

WHAT RESOURCES SHOULD BE USED TO
CONTROL ILLEGAL IMMIGRATION AT THE
BORDER AND WITHIN THE INTERIOR?

HEARING
BEFORE THE
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
INFORMATION, AND TECHNOLOGY
OF THE
COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES
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CONTENTS

	Page
Hearing held on June 12, 1995	1
Statement of:	
De la Vina, Gustavo, on behalf of the Western Region, U.S. Immigration and Naturalization Service; Richard K. Rogers, on behalf of the Western Region, Los Angeles District, Immigration and Naturalization Service; Johnny N. Williams, on behalf of the INS Border Patrol; and Frank Ricchiazzi, on behalf of the Department of Motor Vehicles of the State of California	2
Lungren, Daniel E., attorney general, State of California; and William Jones, secretary of State, State of California	66
Staffel, Timothy J., chairman, board of supervisors, county of Santa Barbara; Jim Thomas, sheriff, county of Santa Barbara; and Thomas W. Sneddon, Jr., district attorney, county of Santa Barbara	98
Letters, statements, etc., submitted for the record by:	
De la Vina, Gustavo, on behalf of the Western Region, U.S. Immigration and Naturalization Service:	
Information concerning Border Patrol agents	34
Information concerning unauthorized alien workers	32
Prepared statement of	7
Jones, William, secretary of State, State of California, prepared statement of	86
Lungren, Daniel E., attorney general, State of California, prepared statement of	74
Ricchiazzi, Frank, on behalf of the Department of Motor Vehicles of the State of California, prepared statement of	40
Sneddon, Thomas W., Jr., district attorney, county of Santa Barbara, prepared statement of	121
Staffel, Timothy J., chairman, board of supervisors, county of Santa Barbara, prepared statement of	102
Thomas, Jim, sheriff, county of Santa Barbara, prepared statement of	111

WHAT RESOURCES SHOULD BE USED TO CONTROL ILLEGAL IMMIGRATION AT THE BORDER AND WITHIN THE INTERIOR?

MONDAY, JUNE 12, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
INFORMATION, AND TECHNOLOGY,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Bellflower, CA.

The subcommittee met, pursuant to notice, at 8 a.m., at the William Bristol Civic Auditorium, Bellflower, CA, Steve Horn (chairman of the subcommittee) presiding.

Present: Representatives Horn and Flanagan.

Staff present: Mike Stoker, counsel; Mark Brasher, professional staff member; and Don Goldberg, minority staff.

Mr. HORN. A quorum being present, the Subcommittee on Government Management, Information, and Technology will come to order.

We are meeting today in Bellflower to consider what resources should be used to control illegal immigration at the border and in the interior. Nearly 4 million undocumented alien people live in the United States. Over 1½ million or about 1 in 20 residents live in California. The General Accounting Office conservatively estimates the cost to the American taxpayers of illegal immigration in California alone at \$2⅓ billion a year. Another study suggests the cost nationwide approaches \$4 billion, \$3 billion annually for education and one-half billion dollars for public assistance and incarceration.

The 1990 census woke up Congress and the rest of the country to our startling illegal immigration problems. California's seats in the House of Representatives jumped from 45 to 52 between the census of 1980 and 1990. Reliable estimates suggest at least of the seven new California seats are due to our illegal population gain in the last decade. In response, the rest of the Nation is finally and belatedly beginning to pay attention, as evidenced by President Clinton's recent immigration enforcement improvements proposal which we will hear about this morning.

To begin, three officials from the U.S. Immigration and Naturalization Service's Western Region will explain current and planned INS strategies for controlling illegal immigration at the border and in the interior. California Department of Motor Vehicle's assistant director, Frank Ricchiazzi, will next address the department's project for changing to counterfeit resistant drivers licenses as identification cards. California's attorney general, Dan

Lungren, will then discuss illegal immigration's impact on the State's law and justice system.

We will conclude with an insightful case study by three Santa Barbara County officials on the impacts of illegal immigration on local government.

Gentlemen, we thank you all for joining us, and look forward to your testimony. I am now going to yield to the vice chairman of the committee, Mr. Flanagan of Illinois.

Mr. Flanagan.

Mr. FLANAGAN. Mr. Chairman, I thank you for having these hearings today and they are indeed on an extremely important subject, one which has great importance in Chicago as well as California.

While I would like to observe that the census may have provided seven new seats to California, it wasn't the fact that California had new seats that got us interested in immigration, although that is a scary proposition itself to the rest of the Nation. We are very pleased at the fact that the Congress is now going to very much attack this problem, look at this problem and handle it in a reasonable, intelligent way to protect the rights of citizens and still provide us with the culturization which we have afforded as our greatest natural asset, if you will, over the course of our great republic.

Thank you, Mr. Chairman.

Mr. HORN. I might add to Mr. Flanagan's point that the reason we were able to be successful in getting 6,000 more allocation for the Border Patrol was that we made the argument both privately and then publicly on the floor for the first time to my colleagues, who hadn't been too supportive before last year that if you want to lose 7, 8, 10 more seats to Texas, Arizona, New Mexico, California, don't support us. And, of course, they woke up and realized one of those might be their seats and we got the highest vote that has ever occurred on anything to do with illegal immigration.

Let me just stress the guidelines here. The subcommittee of the House Government Reform and Oversight Committee swear in all witnesses that come before it, including Members of Congress, Cabinet officers and I would ask each of you to stand.

[Witnesses sworn.]

Mr. HORN. The clerk will note that all affirmed. We will now begin with panel one and our first very distinguished speaker is Mr. Gustavo de la Vina, Director of the Western Region, U.S. Immigration and Naturalization Service.

Please proceed.

STATEMENTS OF GUSTAVO DE LA VINA, ON BEHALF OF THE WESTERN REGION, U.S. IMMIGRATION AND NATURALIZATION SERVICE; RICHARD K. ROGERS, ON BEHALF OF THE WESTERN REGION, LOS ANGELES DISTRICT, IMMIGRATION AND NATURALIZATION SERVICE; JOHNNY N. WILLIAMS, ON BEHALF OF THE INS BORDER PATROL; AND FRANK RICCHIAZZI, ON BEHALF OF THE DEPARTMENT OF MOTOR VEHICLES OF THE STATE OF CALIFORNIA

Mr. DE LA VINA. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I am pleased to appear before you today to discuss the integrated immigration

enforcement strategy of the Immigration and Naturalization Service. With me are Johnny Williams, Border Patrol Chief for the San Diego Sector, and Richard Rogers, District Director for the Los Angeles District Office, who will be available to answer any questions you may have.

The Clinton administration has demonstrated a firm commitment to controlling the flow of illegal immigration and reducing the presence of illegal aliens in the United States. Toward this end, we at the INS have developed a comprehensive immigration enforcement strategy that consists of, No. 1, border enforcement and management; No. 2, work site enforcement and verification; No. 3, detention and removal of criminal and deportable aliens; and, No. 4, customer service and assistance to States.

Effective enforcement of our immigration laws requires coordinated actions at the border and in the interior. Success at the borders and ports of entry relieve problems in the interior. Removing the magnet that draws illegal aliens to the interior for jobs and removing criminal aliens in turn decrease the pressure at the borders.

Our strategy is the broadest and most integrated plan ever developed by an administration to attack the problem of illegal immigration within the United States, its borders, and its source countries.

Category border control. In the summer of 1993, Attorney General Janet Reno made a factfinding trip to the San Diego/Nogales borders. What she found was appalling. Years of neglect meant that INS lacked enough agents to patrol the border, lacked cars and lacked radios and lacked computers and essential technology.

After the Attorney General's visit, the administration changed things for the better. In February 1994, Attorney General Reno and INS Commissioner Doris Meisner announced the strategic doctrine of border control called prevention through deterrence.

The goal of this multiyear strategy is clear. We want to raise the risk of apprehensions to a maximum level so that illegal aliens and the smugglers who transport them won't try to cross illegally. Along with creating a strategic plan, we continue with Congress' help to infuse the border with new resources. Thus far, we have the following: Increased Border Patrol agents on the line by 40 percent since 1993; expanded the number of Border Patrol agent basic training classes to produce 880 graduates by December fiscal year 1995 and at least 1,000 more agents in 1996; committed to putting 5,000 agents on the line by December 1996; and use of the National Guard and the Joint Task Force 6 to help in construction projects as needed.

We have also significantly increased and improved the tools our agents have to combat illegal immigration by adding, No. 1, 1,000 new vehicles, hundreds of new sensors and hundreds of new radios and 25 new infrared night scopes and, No. 2, new state-of-the-art technology and basic automation equipment in 283 Border Patrol stations, ports of entry, and INS district offices in Southwest border States.

Based on new resources and new strategy, we are achieving what no other administration has done, significant control over essential areas of the border.

Operation Gatekeeper. Part of our integrated strategy called for focusing resources where most illegal aliens were being apprehended, a 5-mile stretch in San Diego called Imperial Beach and a 20-mile stretch of border in El Paso, TX.

The Border Patrol, utilizing the advice of outside entities such as the Department of Defense Center for Low-intensity Conflict, developed Operation Gatekeeper. At the heart of this strategy is a high-intensity deployment plan. We have deployed 85 percent of the sector's agents within a ½ mile of the border and have made significant physical improvements to the border in this area including new lighting, new fencing, and new roads.

The strategy of prevention through deterrence is paying off. The number of arrests in the westernmost station, Imperial Beach, is down 40 percent to date, proof that the effort to prevent illegal entry and to channel traffic eastward is working. Furthermore, the standard smuggling fee for the trip from Tijuana to Los Angeles has risen 40 to 60 percent.

Our claim of success is not based on conjecture. In order to ensure that INS is a good investment, we created an in-house research capacity separate from the Border Patrol to work with academics, law enforcement experts, and military analysts to gauge our success. Thus far, the results have been encouraging.

A study overseen by Dr. Robert Bach, the executive associate commissioner for policy and planning, indicates that Operation Gatekeeper is deterring and moving illegal alien traffic away from the Nation's busiest Border Patrol station, Imperial Beach, eastward.

The situation the Attorney General saw during her walking tour did not develop overnight and while we cannot remedy it overnight, we now have a plan, we have the people and the resources to develop order along our Nation's borders.

Recently, we hosted a delegation of the Congressional Task Force on Immigration Reform at the border. They saw firsthand what I have been talking about. As noted in the task force report, significant successes in border enforcement, Operation Hold the Line and Operation Gatekeeper are the result of increased Border Patrol staffing and resources. These efforts demonstrate that a commitment of increased manpower can prevent people from illegally crossing our border.

I want to invite each of you to travel to the border with me to see the changes for yourself.

Antismuggling. We are focusing our efforts not just on individuals but also on organized smugglers who bring people across the border and into the interior. In May, we launched Operation Disruption in the San Diego sector, which has resulted in the arrest of over 1,777 aliens, the indictment of 20 alien smugglers and the shutting down of 24 drop houses. In the 8 months of fiscal year 1995, INS inspectors at the San Diego ports of entry have intercepted 2,975 smuggled aliens, arrested 2,810 smuggling principals, intercepted narcotics and other contraband valued at approximately \$20 million and referred 2,732 smugglers' cars to the U.S. Customs Service for seizure.

Criminal aliens. The administration has committed to making the removal of criminal and other deportable aliens from the United States one of the highest priorities. The INS is now removing

criminal aliens more quickly and more efficiently than ever before, in part because of several innovative projects and programs that I would like to talk about now.

First is the Los Angeles County jail project. On June 1, we launched a 1-month pilot project with Los Angeles County that we anticipate will result in the removal of approximately 1,000 more criminal aliens than the previous months for a total of 1,500. Working 24 hours per day, 7 days per week, INS takes these aliens into custody as they are being released from the county jail and works to deport them the very same day. If this 1-month trial is as successful as we expect, we plan to provide the necessary resources to keep the project going.

Our Institutional Hearing Program. Since 1988, the cornerstone of our system for removing criminal aliens has been the Institutional Hearing Program, or known as the IHP. In December 1994, INS approved an enhanced IHP for California and four other States, initiating hearings for every deportable alien in State custody before the end of that alien's term of incarceration. Congress has fully funded our enhanced IHP in California. We are hiring 52 new positions authorized as part of the program and have doubled the number of detention spaces available to us here in California from 400 to 800. We are also working with the State of California on the details to implement this enhanced program. We are also investing in the basic tools that allow us to physically move criminal aliens out of the country. This year, we have spent almost half a million dollars to restore our bus fleet. We are adding bed space in our detention facilities in California and elsewhere to ensure that we are not forced to let aggravated felons walk free because we have no place to hold them.

