally reach us for care what might have been an uncomplicated problem such as a simple hernia, has become severe.

Migrant farmworkers exhibit some of the worst dental manifestations of any population in the country. When they are queried, migrant and seasonal farmworkers place dental problems at the top of the list of their health problems.

One of the most tragic aspects of migrant and seasonal farm labor is the labor that we extract from children. Farmworker children are excluded from the protection provided in the 1938 Child Labor Act. Children as young as ten years old can legally work in the fields. In this country 300 children die annually from work related farm injuries, and 25,000 children are injured in farm accidents. With current data collection systems it is difficult to determine exactly how many of these children are members of migrant farmworker families, but we can be sure that many of them are.

The problems farmworkers face can only be eased by a fundamental change in the economic dynamic that is in place. This change would include a decreased expectation by the American public for cheap food and the cheap labor needed to harvest it.

I worry about the migrant and seasonal farmworkers, and I also worry about those of us who care for them. Migrant Clinicians are dedicated people who like farmworkers are accustomed to working with very little. We are creative at doing more with less. But, we are frustrated in our efforts to serve the working poor. Frustrated by the lack of sufficient dollars to address the escalating need in a time of rising cost in the medical industry. Frustrated by the absence of reliable methods for tracking our clients who need continuing care. Frustrated by the shortage of mechanisms for payment of medical care. It is estimated that 90% of farmworkers qualify for Medicaid, yet fewer than 10% receive any type of benefits. This situation is coupled with a lack of financial support for farmworkers injured while laboring in the fields. We are frustrated by a federal health care system that rewards numbers and not innovations in care.

If I could wave a magic wand and provide health insurance to every migrant and seasonal farmworker in America today, there would still not be enough clinicians in rural practice to care for them. They would still not receive the care they so urgently need. There isn't a primary care infrastructure in this country for any of us, and those minority populations who are hard to reach in remote, rural areas are particularly unlucky. With the rise of HIV and the resurgence of TB the picture becomes even more menacing.

As a volunteer migrant clinician I am lucky because I can choose how I will serve. I have a private practice and I give my time, - nights and weekends, to take care of farmworkers in my community. For many of my colleagues that is not an option. They are shackled in outmoded delivery systems which neither nurture their development, reward their leadership, nor celebrate their sacrifices. Instead of being recognized for their service they are sometimes viewed suspiciously as striving for self engrandizement or as professionally incompetent. Why else would they be working with migrant farmworkers?

There has been a lot of talk about finding the secret to retaining primary care providers. Unfortunately, what retention too often means is capturing bright, young professionals right out of their learning programs to come to rural areas to practice for all eternity.

Lets be reasonable. How many of us have had one job all our lives? Lived in only one place, and worked non-stop in a place that was so needy that we must be available 24 hours a day, seven days a week? We are asking caring and compassionate human beings to function under circumstances where there is no rest, and no one to take your place if you can't go on.

If one of us makes the difficult decision to leave a rural placement to do research, or to accept a position teaching, or to give our children ballet lessons then we are considered a retention failure. There is no career ladder for migrant clinicians and our leadership and advocacy efforts go unrewarded. My colleagues, the unsung heroes of the American health care profession, need your commitment to focus attention on these critical issues and help us to build a viable system of primary care for the migrant and seasonal farmworkers in the year 2000.

Historically migrant and seasonal farmworkers have worked in a system that virtually constitutes social and economic slavery. Until this injustice is recognized and this disgraceful system is changed it will be impossible for health care providers to significantly improve the health care status of these undervalued members of our society.



National Advisory Council on Migrant Health

HHS/Bureau of Health Care Delivery and Assistance/Office of Migrant Health
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TESTIMONY BEFORE THE U.S. COMMISSION ON SECURITY AND COOPERATION IN EUROPE MIGRANT FARMWORKER HEALTH BRIEFING OCTOBER 9, 1992

DAVID DURAN, CHAIRPERSON
NATIONAL ADVISORY COUNCIL ON MIGRANT HEALTH

Good Morning Mr. Chairperson and Members of this Commission - I am David Duran from Beaver Dam, Wisconsin and I come to you today as a former farmworker and the current Chairperson of the National Advisory Council on Migrant Health.