Along with moving convicted criminal aliens out of our prisons, we are increasing our efforts to process criminal aliens through the justice system faster. Special assistant U.S. attorneys have been assigned to work specifically on criminal alien cases. Last year's crime bill gives INS and prosecutors new tools to use, including our tougher penalties for re-entry into the United States following deportation and the ability to streamline ways in which deportations are ordered.

In San Diego alone, the U.S. attorney for the southern district of California expects to prosecute 1,000 criminal aliens for reentry this year. Under new guidelines going into effect on June 16, prosecutors nationwide will begin to add stipulated deportation as part of any plea bargain and starting this summer, INS district directors will be able to order deportations of aggravated felons who are unlawful permanent aliens without a hearing before an immigration judge.

The initiatives I have outlined will help INS reach its goal of doubling the number of criminal aliens removed from 23,250 in fiscal year 1995 to 58,200 in 1996. We also seek to double removals of other deportable aliens from 25,000 in 1995 to 53,000 in 1996.

These are tremendous steps forward in the Department of Justice and INS to rid our Nation of criminal and other deportable aliens. Each of these efforts is designed to reduce the cost associated with the process and incarceration of criminal aliens.

Worksite enforcement and verification. Our integrated strategy also seeks to diminish the access that illegal aliens have to our worksites. The administration plans to invest an additional \$79.5 million in fiscal year 1996 to enhance INS worksite enforcement and to require 365 new INS investigations personnel and an additional 202 new Department of Labor personnel. These additional resources will be concentrated in the seven States most affected by illegal migration.

We have testified before about our plans for employment authorization verification pilot programs including an expanded telephone verification system, the TVS pilot program in Los Angeles, as well as other pilots to follow employers to verify employment eligibility. While we are trying to make the employment verification system simpler for employers, we are also seeking to minimize the opportunity for fraud by shortly publishing an amended proposed regulation that would reduce from 29 to 16 the documents that can be used to establish identity and/or employment authorization. We also support the administration's current legislative initiative to reduce the number of acceptable documents to six.

In the second quarter, fiscal year 1996, we expect to implement a new tamper resistant employment authorization document to deter fraud and allow easier detection of counterfeit documents.

In conclusion, thanks to our integrated enforcement strategy, we are enforcing the immigration laws more aggressively and efficiently than ever before. We appreciate the interest of this subcommittee in the immigration enforcement programs and policies of the Service and we look forward to working with you on these important issues. We would be glad to answer any questions which you may have about how these policies and programs are implemented in the Western Region.

Thank you, Mr. Chairman.

[The prepared statement of Mr. de la Vina follows:]

Mr. Chairman and members of the Subcommittee, I am pleased to appear before you today to discuss the integrated immigration enforcement strategy of the Immigration and Naturalization Service (INS). I am accompanied by Johnny Williams, Border Patrol Chief for the San Diego Sector, and Richard Rogers, District Director for the Los Angeles District Office, who will be available to answer any questions you may have.

Over the past 2 1/2 years, the Clinton Administration has demonstrated a firm commitment to controlling the flow of illegal immigration into the country and reducing the presence of illegal aliens in the United States.

Toward this end, we at the INS have developed a comprehensive immigration enforcement strategy. This strategy consists of:

- (1) Border Enforcement and Management;
- (2) Worksite Enforcement and Verification;
- (3) Detention and Removal of Criminal and Deportable Aliens; and,
- (4) Customer Service and Assistance to States.

The INS is achieving significant progress in reducing the burden illegal immigration imposes on California and the rest of the nation. No single element of our enforcement strategy stands

alone. Each element is part of the broadest and most integrated plan ever developed to attack the problem of illegal immigration within the United States, at its borders, and in source countries.

Californians have heard a great deal about Operation Gatekeeper, our ongoing campaign of deterrence at the California border that began in October. It has redirected the flow of illegal aliens, increased the seizure of contraband and provided law and order to the border itself. We know this from our own data and from the reports we receive from California law enforcement officials and residents who tell us they see the difference.

But we at the INS know the best enforcement strategy is one that tries to prevent illegal immigration before it reaches our borders. With this in mind, the INS integrated enforcement strategy includes cooperative efforts with foreign governments and international airlines to identify and foil smuggling rings before they can smuggle illegal aliens across the border.

Similarly, the INS has deployed significantly increased resources to enforce immigration laws at our borders and in the U.S. interior. In particular, we are aggressively attacking the people who profit most from illegal immigration -- criminal aliens who make a career of breaking our laws; employers likely to

hire and exploit cheap and unauthorized alien workers; and the document mill operators who manufacture and sell fraudulent documents to illegals.

Today, I will focus on two aspects of our enforcement strategy -- border enforcement deterrence and removal of criminal aliens. I will be able to highlight only a few of the initiatives in this region that are part of the Administration's comprehensive national strategy. I want to talk about where we have come from, where we are going, and where we intend to go in our integrated plan to enforce our immigration laws.

BORDER CONTROL

In the summer of 1993, Attorney General Janet Reno made a fact-finding trip to the San Diego and Nogales borders. What she found at the Southwest Border was appalling. Years of neglect meant that the INS:

- lacked enough agents to patrol the border;
- lacked fencing to keep aliens out;
- lacked lighting to illuminate attempted crossers;
- lacked cars;
- lacked radios;
- lacked computers and essential technology; and
- lacked sufficient support staff.

In short, the Border Patrol -- like the rest of the INS -- was underfunded, understaffed, and ill-equipped. It lacked an overall plan. Because of a lack of sufficient support staff, highly trained Border Patrol Agents were pulled off enforcement tasks to do routine paperwork. Because of a lack of computers and essential technology, there was no way to track who was coming in, who had criminal records and who had crossed illegally before.

After the Attorney General's visit, things changed forever. In February 1994, Attorney General Reno and INS Commissioner Doris Meissner announced a multi-year border enforcement strategy that committed this Nation to a new course of border control to combat illegal immigration. This was a practical and realistic strategy developed by law enforcement professionals in the Border Patrol, utilizing the advice of outside entities such as the Department of Defense Center for Low Intensity Conflict.

The result was a new Strategic Doctrine of Border Control called "prevention through deterrence." The goal is straightforward and clear: to raise the risk of apprehension to a maximum level so the potential illegal crosser and the smugglers will be deterred from trying to cross.

Every commander knows that without a tactical plan, money will be wasted, problems go unsolved, and lives can be lost. With this in mind, the INS has developed an arsenal of tactics to use to fit different circumstances on the border, defined by terrain, mission, and manner of alien attempted entry.

The INS strategy reflects a flexible and firm deployment of the resources and assets required to achieve our goals. Each border area has developed its own tactics within the strategic plan for combatting the illegal immigration problem that the area faces. This includes mapping out how new resources are to be used. Within this strategic framework, we are employing a variety of tactics, specifically tailored to particular circumstances. Operations Hold-the-Line in El Paso, Gatekeeper in San Diego, and Safeguard in Arizona reflect our commitment to shaping an immigration enforcement plan that is more effective at the ground level.

With our plan firmly in place, we continue, with Congress' help, to infuse the border with new resources where they are most needed, and responsive to shifts in illegal traffic. Thus far, we have:

- increased Border Patrol agents on the line by 40 percent since 1993;

- expanded the number of Border Patrol Agent basic trainee classes to produce 880 graduates by December 1995 and least 700 more agents in 1996;
- committed to putting 5,000 agents on the line by December 1996; and
- used the National Guard and Joint Task Force Six to help in construction projects as needed.

Along with these increases in resources, we have significantly increased and improved the tools that these agents have to combat illegal immigration. Specifically, we have:

- added nine miles of new fencing; and
- added over a thousand new vehicles, hundreds of new sensors, hundreds of new radios, and 25 new infrared nightscopes.

In addition, we are in the process of adding new state of the art technology and basic automation equipment in 283 Border Patrol stations, ports-of-entry and INS District offices in Southwest Border states.

Thanks to our new resources and new strategic plans devoted to the most critical areas first, we are achieving what no previous Administration has achieved: significant control over essential areas of the border.

OPERATION GATEKEEPER

Part of our integrated strategy called for initially concentrating our resources at the two border areas that represented the greatest threat. We chose the area where 85 percent of all illegal aliens coming into the U.S. were being apprehended--a five-mile stretch in San Diego called Imperial Beach, and a 20-mile stretch of border in El Paso.

Let me provide some background on the illegal aliens attempting entry in the San Diego sector before Operation Gatekeeper. Approximately 99 percent of those who entered illegally in the San Diego area were bound for the nation's interior. Eighty-five percent of the San Diego apprehensions occur at night. Many of the with aliens who are determined to enter the country illegally. Their determination has contributed to the emergence of an ever increasing number of intricate and highly organized smuggling networks which charge northbound aliens anywhere from \$500-800 for the 150-mile trip from Tijuana, Mexico, to Los Angeles.

The heart of the Gatekeeper strategy is a high intensity deployment plan. Eighty-eight percent of the sector's agents are stationed within 1/2 mile of the border. We have made significant physical improvements to the border in this area, including new lighting, new fencing, and new roads. This operational blueprint gives us substantial deterrent presence along the immediate border,

while at the same time affording us the flexibility to address the continuing shifts in cross border traffic. This flexibility is crucial. It serves one of the primary aims of our border control strategy, which is to allow us to decide where to fight the battle; specifically, by allowing us to channel alien traffic away from the heavily industrialized and populated sections of the border, and toward remote areas in the east, where the terrain and visibility increase our chances of making arrests. Now we have placed some of the most recent Border Patrol Academy graduates at the Brown Field and Campo stations to bolster the eastern portion of the San Diego sector.

Arrests in the western-most station, Imperial Beach, have sustained a 40 percent reduction to date. It is evident that the effort to prevent illegal entry and to channel traffic eastward is working and that reduces crime in our communities.

Finally, another piece of evidence that we are succeeding is that since the inception of Gatekeeper in October, the standard smuggling fee for the trip from Tijuana to Los Angeles has risen 40-60 percent.

ACCOUNTABILITY

Let me focus on accountability for a moment. When we say our initiatives on the border are working, we mean it. When we

committed ourselves to securing the border and amassing the resources needed to do it, we also committed ourselves to having our work checked. We promised that we would develop the ability to continually analyze and monitor our effectiveness. We did this in order to change tactics when needed, and to demonstrate that the INS is a good investment. With this in mind, we created an in-house research capacity -- separate from the Border Patrol -- to work with academics, law enforcement experts, and military analysts as well as affected parties in the field, to gauge our success or failure. What we wanted were independent, solid studies of how we were doing.

A study of Operation Gatekeeper, overseen by Dr. Robert Bach, the new Executive Associate Commissioner for Policy and Planning, has provided INS Commissioner Meissner with data that indicates that Operation Gatekeeper is working as planned. It is deterring and moving traffic out of the nation's busiest border station at Imperial Beach eastward to areas where aliens can be more easily apprehended.

These conclusions are not conjecture. They are hard facts, based on the information obtained from private and university researchers, independently studying migration trends at the San Diego/Mexico border, as well as INS researchers working hard to make sure that we are doing our job. Let me take a moment to discuss how we know that Operation Gatekeeper is working.

- 1,000 apprehended illegal aliens and over 200 aliens waiting to cross in Mexican border towns were interviewed. The aliens reported the border is tighter and harder to cross since Operation Gatekeeper. They also reported that smuggling is being disrupted.
- The apprehension data from the busiest crossing point in the entire nation -- San Diego's Imperial Beach station -- tells us that traffic is being forced eastward exactly as we had planned it.
- A new fingerprint technology deployed specifically as part of Operation Gatekeeper is now providing data for the first time ever on recidivist crossers. Over 50,000 cases from October through mid-January show clearly that individuals are attempting entry at Imperial Beach, failing to get through there and are trying again at eastern stations.

The situation the Attorney General saw during her walking tour did not develop overnight. It was created by years of neglect, and it will take years of hard effort to make full deterrence a reality. But we now have the plan, the infrastructure, the people and the resources to get the job done, and we are prepared to keep doing more.

I do not know how many of you have had the opportunity to see our new operations at work, but I want to invite each of you to travel to the border with me to see the changes for yourselves. The borders look dramatically different today then they did 26 months ago and I know that the people at the border will tell you how much they appreciate your help in letting them do their job well.

ANTI-SMUGGLING

Let me now talk about what I consider to be one of the lowest forms of crime there is -- alien smuggling. Trafficking in human beings for money, robbing them of their hard-earned dollars and then ransoming them to their relatives is repulsive. Last month the INS launched Operation Disruption in the San Diego Sector, which resulted in the arrest of over 1,777 aliens, the indictment of more than 20 alien smugglers, and the shutting down of 24 drophouses, where aliens are held -- often hostages in cramped and unsanitary conditions -- prior to movement further into the interior.

In the eight months of FY 1995, INS inspectors at the San Diego ports of entry have intercepted 2,975 smuggled aliens, arrested 2,810 smuggling principals, intercepted narcotics and other contraband valued at approximately \$20,000,000, and referred 2,732 smugglers' cars to the U.S. Customs Service for seizure.

Alien smuggling is not only present along both our northern and

southern borders; it is also prevalent at airports of entry. In September 1994, the anti-smuggling agents of the Seattle District and Blaine Border Patrol Sector completed a task force investigation with the U.S. Customs Service and Royal Canadian Mounted Police that targeted South Asian smuggling rings into the United States and Canada. The smugglers operated on both the northern and southern borders, delivering smuggled aliens to cities across Canada and the United States. Eleven defendants and 212 smuggled aliens were arrested.

In a related action, undercover agents, posing as corrupt INS officers, received \$1.5 million bribes from smugglers for the sale of green cards. Tracking the sale of these green cards eventually led to the arrests of 13 major smugglers and more than 900 smuggled aliens. The 65-count complaint filed against these smugglers included charges of conspiracy, alien smuggling, fraud, and money laundering.

These examples illustrate the efforts we are making to break up the organized smuggling groups, which aggravate the problem of curbing illegal entries and which also prey upon their human cargo.

DEPORTING CRIMINAL ALIENS

This Administration is committed to making the identification, location and removal of criminal aliens from the United States one

of our highest priorities. We are committed to sending a clear message: aliens who commit crimes in the United States must know they will be prosecuted, convicted, and removed from the United States.

The INS, by intensifying its efforts and re-focusing its resources, has made great strides in the past two years in its criminal alien removal program. We are increasing our ability to identify a greater number of criminal aliens, place them into appropriate hearing programs, remove them more expeditiously from the United States, and assure that they do not return without severe legal penalties. At the same time, by removing criminal aliens quickly, INS expects to increase the detention space available to keep other deportable aliens in custody prior to their deportation.

LOS ANGELES COUNTY JAIL PROJECT

On June 1, we launched a one-month pilot project with Los Angeles County that we anticipate will result in the increased removal of 1,000 criminal aliens, for a total of 1,500. In the past, many criminal aliens were released directly back onto the street. Now, INS has agents at the Los Angeles County Jail, 24 hours a day, seven days a week, taking custody of all deportable aliens who have completed their sentences and are scheduled for release. Most of these aliens go to the INS Los Angeles District

Office for a deportation proceeding before a special immigration court which has been set up for this project by the Executive Office of Immigration Review. After they receive their final orders, these criminals are promptly deported -- in most cases on the same day.

This first of its kind project is possible due to unprecedented cooperation with the Los Angeles County Sheriff's Department, which is working to ensure that all deportable aliens are turned over to INS upon completion of their sentences. County officials are providing INS with lists of inmates scheduled to be released before their release date. This information allows INS to identify deportable aliens before their release and take them into custody before they hit the streets. If this one month trial is as successful as we expect, we plan to provide the necessary resources to keep the project going.

INSTITUTIONAL HEARING PROGRAM

Since 1988, the cornerstone of our system for removing criminal aliens has been the Institutional Hearing Program (IHP), under which deportable aliens in Federal and state correctional institutions undergo their deportation hearings while serving their sentences. This allows INS to immediately deport them from the country following the completion of their sentences, saving time, detention space, and taxpayers' dollars. In December, 1994, INS approved an Enhanced IHP for California and four other states that will help INS

reach its goal of initiating hearings for every deportable alien in state custody before the end of that alien's term of incarceration.

Congress has fully funded our Enhanced IHP in California. We are hiring 52 new positions authorized as part of the program and have doubled the number of detention spaces available to us here in California from 400 to 800. We are also currently working with the State of California on the details for implementing this enhanced program.

Another important cooperative effort with the state of California is a spin-off of the IHP--the Cal-ID project. Under this program the files and fingerprints of all criminal aliens deported under the IHP are entered into the California Law Enforcement Telecommunications System. If they are arrested again, this system will allow local law enforcement authorities to identify them as previously deported criminal aliens. These criminals will then be subject to arrest and prosecution or deportation by INS and our U.S. Attorneys. Since the program's inception last September, over 4,000 records have been entered into the system and approximately 500 "hits" and follow-up proceedings have occurred.

These records are also being entered into a "hot lookout" database linked to the automated fingerprint system, IDENT, in place along the San Diego border and other Southwest border sites. IDENT uses biometric information to identify individuals apprehended

crossing the border and is a clear asset in our effort to identify criminals returning to the United States.

We are also investing in the basic tools that allow us to physically move criminal aliens out of the country. This year we will spend almost half a million dollars to restore our bus fleet to working order. We have also added bed space in our detention facilities in California and elsewhere to ensure that we are not forced to let aggravated felons walk free because we have no place to hold them. The President's FY 1996 Budget seeks resources to provide the equivalent of 1,836 beds in state, local and contract detention facilities as well as 976 beds in INS Service Processing Centers--a 48 percent increase in bedspace over FY 1995.

Initiatives such as the Los Angeles County Jail Project focus on criminals leaving our criminal justice system. Other efforts focus on those entering the system. Last winter Special Assistant U.S. Attorneys were assigned to work specifically on criminal alien cases, obtaining speedy plea bargains and deportations. Last year's Crime Bill gave INS and these Special Assistants new tools to use, including tougher penalties for reentry into the US following deportation, and the ability to streamline the ways in which deportations are ordered. Under these new provisions, criminal aliens who defy their deportation orders now face sentences of up to 15-20 years just for being found on US soil. In San Diego alone, the U.S. Attorney for the Southern District of California expects to

prosecute 1,000 criminal aliens under these guidelines this year.

Under new guidelines going into effect on June 16, prosecutors nationwide will begin to add stipulated deportation as part of any plea bargain. Under this program, aliens who plead guilty to illegal reentry or other charges must accept a final order of deportation to be enforced immediately upon the completion of their sentence as part of their plea. Through these plea bargains we get deportable aliens out of the country, while saving taxpayers the costs of expensive and time-consuming deportation proceedings. We also avoid using limited INS detention space to hold aliens who have finished their sentences but are awaiting completion of their deportation proceedings.

Starting this summer, INS District Directors will be able to order deportations of aggravated felons who are non-lawful permanent resident aliens without a hearing before an immigration judge.

All of these efforts recognize that the costs associated with the incarceration of illegal aliens impose a heavy burden on state, localities and taxpayers, and each of these efforts is designed to help to reduce the need to expend resources for the purpose of incarcerating criminal aliens. This Administration was the first to request funds from Congress to assist states in meeting the costs. In FY 1995, \$130 million will be distributed to seven states under the State Criminal Alien Assistance Program; for FY 1996 the

Administration has requested \$300 million--the maximum amount authorized by law.

The initiatives I have outlined will help INS reach its goal of doubling the number of total criminal alien removals -- from 23,250 in FY 1995 to 58,200 in FY 1996. We also seek to double removals of other deportable aliens -- from 25,600 in FY 1995 to 53,080 in FY 1996. These are tremendous steps forward in the effort of the Department of Justice and INS to rid our nation of criminal and other deportable aliens. Each of these efforts is designed to reduce the costs associated with the processing and incarceration of illegal aliens.

WORKSITE ENFORCEMENT

The Administration believes strongly that persons who are unlawfully in the United States should not have access to our worksites. Employers who hire unauthorized workers to undermine labor standards and wages and gain an unfair business advantage must assume a large part of the responsibility for illegal immigration. We must stop employers who break the law when they hire unauthorized workers and violate established labor standards.

Our enforcement strategy is targeted at reducing the magnet of job opportunities for unauthorized aliens by a variety of different tactics. By targeting industries and employers with records of

violations, we are making sure that those who violate the law will have an increased risk of being detected and subject to sanctions and fines. The most serious offenders will be prosecuted for criminal violations.

At the same time, we will increase our efforts to assist employers in the verification of employees' immigration status and we will reduce the number of documents which can be used as evidence of identity and/or employment authorization.

We are now focusing in Los Angeles and New York City on repeat sanctions violators and major producers and suppliers of fraudulent documents. This pilot project is expected to demonstrate the effectiveness and benefits of interior enforcement actions. This data will be used to develop and implement similar projects in other areas where the employment of illegal aliens is a chronic problem.

The Administration plans to invest an additional \$79.5 million in FY 1996 for enhanced INS worksite enforcement along with increased efforts toward verification of immigration status. The President's Budget requests 365 new INS Investigations personnel and an additional 202 new Department of Labor (DOL) personnel. New Immigrant Agent positions are being created to concentrate on compliance inspections and administrative sanctions in order to free Special Agents for more complex casework and criminal prosecutions. The additional resources will be concentrated in the seven states

most affected by illegal migration, and we will focus enforcement efforts within industries traditionally utilizing unauthorized alien employment.

VERIFICATION PILOTS

We have testified before about our plans for employment authorization verification pilot programs. Soon, we will begin the selection of 200 volunteer employers in the Los Angeles area for the expanded pilot of the Telephone Verification System (TVS) pilot program. This system provides employers with a simple, automated means of verifying the work eligibility of non-citizen employees. TVS works much like a retail credit card check where employers gain access to the INS automated database by telephone and receive an instantaneous response with the newly hired employee's employment authorization status. If INS has no information on an individual or reports the employee lacks authorization, the employer is told to submit a secondary verification by mail to a designated local INS office. If the newly hired non-citizen's employment authorization cannot be verified through the secondary process, the INS notifies the employer. The employee then may go to the nearest INS office for possible resolution of the matter.

Beyond the TVS expansion, we are in the process of designing other pilots to allow employers to verify employment eligibility by using Social Security Administration (SSA) records and INS records; to simulate linkage of INS and SSA databases; and to analyze potential improvements and additions to the INS and SSA databases to make them more accurate. These pilots are consistent with recommendations made by the Commission on Immigration Reform. No

personal information collected under the project will be made available to any unauthorized sources or any government agencies, except to enforce the Immigration and Nationality Act and criminal fraud statutes. These pilot projects do not imply support for the creation of a national identification card.

DOCUMENT REDUCTION

Finally, let me discuss document fraud. We are attacking this problem in two ways. First, we are increasing our enforcement efforts against producers of fraudulent documents:

- Last month, INS officers cracked a nationwide false document ring, headquartered in Los Angeles, that earned \$1 million a month by counterfeiting green cards and selling them in California and five other states. Capping a two-year investigation, "Operation Bait Box" led to the arrest of 9 people, including the man believed to be a "godfather" of illegal immigration. Because approximately one-third of false immigration documents originate in Los Angeles, this case will have a major impact on the problem nationwide.

Second, we are advocating the reduction of the number of documents that can be used as evidence of identity and/or employment authorization is of vital importance in our efforts to combat the

use of forged and counterfeit documents and to promote employer compliance with the law. We will shortly publish an amended proposed regulation that would reduce from 29 to 16 the documents that can be used to establish identity and/or employment authorization. The Immigration Enforcement Amendments Act of 1995, S. 754, which was proposed by the Administration, would reduce the number of acceptable documents to six. In the second quarter of FY 1996, we also expect to implement a new, tamper-resistant Employment Authorization Document (EAD) to deter fraud and allow easier detection of counterfeit documents. Our goal overall is to make the employment verification system simpler for employers, while minimizing the opportunity for fraud.