The National Advisory Council on Migrant Health is a Congressionally-mandated advisory council which advises the Secretary of Health and Human Services regarding farmworker health needs and services. Comprised largely of current and former farmworkers, this fifteen member Council annually develops recommendations regarding migrant farmworker health and submits these recommendations to the Secretary. The farmworker membership of the Council and the Council's advisory mandate make the Council's role and perspective unique among farmworker health advocates.

It is important to note that in developing its annual recommendations, the Council gathers information, not only from migrant health centers, but from farmworkers as well. In the last thirteen months, we have held public hearings in Denver and San Diego in order to listen to farmworkers speak about their health needs and health service concerns.

The stories told, the conditions described, are little different than those heard in 1952 when Senator Hubert Humphrey held eleven days of hearings around the country on migrant conditions. They are little different than in 1961 and 1962 when the House and Senate held hearings considering authorization of what would soon become the Migrant Health Program.

In its 1992 Recommendations, the National Advisory Council on Migrant Health focused on eight areas of concern - housing, outreach, mental health, appropriations, Medicaid, health professions, family issues, and research. Each of you have a copy of these recommendations complete with a background paper on each area, so let me just highlight one area.

It is the experience of health workers and advocates which provides much of the available demographic and health status information about migrant workers. Very little research has been done on this population. Even simple demographic data such as the size, race/ethnic composition, and the distribution of the migrant population are very rough estimates. Reliable health status data are much more elusive.

Needless to say, this void of information impedes the effective planning and implementation of appropriate health care services. The Council has recommended that "at least one percent of PHS329 evaluation funds be dedicated to migrant-specific research efforts, and that every effort be made to secure resources" from federal health research agencies (Agency for Health Care Policy and Research, the National Institutes of Health, and the Centers for Disease Control).

Migrant farmworkers in this country continue to live and work in conditions generally thought to be characteristic of developing countries. Dilapidated, scarce, and expensive housing has led to crowded and unsanitary conditions which have contributed to an infectious disease pattern unparalleled in other occupational groups in the U.S. Long hours of physical labor in chemically and mechanically hazardous environments contribute to high rates of injury and chronic disease.

Nearly all migrant farmworkers live in poverty; although these people make it possible for us to buy inexpensively most any fruit or vegetable we could want year-round, most migrant farmworkers do not have enough money to buy these same foods and many are hungry and malnourished. Virtually every inquiry into the health conditions of migrant workers cites the same litany of multiple and serious health problems.

While the U.S. Public Health Service Migrant Health Program has done an admirable job of providing health care services to migrant farmworkers since 1962, its funding is limited. And thus is its capacity to meet the tremendous needs. It is generally believed that the Migrant Health Program serves only about twenty percent of the national migrant and seasonal farmworker population.

There is no general legal right to health care for the U.S. population. As such, there is no legal right to health care for migrant workers. Nonetheless, language from CSCE documents concerning migrant workers asserts that migrant workers should have opportunities and services as available to them as they are available to other workers.

Unfortunately this is not the case with respect to agricultural workers in the United States. Historically there has been a pervasive image of farmwork as "different" than other sorts of work. The classic manifestation of this is the fact that agricultural workers are exempt from a host of federal protective health and safety regulations which cover other workers.

On behalf of the Council, I wish to extend an invitation to the Commission to attend the Council's next public hearing to hear from farmworkers themselves about their conditions. This will take place on October 23 in Portland, Oregon.

Finally, I share with you testimony given thirty years ago to a House Committee Hearing on "Health Clinics for Migratory Farmworkers":

"It is time we ended this particular American tragedy. The Grapes of Wrath should be a "period piece", not a comment on the current American scene."

Thank you very much.