CONCLUSION

The United States has been called the first "universal" nation because of the diversity of our ethnic and racial heritage drawn from around the world. While we welcome immigrants from all countries who come here legally, we will not tolerate disregard for our laws by those who come illegally, remain in the United States to live and work without authorization, or those who hired unauthorized workers. Effective enforcement of our immigration laws requires coordinated actions at the border and in the interior. Success at the borders and ports of entry relieves problems in the interior; eliminating easy access to jobs or social welfare benefits in the interior and rapid removal of criminal aliens in turn decrease the

pressure at the borders. We are enforcing the immigration laws more aggressively than ever before, and INS has been provided the necessary tools to do the job.

We appreciate the interest of this Subcommittee in the immigration enforcement policies and programs of the Service. We would be glad to answer any questions which you may have about how these policies and programs are implemented in the Western Region.

Mr. HORN. Thank you, Mr. de la Vina.

Before we proceed with Mr. Ricchiazzi and then we are going to question the whole panel, let me just ask a few simply clarifying questions on your testimony before we move to the next witness and then we will question you on the subject generally.

On page 1, you talk about the Operation Gatekeeper redirecting the flow of illegal aliens. I wasn't clear to where is that flow being redirected?

Mr. DE LA VINA. The Imperial Beach station is the most western part of the sector area of responsibility. It is near the ocean. Most of the concentration has been located in this area of 5-mile stretch of border. This is the closest location, let's say, from the border, to housing, to the population, to the city. In some instances it is about 1,200 yards, in others it is a half mile. It is a very short distance. So the majority concentration has been in this 5-mile stretch. Our resources have been to get in there and the idea is to shift the traffic from this most heavily populated, voluminous crossing area and move it eastward and as we are moving it eastward, we are moving it toward the mountains, toward the canyons that lie at isolated locations away from the city in a manner of speaking.

Mr. HORN. You also mention at the bottom of page 1, you talk about the strategy including cooperative efforts with foreign governments and international airlines to aid in this. I take it is the Mexican Government included among "cooperative governments"?

Mr. DE LA VINA. Very much so. We have been working in a couple of areas in that regard. One is evolving on border violence on both sides of the border. Mexican Government has control on their side of the border which has reduced the violence aspect of it. We are dealing with the Mexican Government in the ports of entry in reducing a lot of the lane runner people that are building up on the Mexican side and running, actually toward the gates or through the gates, southbound going northbound and they have been cooperative in that regard. Mexico is playing a role in this and they have been cooperative.

Mr. HORN. But they do not have security, as they have on their border with Guatemala; is that fair to say?

Mr. DE LA VINA. That's correct, sir.

Mr. HORN. On page 2 you mention that employers are likely to hire, exploit cheap and unauthorized alien workers. Do you have the data as to how many you have caught in—that are represented in that paragraph and over what time period? If you don't just furnish it for the record.

Mr. DE LA VINA. I don't have it with me but it is furnished for the record.

Mr. HORN. Let's furnish it for the record.

[The information referred to follows:]

Q. How many unauthorized alien workers have you caught in worksite operations?

A. In Fiscal Year 1995, 2,536 unauthorized alien workers were apprehended in worksite enforcement operations in the Western Region (California, Oregon, Washington, Alaska, Nevada, Arizona, and Hawaii). For the same period, the Los Angeles District Office made 269 worksite apprehensions.

Mr. HORN. Then you talk about the lack of computers and essential technology. Has that need now been met?

Mr. DE LA VINA. Yes, it has. I was there at San Diego as a street patrol agent in 1990 and I can assure you, Mr. Chairman, we were extremely weak in technology, personnel, vehicles. We were trying to keep our vehicles running. We were still using pen and ink to process some of our forms. I didn't have enough personnel to maintain the line or heavy presence. As of 2 years ago, the technology has arrived, we have computers, we have identification systems for fingerprinting people, we had lights, we have fences. It is a complete changeover, yes. The technology is there.

Mr. HORN. As you note on page 4, you are committed to putting 5,000 agents on the line by December 1996. Now, Congress authorized 6,000. Is that 5,000 part of the 6,000? I need to get just a statistic as to what did you have 2 years ago versus now and where are they coming from, part of that 6,000 authorization?

Mr. DE LA VINA. Yes. In 1993, or let's say, in 1994 I think our figures are 3,900-and-some-odd agents. We are adding an additional 700 agents this year plus another 700. I think the total commitment by the year 1998 will be 7,000 Border Patrol agents.

Mr. HORN. You are talking about just the San Diego sector or about the whole?

Mr. DE LA VINA. Nationwide.

Mr. HORN. Nationwide?

Mr. DE LA VINA. That is correct.

Mr. HORN. Of those, do we know at this point how many are on the Canadian border, how many are on the southern border?

Mr. DE LA VINA. The majority are located along the southwest border among the States of Texas, New Mexico, Arizona, and California. Ninety percent, and I am just guessing, approximately 90 percent or a little bit higher, 95 percent, are located along these locations. We have three—two principal areas right now where the majority is being concentrated, which is San Diego, El Paso, Arizona, and in Mac Allen, TX.

Mr. HORN. If you might just furnish an exhibit for the record, what did you have on these areas 3 years ago, what do you have this year, what do you plan to have 3 years from now? We might want to pursue that when we get down to substance.

Mr. DE LA VINA. We will furnish that.

[The information referred to follows:]

Q. How many Border Patrol Agents are there on the southern border? How many on the Canadian border? How many did you have three years ago? What do you plan to have three years from now?

The following chart lists Border Patrol strength on the southern and northern borders. Projections for FY 1998 are not available.

Border Patrol Agents

	<i>FY 1992</i>	<i>FY 1995</i>	<i>FY 1996</i>	<i>Projected FY 1997</i>
Southern Border*	3,689	4,489	5,435	6,401
Northern Border	296	292	288	300
Total**	3,985	4,781	5,723	6,701

** Includes Miami, New Orleans, Livermore, and Puerto Rico Sectors*

*** Excludes Headquarters, Regional Offices, and Pilots*

SOURCE: *Budget Systems and Reports Branch (FY 92, 95, & 96)
Five Year Border Patrol Staffing Plan (FY 97)*

Mr. HORN. I wasn't clear, either, on the top of page 6 when you say the standard smuggling fee for the trip from Tijuana to Los Angeles has risen 40 to 60 percent. What does that amount to in U.S. dollars so I understand it?

Mr. DE LA VINA. We have gone from approximately, as we become more effective on the border, the price of smuggling has risen from let's say \$300 to what we are running now, from \$600 to \$800. So it is a substantial increase of the cost of coming in and being smuggled has risen. We are getting more effective, the price goes up.

Mr. HORN. OK. On page 7, you talk about the San Diego ports of entry and you intercepted in fiscal year 1995 2,975 smuggled aliens, you arrested 2,810 smuggling principals. What I need is just sort of an idea of what was that 2 or 3 years before?

Mr. DE LA VINA. I think that is part of the record that we will be furnishing to you. But basically what happens, Mr. Chairman, is as we become more efficient between the ports of entry, on the line as a matter of speaking, we notice that the ports of entry become extremely busy. We shut down between the ports of entry you are having all types of activities occurring through the ports of entry which primarily include smuggling of aliens, fraudulent documents, and it is pretty much a strategy that whatever we are doing on the border for the Border Patrol, we have to include the ports of entry because of the illegal activity that occurred during the effectiveness of shutting down the border.

Mr. HORN. On page 8, you make a point of saying you are trying to remove those that have served their sentence, those illegal aliens, and deport them to their home country. One of the things that concerns me, and this is going to get into substance so we might delay the answer later, but I see what you are saying here that you say now INS has agents at the Los Angeles County Jail 24 hours per day, 7 days a week taking custody of all deportable aliens who have completed their sentences and are scheduled for release. One of the substantive sentences I want to get into here is that judges tell me they assign the illegal to the L.A. County Jail, and they just told me this 2 weeks ago, six judges here, and they are in on Monday and they are released by the sheriff on Tuesday or Wednesday. They have not served their sentences and it is a question of either lack of resources in the county jail or it is just a question of Federal court orders or whatever. What is your reading on that because this needs clarification as to what is happening?

Mr. DE LA VINA. One of the problems that we have had and it is very—an existing problem, is that people were being released not only from the L.A. County Jail but we have selected the L.A. County Jail because it is a largest population of illegal aliens, the largest county jail in the country.

They were being released by the county into the streets after either partly finishing or serving their sentences, some of them had not completed their sentence and were being turned into the streets. The idea is now that we are on that work site, we are in the county jail to capture every person that is being released. We have the resources, we have the agents. Mr. Rogers will be testifying to that more in depth as to how the details work on that but

we are, at least for 30 days, we are capturing everybody that is getting out of that jail.

Mr. HORN. At the bottom of page 10, you note that the administration has requested \$300 million for fiscal year 1996, the maximum amount authorized by law. Now, Governor Wilson has said that it costs California between \$250 million to \$350 million to incarcerate illegal aliens in the State prison system and I just wondered do you feel that estimate of the State of California is accurate and, if it is, that would consume really more than the whole authorization that the administration is seeking.

Mr. DE LA VINA. What we are looking at, Mr. Chairman, is increase our criminal alien removal program. With the additional resources that we are anticipating and receiving with the budget increases, we anticipate to almost double what we have been doing in the past. In other words, we were shooting for criminal aliens, 23,000 last year, that is going to be up to at least 58,000 this year so we are anticipating that with an aggressive program of criminal alien removal, we will not have or see the high incarceration rate we are seeing right now.

Mr. HORN. Let me ask Mr. Flanagan, do you have any questions that you were not clear about on the testimony?

Mr. FLANAGAN. Just one clarifying question, Mr. Chairman.

On the last page of your testimony, if I can read this back to you here, "in the second quarter of fiscal 1996, we expect to implement a new tamper-resistant employment authorization document to deter fraud and allow easier detection of counterfeit documents. Our goal overall is to make the employment verification system simpler for employers while minimizing the opportunity for fraud."

Who will carry that document?

Mr. DE LA VINA. At this point we are experimenting with a document. I am going to refer to Mr. Rogers. I think he has worked with this aspect to kind of give you the who, the what, and what it is going to look like. It is going to be like a credit card basically.

Mr. ROGERS. Any alien that is eligible to work legally within the United States that is not a permanent resident.

Mr. FLANAGAN. Any alien who is eligible to work in the United States who is not a permanent resident?

Mr. DE LA VINA. It would be a non-citizen, sir.

Mr. FLANAGAN. Thank you, Chairman.

Mr. HORN. Let me now introduce as part of this panel Mr. Frank Ricchiazzi, the assistant director for the Department of Motor Vehicles, State of California.

We are asking him to testify because we think some of the points he is going to make are very relevant to this panel so we can have a dialog here at the end as we get into more substantive questions. Mr. Ricchiazzi.

Mr. RICCHIAZZI. Thank you.

Good morning, Mr. Chairman and committee member. My name is Frank Ricchiazzi, I am assistant director of the California Department of Motor Vehicles and I am pleased to testify before this committee this morning on the issue of applicant identity.

California is in the forefront regarding personal identification and we are leading the Nation with policies and technologies that

improve our ability to provide secure, authentic and durable identification.

We here in California have over 24 million licensed drivers and ID card holders. Each year we issue 1.3 million new licenses and ID cards to all ages. Seventy-three percent of our population has either a drivers license or ID card.

In 1979, our State legislature stated that as a matter of legislative policy, the license and ID card are the official identification documents of the State of California. After all, I bet that each of us here today uses our drivers licenses more often to prove who we are than to prove we are licensed to drive. The drivers license has become the de facto personal identification document in this Nation. Because of this, we are pleased to share our experience and expertise with this committee.

During the last 6 years, California has been improving the integrity of identification and licensing. In 1990, we were the first State to introduce the use of digitized technology with the driver license. We went from a paper license system to a credit card style license and ID card using digital imaging technology for the photograph, the signature, and the fingerprint. The new license and ID card contain a magnetic stripe with a card demographic information encoded on it for ease of access and a holographic security feature.

In 1992, California joined many other States who also now collect Social Security numbers. The Social Security Administration recently agreed to verify SSNs we collect against their data base.

In 1993, Governor Wilson supported and signed into law the requirement that original driver license and ID card applicants provide proof of legal presence. We believe we have seen a deterrent effect to the law. We verify the INS documents submitted through the electronic verification system known as ASVI. These efforts to strengthen the integrity of the identification documents issued by the DMV have far reaching impact as with any national effort to do the same.

The identity document facilitates access to jobs, entitlements and credit, all of which have costly consequences if access is obtained fraudulently.

National efforts by AAMVA and the States have produced standards for digitizing and encoding the licenses and standards for information exchange. But States cannot achieve the improvements in identification integrity on their own. Together, all 50 States and with national support are more likely to achieve greater uniformity more quickly.

Uniform practices for establishing identity are being developed for all States by AAMVA. The source documents that have integrity and are verifiable are key.

National standards for source or breeder documents are also needed. We see birth certificates with untold variations, making it very difficult to identify those that are fraudulent. We can identify the bad attempts at fraud but I am certain we miss the skilled attempts.

Electronic verification of various data elements is also an important element for a successful identification system. An electronic network to verify the U.S. birth documents issued by the 50 States

is needed. Social Security numbers may be useful as an identifier but only if they are verified on line by the SSN.

The large variety of documents INS issues makes it difficult for us to screen the legal presence with confidence. It would be helpful if the identifying information on INS documents is standardized and accompanied by a photo security feature. Fewer types of documents issued would make screening less error-prone.

We would like to see INS expand ASVI to increase the electronic verification rate to nearly 100 percent to reduce manual verification costs and speed up the process. We would like INS to have legal authority to confiscate driver licenses when they are deporting illegal aliens.

All the data bases and communications systems in the world will not prevent the clever and resourceful individual from assuming multiple identities with quality fraudulent documents. We need the ability to tie the documents back to a unique physiological identifier commonly referred to as biometric technology.

All of these suggestions and the establishment of a national identifier need to be accomplished without denigrating the privacy of the individual. Protections must remain in place and perhaps be strengthened as data bases are linked to provide greater governmental access to individual records and information.

We should not lose sight of the fact that the vast majority of individuals are law abiding and not seeking to defraud anyone. We need to find a way to reduce the drain on public resources, increase public protection and still retain the privacy protections. All of this must also be accomplished without increasing unfunded Federal mandates and by balancing the need for better systems with practicality.

In closing, I wish to express California's sincere desire to share with you and others throughout the country our experiences as we work together toward an identification system using today's technologies. We want to participate with others in efforts to continue to improve the quality of identification and our ability to deter fraud.

Thank you for the opportunity to present this testimony.
[The prepared statement of Mr. Ricchiazzi follows:]

TESTIMONY SUBMITTED TO
THE HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
INFORMATION AND TECHNOLOGY

FRANK RICCHIAZZI
ASSISTANT DIRECTOR
CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

JUNE 12, 1995

Good morning. My name is Frank Ricchiazzi, Assistant Director, California Department of Motor Vehicles. I am pleased to testify before this committee this morning on the issue of applicant identity.

As you know, California is in the forefront regarding identification integrity. We are leading the nation in addressing policies and technologies that impact our ability to provide secure, authentic, and durable identification.

The DMV is the state agency charged with establishing identity of its residents. We have issued driver licenses since 1916. We began issuing identification cards in 1969, when the legislature first began to recognize that there was a need for a personal identification document. In 1979 our legislature stated that as a matter of legislative policy the license and ID card are the basic identification documents of the State of California. After all, I bet that each one of us here today uses our driver license more often to prove who we are than to prove we are licensed to drive. The DL has become the defacto personal identification document in this nation.

California has 24 million licensed drivers and ID card holders. We issue over 5000 original licenses and ID cards per day throughout the state, a total of 1.3 million per year. We issue ID cards to children, and to senior citizens who no longer drive. 73% of our population has either a driver's license or ID card.

During the last 6 years, California has been in the forefront of improving the integrity of identification and licensing. In 1989, California was the first state to implement the federally required Commercial Driver License. This was the first overt move to achieve the objective of the one-driver-one-license concept. At the same time we began collecting the social security number to use as the unique personal identifier for commercial drivers. We also began participating in the CDLIS system which is a national pointer system.

In 1990, we were the first state to introduce the use of digitized technology with the driver license. We went from a paper license system, to a credit card style

license and ID card using digital imaging technology for the photograph, signature, and fingerprint. The new license and ID card contain a magnetic stripe with the card demographic information encoded on it for ease of access. It also has a holographic security feature to help identify valid cards, and to increase the difficulty of producing fraudulent cards.

We now have 89% of our licensees and card holders converted to this system. We have just begun to issue our renewal licenses and cards by retrieving the digitized photo and signature on file. In 1996, the temporary license issued in the field office will have the photo on it, similar to New York's temporary license. Our duplicate licenses and ID cards will be produced using the digitized photo on file, thwarting impersonators seeking a license with their photo and someone else's identity. We will be able to transmit the photo to the office when needed to confirm the identity of a customer. This will thwart efforts to impersonate someone who already has a DMV record. We will also take the photo at the start of the application process rather than at the end, so that we can ensure that the same individual presenting themselves at the start is the same one who takes the tests, and completes the application process.

In 1992 California joined many other states who also collect social security numbers for all applicants. Because verification of the number is vital, we have received permission from the Social Security Administration to verify the numbers we collect against their database. The regulations have taken effect which will allow California and all other states to verify SSNs within 48-72 hours.

In 1993, Governor Pete Wilson supported and signed into law the requirement to verify legal presence status when an applicant applies for an original driver license or ID card. We are not the first state to verify the legal status. One other state has been doing this for many years. Since the law was enacted, we have seen a slight drop in our workload that we attribute to the deterrent effect of the law. Approximately 30% of the 1.3 million documents presented annually to prove legal presence and identity are INS documents. During the first year, we denied over 1000 licenses and ID cards because the document submitted was fraudulent. We term the license to the expiration of the INS document.

Thanks to support from INS representatives, we are able to verify the INS documents submitted through the electronic verification system ASVI (alien status verification system). This verification currently takes place at our headquarters in Sacramento, prior to mailing the card or license. We do not release the license unless we receive positive verification from ASVI. This system is working very well. It provides instantaneous verification. We will be able to do this verification directly from our field offices later this year. Approximately 75% of the INS documents are verified electronically. The rest are sent to INS for manual verification.

The entire legal presence verification process costs California approximately \$1.4 million per year. Approximately \$90,000 is the cost for electronic

verification.

When we started verifying an applicant's legal presence, we also revised the list of documents we accept to establish identity. We eliminated foreign birth certificates because they are not proof of legal presence. We also no longer accept documents such as school records or baptismal certificates. We eliminated these documents because they are not verifiable. We trained our field personnel to recognize fraudulent documents, and the various security features used. This training mirrored the Fraudulent Identification Prevention Program initiated by the American Association of Motor Vehicle Administrators (AAMVA) in the early 1990's. Since that training took place, we have seen an increase in the detection of fraudulent documents. We cannot accurately track the volume of attempts to submit fraudulent documents, because we refuse to accept fraudulent appearing documents before the application processing even begins.

National efforts by AAMVA and the states have produced standards for digitizing and encoding the licenses, and standards for information exchange. We already have communication systems in place on a national and international basis for the exchange of driver data. That exchange should continue to be limited to the purpose of authenticating identification and driving privilege data elements in order to protect the constitutional right to privacy.

These efforts to strengthen the integrity of the identification documents issued by the DMV have far reaching impact, as will any national effort to do the same. They tie together to provide a secure system from an internal perspective. They have improved our ability to provide secure identification through improved screening, improved documentation and tamper proof and fraud resistant documents. These efforts are necessary because the identity document facilitates access to jobs, entitlements, and credit, all of which have costly consequences if access is obtained fraudulently.

It's crucial to focus on coordination efforts external to the individual identification agencies to further enhance identification integrity. Therefore, I would now like to focus my comments on what additional changes are needed to truly achieve a secure, quality identification system within the US. These comments are based on our experience with personal identification, experience that we believe relevant to the issue of secure identification.

We believe that states cannot achieve the most significant improvements in personal identification on their own. A state as large as California has an ability to perhaps roar the loudest, and achieve some gains, but together the 50 states, with national support, are more likely to achieve greater uniformity more quickly.

Consistency in identification requirements and verification make sense. They will be accomplished, however, by jurisdictions with differing systems and practices. Many states produce licenses in the office and release them

immediately to the applicant. These systems are virtually instantaneous, and have benefits to the customers. Other states such as California release licenses by mail from a centralized point after processing. This type of system improves a state's ability to verify data elements, perform checks against other databases which may not be on-line, and provide verification of the mailing address. This system provides additional benefits to California such as greater security and control.

Uniform practices for establishing identity are being developed for all states. California has been working with other states and the AAMVA to develop these uniform guidelines. A list of acceptable documents for application or name change will ensure consistency between states, and improve the integrity of the documents nationwide. These guidelines, however, must be established with caution. The source documents must have integrity, yet the requirements need to recognize the practical pressures of large volume states such as California, and the need to minimize customer inconvenience. We think states can issue secure personal identification if customers present one document from a list of acceptable--and verifiable--documents.

National standards for source or "breeder" documents are also needed. The hundreds of jurisdictions which issue breeder documents do so without consistency. We see birth certificates with untold variations making it very difficult to identify those that are fraudulent. We can identify the bad attempts at fraud, but I'm certain we miss the skilled attempts.

On-line verification of data elements is critical. It's essential for states with over-the-counter issuance, as well as for states such as California which produce and mail licenses and ID cards from a central point. On-line issuance supports the states' need to provide timely issuance of licenses. All states, regardless of size, have a need to provide individuals with timely service, and delays in verification are costly to individuals and states.

An electronic network to verify the US. birth documents issued by the 50 states is also needed. Because we verify INS documents in California, we deter some attempts to seek fraudulent licenses and ID cards, but others have discovered the remaining weak spot, the birth document. They are not verifiable today because of the lack of a birth document verification network to the other states. We also need to tighten access to duplicate certificates, by having tight controls on the reissuance of certified birth documents.

Social security numbers, now collected by many states, may be useful if they are verified by the Social Security Administration. However, they were initially issued primarily for entitlement purposes, not to authenticate identification. The current verification system of a batch process, with a 48 hour turnaround, is better than not verifying the number at all, but it will not prevent the original license from being issued, only its reissuance. On-line verification of this identifier may prevent the license from being issued under false pretenses.

California's on-line access to the INS system has proven very successful, and minimizes the inconvenience to our legally present customers. However, to improve the use of INS documents as identity documents INS must reduce the types of documents issued by INS. We currently accept over 20 INS documents, and each may have several different versions. That's in addition to the U.S. birth certificate, and other documents we accept. In order for us to recognize valid documents, and have good identifying information, it would be beneficial to the states, employers and any agency relying on INS documents, to review the fewest types of documents possible. Then, the identifying information could be standardized, be accompanied by a photo, and have greater security features.

Expanding the ASVI system to increase the % of documents verifiable electronically from 75% to closer to 100% is another important improvement. There are certain status's and types of documents that cannot be verified electronically, requiring a manual verification process for INS and DMV. This is a costly and cumbersome system resulting in very long delays in the issuance of the license and ID card.

We support the development of the all driver pointer system. A system which mirrors the current Commercial Drivers License Information System (CDLIS) will prevent licenses from being issued to applicants whose driving privileges are suspended or revoked in another state. It facilitates the one-license-one driver concept which is impossible to achieve without the exchange of information, and transfer of records to the new home state.

An additional benefit would be to provide INS with the legal authority to confiscate the driver license or ID card, when they are deporting an illegal alien. Agents currently can confiscate documents only when they know the document is obtained through fraudulent means. If a license was issued in California before March 1994 it may have been obtained legally by an illegal alien. We know that individuals return to California very soon after they are deported. If our documents can be confiscated by agents it will be more difficult for deportees to re-assimilate in our state, or migrate to other states, and resume employment or entitlements. If agents have this authority, it will help us all.

All the databases and communication systems in the world will not prevent the clever and resourceful individual from assuming multiple identities with quality fraudulent documents. What is needed is the ability to tie the documents back to a unique physiological identifier commonly referred to as biometric technology (retinal scan, fingerprint, hand print, voiceprint, etc.) A federally funded multi-state demonstration project completed in 1990 tested the concept of using a biometric identifier for commercial drivers. The findings were not conclusive. But much has occurred in the intervening years whereby it may be time again to validate the use of biometrics in the licensing environment. California is in a unique position in that we have thumbprint information collected in digitized form for the approximate 600,000 California commercial licensees. A demonstration project at this time could be a very progressive

Continued
p. 44

step towards solving the problem of linking identification documents to correct individuals. Further research and development is needed to provide what may be the single most effective means of preventing fraudulent personal identification documents from being issued.

All of these suggestions and the establishment of national standards must be accomplished without denigrating the privacy of the individual. Protections must remain in place and perhaps be strengthened as databases are linked to provide greater governmental access to individual records and information. We must not lose sight of the fact that the vast majority of individuals are law abiding, and not seeking to defraud anyone. We need to find a way to reduce the drain on public resources, increase public protection, and still retain the privacy protections. All of this must also be accomplished without increasing unfunded federal mandates, and by balancing the need for better systems with practicality.

In closing, I appreciate the opportunity to present this testimony today. California is interested in continuing to improve the quality of identification and our ability to deter fraud. We are willing to cooperate with others in this effort.

6/8/95 final

Mr. HORN. Thank you for that excellent statement of what California is doing in this area and what you hope to do.

I now yield to Mr. Flanagan, the vice chairman, to pursue questions.

[Discussion off the record.]

Mr. FLANAGAN. Mr. Ricchiazzi, good morning and thank you for coming.

You came to the end and you talked about strengthening privacy and that is my greatest fear with this entire process is that we are going to succumb to the ancient cry and that is, take my rights and make me safe. The thought of carrying a national ID card so we can make the employer an effective enforcement agent for INS scares me. The fact that we are going to have source documents absolutely all the same across the Nation, which riles against our Federalist way of doing business, the very foundation of the Republic are the differences in needs of various States and communities within those States and to nationalize that gives me pause.

Further, while I understand the need, approaching crisis proportion in California, if not already there, I wonder if the tradeoff is not something we will rue later.

We have seen now with the welfare reform, we have an unprecedented number of permanent residents seeking to be citizens. We have the actual process of immigration theoretically or actually once invented to help someone in the process of becoming a citizen as opposed to spending their entire life here without becoming a citizen is finally being effectuated by pulling away some of the advantages of living here without becoming a citizen.

I wonder, with that in hand and with all of the excellent testimony we heard about Border Patrol that we cannot further augment in those areas and actually accomplish where we want to be without having to have tamper proof documents carried in my wallet to demonstrate that I am a citizen—sometime in the future we're talking about, of course—so that I can be employed. I wonder if we are not walking down that road and if we really want to be there.

Mr. RICCHIAZZI. I think, first of all, Congressman, I would like to make a comment that I shared with the Senate committee about a month ago and the reason that we brought—I clearly have made the comments about privacy. First, here in the State of California, we have a statute on privacy and I think that it is a pretty strong statement from not only the Governor but from the State legislature regarding this Privacy Act.

Mr. FLANAGAN. If I may interrupt you, I'm sorry, I don't usually do that, but you went to great lengths to explain to us how the driver's license is the source document for demonstrating who you are and what you are. We heard on many other occasions excellent testimony from the Director of the Social Security Administration on how for, literally, decades the great fight has been fought to keep that from being a national ID card and to keep you from having to present that whether it be at the Blockbuster or at the DMV, to demonstrate you are who you are because we have such national conscience against it.

So I say, your privacy statutes are wonderful and your comments about it are most encouraging but you seem to say one thing and

do the other if you have, as a source document by legislative fiat, your driver's license as one where you demonstrate you are who you are.

Mr. RICCHIAZZI. I would like to just make this one comment and that was, at that Senate committee hearing the last thing I said was our job at the DMV is to make sure that the drivers of the State are safe and that we feel secure when we are on the road.

Mr. FLANAGAN. Which is the purpose of the—

Mr. RICCHIAZZI. Is the purpose of the DMV and the driver's license. I think as we look at identification or we are looking at DMV, what we have here is 73 percent of the population has some form of a driver's license or an ID card. We have hundreds of thousands of people who do not drive but want some form of an ID card when they cash a check or if they are going to the grocery line, and they have come to the DMV for that.

I think what has happened is that, over the years, if we are looking for maybe an efficient, economical way for people to get that ID card or the driver's license, we have that data base. The question that I think may need to be asked which is not answered yet is how does the data base of the DMV along with the data bases of INS or Social Security, et cetera, how are each of them going to share in whatever is going to be decided by Congress?

Mr. FLANAGAN. I would tell you that what INS has to do with safe running highways I am not quite sure and your question presupposes that the driver's license or national ID card should be used as a source document to demonstrate your citizenship, whether in an employment environment or something else. I will tell you, this is not something that I would tell you that the American population likes the idea of, of having to demonstrate through the use of your driver's license or some—the State of Illinois has a State ID card which they will give you upon request as opposed to a driver's license, some other State official imprimatur of you are who you are if you wish to cash a check. It is a voluntary event. You carry one in your pocket if you want to so at the grocery store, trying to cash your check, you have some sort of an identification if you don't carry a driver's license.

Your statement is intelligent. Unfortunately it is from a premise and aimed at a conclusion that I am not sure is nationwide. I am positive this Nation is not ready for yet and I am not sure we will ever be, and that is to have a source document in your pocket in some standardized verifiable source that you will carry and present upon demand, ostensibly only in an employment environment.

I will tell you that it is only ostensibly from the beginning and will grow from there unless vigilantly watched and I don't think we are capable of doing it that vigilantly. I have deep reservations with this and I think I share the interest of the Nation in doing that.

Mr. RICCHIAZZI. I would just like to bring out one statistic which I think is rather interesting and that is that when we enforce legal presence, we did watch a drop of over 100,000 applications for ID cards in California last year. That is quite a significant drop. We have no way to measure was that all legal presence, but that was something that I thought was important to just share with the committee.

Mr. FLANAGAN. Thank you.

Mr. de la Vina, I have just one question for you and this is a real broad question and it really comes to the very foundation of the basic scope of how INS does its business and this is a question I don't know that has been asked at all the hearings I have been to and I am going to ask you now.

Why are we making the employer the enforcement agent for INS or one of the enforcement agents? The question is not an accusation. It is an honest question. I would like to know because it would seem to me that most of what is being proposed is to make the employer a more efficacious enforcement agent, to make it easier and more possible and better. I wonder if we are not at the level where we pass out badges.

My question is not as light-hearted as it sounds. Your testimony about the Border Patrol and the great work that you have done with that, the augmentation that the Congress has provided, more that should be done, the strides that you have made, tell us what you need to accomplish your goal and make our borders safe and I will be the first one to stand up and scream for it. But tell me that some employer in the District is now going to have heavier penalties possibly assessed against him for illegal immigration, giving him a bunker mentality about who he hires, and it is that employer who is going to drive for—he is going to scream for the national ID card, simply to keep himself out of jail, so that some citizen, a citizen walking up to me and asking for a job who speaks with an accent or is naturalized into this country and now has to be able to prove that he is a citizen so that I the employer can be sure that this person is not an illegal immigrant or that he is a legal immigrant without proper papers and so I don't suffer criminal penalties, criminal penalties, because this person cannot demonstrate or refuses to demonstrate that he is a citizen. I'll tell you, I would refuse to.

I would just like your thoughts on this.

Mr. DE LA VINA. Maybe I could best answer it this way. Illegal immigration is not going to get to the philosophical aspect of it but to kind of put things together the way I see things. Illegal immigration is a huge, huge matter that is occurring, has been occurring for many years, over the past 5, the past 10 years it has just increased to tremendous numbers, especially here in California.

I will give you a real quick example, Congressman. Last year in San Diego alone, the Border Patrol arrested over half a million people trying to enter illegally into the United States that were actually apprehended. Out of those half million, technically all of them were returned. I have a feeling that we probably lost a great many more that successfully made their way into the United States.

The premise is that, why do we have such a huge migration into the United States? The lure primarily is jobs. Unfortunately, we must monitor the job situation because that is where people are coming in, that is why they are coming especially to the Los Angeles area. There is an abundance of jobs, apparently. People are just flocking to it. We need a mechanism that will watch the job situation and to address and make sure that the jobs are available to citizens of the United States, resident aliens, those who are legally in this country, those who were born in this country.

What we have come up with is that the employer must play a role, in essence, being a deterrent to reduce the magnet of bringing people into the United States. We don't go immediately into the process of making that employer a Border Patrol agent or have him carry a badge. We have a lengthy educational period, we work with the employers. I can get into specifics. Some of the programs that Mr. Rogers has, where the employers are actively seeking our assistance to make sure that they not only because they are required to comply with us, but they want to comply with us and it is kind of the aspect that we are finding that the majority of the employers in the United States or especially here in the California area are willing to comply, willingly, to help in reducing this lure in a manner of speaking.

So when I tie in the huge influx of illegal aliens that are entering illegally, our border enforcement at the border, our interior enforcement which involves investigations, the districts, what have you, and the assistance of the employers, we are hopeful that this will, in essence be a deterrent and reduce the huge migration that we are seeing on our southwest border right now.

Mr. FLANAGAN. I will tell you that to use the employer as an information gatherer or even some level of enforcement is smart, I think a great idea. I think most good, honest employers want to help. But when you talk about augmenting and enhancing the criminal penalties to really make it painful to make a mistake if you are honest in an effort to catch those who are dishonest who run illegal shops and things like that, I mean you need a high intent level and you probably need clear and convincing standards at least to make even the prima facie case and then a reasonable doubt standard.

I think where we are going here is we are making it a lot easier to hold the employer culpable for having illegal immigrants work in his shop and what we are doing is here is the stick and the carrot is we are giving out these tamper-proof cards and we are having an original source document and we are doing everything we can to make it real easy for you to do it right but if you don't, we are going to come down on you like a hammer on an anvil. I have a real problem with using the employer in that way.

Mr. DE LA VINA. I understand and I hope that you understand we are not dealing with this problem in a haphazard manner, where we are taking a look at every employer and if you have one illegal alien we are going to file and you are subject to, let's say, criminal prosecution.

We are targeting the bad boys, in a manner of speaking, your mass sweat shops where the undocumented worker is subjected to all kinds of misery, pay that's way below minimum standard, exposing them to all types of dangers and hazards and these unscrupulous employers, those are the guys we are looking at. It is just like the smuggler of illegal aliens. They are dealing in human misery in a manner of speaking and those are the people that, yes, we would like to see and we would like to get higher penalties for because they continue with their practices.

But when you take a look at your normal operations that we are looking, in the majority of the cases in let's say in Los Angeles or in north counties, in San Diego, what have you, we are looking at

violations of paper in other words but we are not fining these people for—we are educating in a manner of speaking.

It is out there, we're out there for the bad boys. We're the bad guys who are doing this willfully and unlawfully and exploiting the illegal aliens. Yes, we want that.

Mr. FLANAGAN. Whatever I can do to help you find the sweat shop owners, fine. But if you give the enforcement agencies the tools to—that could possibly be abused and then we trust that you won't abuse them and I trust that you won't, and I think any reasonable person would, but we are two Geraldos and one Oprah away from a panel full of people who have been abused by it and I wonder if we wish to actually put such an onus on the employer in such a way as to make him a verification agent as opposed to criminal penalties if he runs such a sweat shop or indulges in mass hirings. There is a certain fervent feverish pitch about catching everyone, every illegal and putting them all out, whatever it costs and whatever it takes. But I will tell you, it is the scariest words that any free people can utter and that is take my rights and make me safe. And I've really got problems in the direction we are going with this, particularly in the employment scope.

As for your excellent testimony about the Border Patrol, I look forward to telling—I am sure Chairman Horn will have some excellent questions about what more you need and how we can help more and what more Congress can do and I stand ready to help, absolutely.

Thank you, Chairman.

Mr. HORN. Thank you.

Let me just review the 1986 act and one of the authors of it, the State attorney general, will be here at probably 10 o'clock and we can ask him something.

As I understand it, Congress did put the burden on the employer, rightly or wrongly, with employer sanctions if you hire illegal aliens. If you could briefly summarize what is the test that an employer needs to meet in terms of interviewing people and hiring people; what is the basic test?

Mr. DE LA VINA. Yes, sir, Mr. Chairman. I want to refer to Dick Rogers who is active in the Los Angeles area, probably one of the highest concentrated of employer sanctions projects and violations and I would like for him to address that, if I may.

Mr. HORN. Mr. Rogers.

Mr. ROGERS. Mr. Chairman, today, we have multiple documents that are eligible for verification or employment authorization. We have birth certificates, we have drivers licenses, we have Social Security—there are multiple. And we have provided the employer with a list of those documents which we feel justify and verify that status and they are available.

When the employer questions an individual as to his or her employment, they are required to have a multiple of documents. They could be a Social Security and a birth certificate, a drivers license and a birth certificate, depending on what the individual who is making the application is in the United States, what their status is. If they are an alien, then they have to provide immigration documents such as the EAD card in conjunction with additional documents to verify status in the United States.

That is while they are completing what is called the I-9, which is the employment verification document that the employer fills out while they verify that document. That is the process they go through.

Mr. HORN. In your opinion and your experience, can the employer really understand and have assured knowledge whether or not he is dealing with an illegal alien or one that is eligible to work in this country? As I understand it, some of the inspections when they go through, INS agents simply look to see if he has Xeroxed something in the file. There is no way they can really check that card, the card isn't there; they've got a Xerox of a card. Now, even that might look fraudulent to the trained eye but to the employer, does all he have to make is a good faith effort?

Mr. ROGERS. That is correct.

Mr. HORN. Yes.

Mr. ROGERS. A good faith effort of the documents that he is presented. We don't expect, nor do we want, the employers to become fraudulent document experts. We have a new initiative coming here in Los Angeles which is the telephone verification system that we will provide electronic capabilities to 200 new—200 employers who volunteer for the program to give them the capability of verifying the alien documentation that they have presented and that is our effort to give them the tools to be able to do it without the liability.

Mr. HORN. When will that go on line, Mr. Rogers?

Mr. ROGERS. We anticipate bringing the first 200 employers on October 1.

Mr. HORN. What is your professional judgment as you review the Los Angeles area? Are you responsible for the whole county or several counties—

Mr. ROGERS. Seven counties.

Mr. HORN. Seven counties. From here to the Mexican border?

Mr. ROGERS. No, it is excluding Imperial and San Diego. I have Orange, Los Angeles, San Bernadino, Riverside, San Luis Obispo, Santa Barbara and Oxnard.

Mr. HORN. What is your estimate of the number of fraudulent documents that are probably in the employer files based on your agents going out and reviewing these files? Is it half of the documents are probably fraudulent?

Mr. ROGERS. No.

Mr. HORN. Ten percent?

Mr. ROGERS. I would venture to say, and I am talking just estimates, maybe 15 to 20 percent.

Mr. HORN. Fifteen to 20 percent. What would that mean in terms of workers here illegally and employed in those areas that you are reviewing? Are we talking about several hundred thousand?

Mr. ROGERS. There is an estimated 15 million population in the area so 10 to 15 percent of that, you're talking 100,000 to 300,000.

Mr. HORN. Well, at 15 million, aren't you talking 1½ million?

Mr. ROGERS. OK.

Mr. HORN. Yes, I'm curious. There's 15 million people or 15 million what? We're talking 15 million people?

Mr. ROGERS. People.

Mr. HORN. And then how many illegals do we think among the 15 million people?

Mr. ROGERS. We estimate that the State of California has about 1.4 and about 60 percent of the 1.4 are within the Los Angeles district area of jurisdiction so we would say probably about 750,000.

Mr. HORN. So you are saying—I would think the county supervisors feel that they've got at least 1½ million, I suspect, in Los Angeles. I mean, that's just the feeling based on welfare payments and everything else as things pop up. But I am just curious what your solution besides the telephone verification is. Do you feel that will solve most of the problem for the Los Angeles employers and what else would you feel ought to be done?

Mr. ROGERS. Our request is to increase our resources in the fraudulent document area. We have testified in front of the State legislative on breeder documents, for integrity in the birth certificate area. Coupled with that type of effort from the State in our effort for increased enforcement on the counterfeit document area, I think we can have a significant effect on that.

Mr. HORN. Now, does California—maybe Mr. Ricchiazzi also wants to get in on this, does California have a set form for birth certificates in the State that applies to all counties?

Mr. RICCHIAZZI. That's our biggest problem. You know, walking in to the DMV offices and we have our clerks, it is the one thing we are stressing. We need some kind of national birth certificate because there is just so much out there, every little town, every little county has their own birth certificate and it is probably the one most difficult thing to verify.

Mr. HORN. Has there been any attempt by the California legislature to get standardization among the 58 counties?

Mr. RICCHIAZZI. To my knowledge, no.

Mr. HORN. Has the motor vehicle department recommended that that be done?

Mr. RICCHIAZZI. It is one of the areas that we are strongly emphasizing right now.

Mr. HORN. Yes, I would think that the Governor would want to make that as a recommendation to the legislature, because I think you are right, you can either have a State standard of consistency or you can have a national standard and we ought to look at both.

Mr. ROGERS. During testimony in a hearing in front of the State, we just asked them to put—right now, a person can write in, any person can write in and get yours or my birth certificate. It doesn't have to be that individual. That is a major concern to us because that is the basis of the future—

Mr. HORN. And you find a lot of people in the age of Xerox machines substitute a name and you've suddenly got a birth certificate or a copy thereof.

Mr. ROGERS. That is correct.

Mr. HORN. Is there anything, Mr. Ricchiazzi, that the State feels it needs from INS that it is not getting?

Mr. RICCHIAZZI. Well, we had discussed and I was really glad to hear Mr. de la Vina mention that they are trying to cut down on the number of documents that they now have. Again, it is a very difficult thing to ask a \$20,000 a year clerk at DMV who is checking birth certificates, checking INS documents, going through the

regular DMV process of trying to get somebody an ID card and now we have motor voter coming on line so whatever we can do to cut down documents and give some semblance of an order in the amount of documents that they have to check would really help.

What we were emphasizing is that with the INS, right now there is even a pilot project that we just started dealing with people that are deported where we are now being notified by them so that we can stop the drivers license. So after the person has been deported, the next day when they come back into the country to go get their ID card or drivers license, we can now say, wait a minute, you've just been deported and, sorry, but no license or ID card.

Mr. HORN. Now, who has the authority to pull that license?

Mr. RICCHIAZZI. At this point, if we are notified that they have been deported, at that point I think we have the jurisdiction to put a stop on that license?

Mr. HORN. Are you notified?

Mr. DE LA VINA. In some instances we notify the State. Because it is a State document, we do not pull the drivers license, in a manner of speaking, until we have State clarification and authority to do so.

Mr. HORN. When they check into the county jail or the State prison system, presumably whatever they had on them as identification are kept in custody until they are released so it seems to me there needs to be a State law that deals—since most of them are in county jails or State prisons all under the authority of the State of California, to have those cards pulled by the sheriff, by the warden before they are released.

Is that going to be recommended by motor vehicles and the Governor?

Mr. RICCHIAZZI. I am sure it would be, yes.

Mr. HORN. Well, I think it is a good idea because it is crazy—the cases I heard the other day from the six judges I sat down with were, as I said earlier, they sentenced them on Monday to a year in the county jail. The sheriff released them on Tuesday or Wednesday and Thursday, one of the people appeared back in the judge's court who had been deported to Mexico. He had gone to Mexico, come easily over the border without much interference and the judge was surprised to see him since he had just ordered him to spend a year in the county jail. These are rather serious crimes, as we all know. It is no longer the town drunk that is in the county jail; it is felons that have committed very violent acts because the State prison system can't accommodate them.

To his surprise, the person showed up because he needed a few things I guess the judge still had in the court record. He has already been deported and it is just a game and it seems to me if the State is going to take this seriously, they need to make some recommendations, get their legislature to instruct wardens, instruct county sheriffs, you pull those documents. So INS isn't doing it but if INS is picking them up, putting them in a Federal INS holding facility, then we need to deal with INS picking up those documents.

So I assume staff is taking suitable notes and we can see what we do to straighten out the confusion. This has gone on for almost 10 years under the Simpson Mazzoli Act, where some of us knew

it wasn't going to work to start with because you didn't have the proper identifications. It is just going to be a game of unscrupulous employers exploiting human beings, taking jobs from the community that teenage youth ought to have.

That's what got me on this in the mid-70's. This is not new to Los Angeles. We have now been discussing this for 20 years in Los Angeles County. And I said in 1980, if you don't get a decent identification system, you are going to be discussing this 10 years from now. Well, it's 15 years from 1980 and we are still discussing it. We hopefully will get something done on this.

Now, Mr. Ricchiazzi, you mentioned the biometrics on your particular identifications. Essentially, photo and fingerprints. Is there anything that you need in Federal cooperation on some of this that would be helpful?

Mr. RICCHIAZZI. I feel that right now and from what we have been observing is that the Federal agencies are looking at the fingerprint system as the one that is most effective at this point.

Mr. HORN. Do you mean fingerprint or the hand system which INS is using?

Mr. DE LA VINA. The ident system or the identification, the biometric identification system. We also have the California ID system, CAL-ID, which is those who have been deported are now being put into the data base of the California identification aspect so we have a couple of these.

Mr. RICCHIAZZI. What we are doing is we just finished a procurement on our drivers license. We have switched companies and we were producing the drivers license card with the magnetic stripe on the back around 75 cents per card. We are now down to about 49 cents per card. But one of the things we do is we then go to INS, we go to Social Security, we try to go to FBI and CIA and say, here is what we have. How can we help if you need something here. We have been asking them, what is the best source.

Right now we are sitting with the thumb print and pretty much it is just sitting there waiting for anybody who may need it but there is another item here that I think is important and that is—I could understand Congressmen making comments about the scary national ID card. I would just like to throw something else out here as well.

What we have found is if it is a fraudulent card, there is nothing on the mag stripe on the back. That right away says it is a false document. But, you know, in the future, if we are looking at this in the future, the possibilities are there could be microchips put inside of a DMV card for health purposes. If I happen to be going back to see my dad or family say in Buffalo, NY, and I got into an accident when I was there and maybe I'm on medication or who is my doctor or who is my health insurance company, et cetera, I think I personally would want to have a microchip in that drivers license so that at that emergency room of the hospital, somebody could just swipe that through and right away know what I am allergic to and who my doctor is.

Mr. HORN. Blood type, so forth.

Mr. RICCHIAZZI. Yes.

Mr. FLANAGAN. And if you want such a thing, by God, you ought to have it. But to require me to carry it in my wallet is another matter entirely. That is the essence of the question we have today.

Mr. HORN. Mr. Ricchiazzi, what number do you issue in strictly identification cards as opposed to drivers licenses? Do you have a figure on that? How many people are asking for these identification cards.

Mr. RICCHIAZZI. I am going to give you a number and——

Mr. HORN. Why don't you furnish it for the record. If you have a ballpark now, that would be fine.

Mr. RICCHIAZZI. I think it runs around 1, 1.3 million.

Mr. HORN. That is really quite amazing. 1.3 million, they don't need it for a drivers license, it's simply identification.

Now, in terms of the State administration of welfare, and we are sending them a lot more block grant things to do, one of our problems is major fraud in terms of Medicaid known in this State as MediCal. Will the State require identification cards on recipients of Medicaid which is both State and Federal money?

Mr. RICCHIAZZI. We are working with the welfare right now as far as the drivers license. I am not sure what they are doing over there at welfare but, again, it is a time saver if you can give them an ID card or a drivers license, they swipe the card through, they've got enough of the information which is saving clerk time as far as filling in the application.

Mr. HORN. I believe the Los Angeles County supervisors are moving in that direction, aren't they?

Mr. RICCHIAZZI. Yes, they are.

Mr. HORN. They have already saved millions in the process.

Mr. RICCHIAZZI. Yes, they have.

Mr. HORN. Well, you know, if the geese want to be fleeced, don't do anything about some of this identification and you will be fleeced by the people who sign up 15 times. But it seems to me it is a solvable problem.

Now, you were active or the director of motor vehicles is active in the national association of other motor vehicle directors. As I understand it, it is possible to link up these State data bases. It wouldn't cover everybody. If you applied for an identification card, you would be covered, if you applied for a drivers license, you would be covered. But is there any estimate anyone has as to how many adults 18 and over would be covered by such linkage and is there any estimate for California as to what proportion of the adult population is or is not covered by motor vehicles, either State identification cards or motor vehicle drivers license?

Mr. RICCHIAZZI. Well, we know that 73 percent of all Californians have either an ID card or a drivers license.

Mr. HORN. Is that 18 and up or does that include we 14 year olds on a farm that learned how to drive and had licenses.

Mr. RICCHIAZZI. That would include those that are 14 and can drive because they are out on the farm.

Mr. HORN. Right.

Mr. RICCHIAZZI. But that is our percentage of the State is 73 percent.

Mr. HORN. Well, let me ask a few more substantive questions then. I need a chart somewhere in the record from the INS as to

the resources you are allocating beyond the borders, let's say 50 miles from the borders in interior California to do—to, one, find illegal aliens and to get them deported if you find them. What is that off the top of your head? Do you have it and then file it for the record in specifics. And how has that changed over the few years?

We yelled so much at you to get them to the border to stop the inflow and now we are worried that we have got several million in the State. We have got the highest unemployment rate in the Nation in Los Angeles County and people are still pouring in and youth cannot get entry level jobs. And that was the situation in 1975 that got me first aroused then. We just sat there, due to really negligence of both Republican and Democratic administrations nationally until now. I agree with you, the President is the first President I have known since 1975, that seemed to care about the matter, and I say that as one in the opposite party.

But go ahead and tell me what you know on the allocation.

Mr. DE LA VINA. Yes, Mr. Chairman. You are absolutely correct. We have been concentrating on the border. Most of the resources over the last several years have gone to the border primarily in California and Texas.

That's been part of the strategy.

Recognizing the problems that have been building up in the Interior and have been there for many, many years, the administration and the INS, the commissioners recognize that we now in essence have got a control in a manner of speaking or a better control of the border. Now we must look into the interior.

There is a comprehensive package that includes for the interior stations primarily in the districts of over 600 agents, INS inspectors at the ports of entry. Then we are looking at investigators. Investigations is looking at approximately 365, recognizing as I testified before that there are seven States that we are looking at heavily for the interior aspect in addition to the border, not including the border. California is one is including Los Angeles, San Francisco.

We are looking at Florida. We are looking at New York, Illinois, and we are adding the State of Arizona and the State of New Jersey, but we have a very comprehensive number for interior enforcement and that is going to translate into more investigators, more naturalization of people, more adjudicators, more contact reps in the area of services.

Mr. Rogers might have some specifics as to the numbers that we will probably be looking at next year.

Mr. HORN. And are those currently authorized by law and you are out recruiting them? I need to know that.

Mr. ROGERS. At the present time we have about 179 investigators on board in the Los Angeles district. The agency's total authorized force is 1,814—that's nationwide.

It is anticipated that pending fiscal year 1996 initiative will get probably one-seventh of the 372. At the present time I have bringing on board an additional 23 investigators and staff to do a sanctions pilot project in the Los Angeles area.

Mr. HORN. What has the Department of Justice asked for in terms of resources for fiscal 1996? Do you have those figures?

To what extent has the Attorney General sought the resources? Was she turned down at the Office of Management and Budget, namely the President or what-not? Just where are we on that?

Mr. DE LA VINA. We have the border enforcement and management. I have that as a part—I can furnish that. I can read you some of the excerpts.

Mr. HORN. Read a few excerpts and then let's file it for the record.

Mr. DE LA VINA. All right. This is the 1996 immigration initiative. The President's fiscal year 1996 budget strengthens border enforcement and management by \$369 million.

With these funds it is anticipated to increase the number of Border Patrol agents, augment the number of inspectors assigned to ports of enter, provide strategic intelligence and investigative information at the border and enhance technological equipment capabilities.

A portion of this enhancement will be financed through a new border service fee, et cetera.

Here is what we are looking at to control at the border: 700 new Border Patrol agents. We are looking at controls of ports of entry, 680 new INS inspectors. We are looking at 365 investigators.

Mr. HORN. Now that is nationwide?

Mr. DE LA VINA. Yes, that is correct.

Mr. HORN. Now to build a budget to submit, for the Commissioner to submit to the Attorney General, they have come up from the regions.

What did the Western Region ask for for fiscal 1996 and fiscal 1995?

Mr. DE LA VINA. I don't have that figure with me.

Mr. HORN. Could you file that?

Mr. DE LA VINA. Yes, we will.

Mr. HORN. I would like to know, what did you ask for, what did you get, and I want to see where the gap is and who said no. Was it the Attorney General? Was it the Office of Management and Budget? Because it seems to me we have had a national crisis here for 10 years and the question is are the people fighting the battles in the field getting the resources they need, and the first question obviously is did the people in the field ever ask for it and if they did what was the status of that.

Since you—while you have to stick with whatever the President recommends, as you know, under congressional procedures you can—when asked that question you need to furnish the information, so you didn't put me up to it. I put me up to it.

Mr. DE LA VINA. Thank you, Mr. Chairman.

Mr. HORN. You are answer-clean when I yell and scream.

OK. Currently the employer does not have the means or the authority to determine whether identification documents are valid, as we have noted, and that pilot employer verification system in California will only verify whether the alien number and name exist in the INS data base, as I understand it.

With the high quality of fraudulent documents this system will be defeated. How can we ensure accurate data in this system?

Mr. ROGERS. The enhancement for the last couple years for this agency, a significant amount of data enhancement went into in-

creasing the reliability of our electronic data and that has increased our ability to furnish this same increased reliable data to the employer.

We have one employer here on the system already and has been for 3 years and we have seen a decrease in the application of fraudulent documents to that employer by over 75 percent. It is a small employer. It employs about 360 employees. The reason he was selected initially was that his work force was infiltrated by employees presenting counterfeit documents. It's in the Huntington Park area and he has testified also about the significance of the ability to check.

As we increase the reliability of our own data base, that system will—it verifies on two ways.

They have the electronic capability initially and if there is we cannot verify either the number or the biometric information. They have the ability to take the documentation and physically send to our offices and we do a hand search.

Mr. HORN. It's common knowledge as I think we have agreed that you can get a job with fraudulent documents and we talked about employer sanctions and in their current form without what you are doing they certainly have failed.

So if employers verify fraudulent documents that are valid according to the verification system, are we not committing the double sin of failing and wasting taxpayers' funds?

Mr. ROGERS. I would say that the probability of our data base positively identifying a counterfeit document as one that allows that individual is highly unlikely. The accuracy of the data is significantly reliable that if they have the telephone verification that is highly unlikely to happen.

Mr. HORN. What additional tools does INS feel it needs to really make the sanctions work? Any feeling on that from you or the firing line?

Mr. DE LA VINA. Dick, you're there.

Mr. ROGERS. At the present time there's over a million employers in the Los Angeles area. I have about 56 investigators that work sanctions. I have about a similar number that work counterfeit documents and I have the same that work employer based fraud.

We can't handle the numbers that we have.

Mr. HORN. So basically you use what? A random sample or just simply tips or suspicion as to who these employers are?

Mr. ROGERS. We have various methods to identify usually the egregious violator. We use multiple informants, infiltration under undercover operations to bring them criminal prosecution but we also have random sampling where headquarters send us out on a regular basis, just people out of the business community, and we audit them on a regular basis and we also audit individual companies on a lead-driven, so there's three different types of employers that we are working right now—the random sampling, the lead-driven, and the undercover information.

Mr. HORN. And it is clear—well, let me ask you. Given that small number of investigators, what does—how many firms can the typical investigator get to in the course of a year?

Mr. ROGERS. It all depends if an investigator may—if it is an egregious violator may only do two cases because of the undercover and the criminal aspect of the work.

A random audit, they may get two or three a month.

Mr. HORN. So you would need to really in your judgment do the job how many investigators in the interior?

Mr. ROGERS. There would be no problem with me to become more efficient if I doubled my enforcement staff.

Mr. HORN. Well, OK, if you double it, you'd get up to 116 investigators or something like that?

Mr. ROGERS. In the sanctions area, right.

Mr. HORN. What are we finding the typical investigator—how many real cases does he bring in a year and who do they go to, the U.S. attorney for prosecution?

Mr. ROGERS. Yes. The egregious ones that have been found to establish a pattern and practice go to the U.S. attorney for prosecution.

We have in the last 6 months, we have three criminal prosecutions pending, one conviction already. Those extensive cases it may take an investigator 6 months to do that type of case but yet it is random audit with—we find about 75 percent of the employers in compliance.

Mr. HORN. So we are dealing with 25 percent.

Mr. ROGERS. Right.

Mr. HORN. Which in essence is 250,000 employers.

Mr. ROGERS. Right, but—

Mr. HORN. And we get two or three a year.

Mr. ROGERS. Right, but a fraction of that is intentional violations, the ones that are exploiting and I would, from that percentage I would decrease to about 5 to 6 percent those who intentionally exploit the worker.

Mr. HORN. Well, when you bring these cases and your investigators walk into the assistant U.S. attorney and ask him to file, how many have they turned down and refused to file?

Mr. ROGERS. This year, sir?

Mr. HORN. Any year. Give me any one you want. I just want to know does anybody take INS seriously in the Office of the U.S. Attorney?

Mr. ROGERS. Yes, in the recent—I can only testify to ask long as I have been there, and that's been March of last year.

Mr. HORN. OK.

Mr. ROGERS. They have increased their prosecutions in the 1326 arena which is the re-entry after deportation, and the criminal prosecution twofold.

Mr. HORN. Well, translate that into simple English for me. How many employers are fined or serving jail time?

Mr. ROGERS. Like I said, during that year period we've only presented three criminal cases, but we also have the ability to administratively fine and we administratively fine employers on a regular basis, probably about 15 a month.

Mr. HORN. Fifteen are fined a month and what kind of fines are we talking about?

Mr. ROGERS. Between \$1½ million to \$400, \$300.

Mr. HORN. And of these people that have been fined, are they repeaters?

Mr. ROGERS. Once we establish a fine we audit again and if we find them in violation we pursue criminal prosecution.

Mr. HORN. Because I would say it's—some would I suspect have it as the cost of doing business—got to pay INS fines, get cheap labor and exploit them.

Mr. ROGERS. And that is the intention for us to concentrate our efforts on those type of employers.

Mr. HORN. Has anybody gone to jail since the 1986 act was passed?

Mr. ROGERS. As far as I know the first—

Mr. HORN. Or Federal prison.

Mr. ROGERS. The first case we had a conviction was a female and she spent a month in jail.

Mr. HORN. A month in jail, so the cost of doing business was pretty cheap for her.

So the fact is would you say we are taken seriously or not seriously under employer sanctions as enacted into law in 1986?

Mr. ROGERS. I think under this administration it's a higher profile than it has ever been before.

Mr. HORN. Well, I agree with that, but that's sort of zero added maybe as plus-zero or plus-one.

Mr. ROGERS. As we refine our efforts in this area we get to the egregious and I don't think we were there before. I think our increased concentration and efforts on the egregious employer got us to the stage that we are. We are increasing our production in the criminal area.

Mr. HORN. Well, basically though you are saying that of the cases you bring to the U.S. attorney how many do they reject and say sorry, we are not going to do anything about it?

Mr. ROGERS. During the year that I have been there, I believe they've accepted three and rejected about five.

Mr. HORN. OK. Did you think their rejection was a fair rejection?

Mr. ROGERS. Under their evaluation I'm sure it was fair. [Laughter.]

Mr. HORN. Well, what is the U.S. attorney's evaluation?

Mr. ROGERS. They try to get the evidence. They require us to go undercover and have an undercover agent employed by the employer. Oftentimes they will ask us multiple individuals to be employed by the employer with knowingly presenting counterfeit documents and also the conditions the employer puts to the employee such as under minimum wage, et cetera. Those are criteria that they put on us to present the case.

Each case is identified and evaluated on its own reference.

Mr. HORN. Now on the under minimum wage, what is the U.S. Department of Labor doing about their regular wage surveys? They also have authority in this field.

Mr. ROGERS. We have a joint task force now with Social Security, Department of Labor, and State Department. We just are now concluding doing the Northridge contractors, the fly by-night contractors that came in after the Northridge earthquake.

Between the State and the Federal agencies we have made significant impact on putting the fly by-night contractors out of business.

Mr. HORN. OK. I am going to file the next question but let me give you the flavor for it and the staff will pursue it with INS nationally and regionally.

We want to know how many employers had sanctions imposed against them over the last 5 years in California?

How many in the entire Nation?

What is the average sanction imposed?

How does INS determine which agency will pursue sanctions against an employer?

How does INS determine the amount of sanction which should be imposed or agreed upon with the employer?

Once a sanction is paid how are the funds distributed?

If all dollars collected in the form of sanctions were required to be distributed back into employer sanction and enforcement programs, would employer sanctions be increased?

Would more employers to be identified, should any changes in current law be pursued regarding employer sanctions to make it easier to control illegal immigration?

If so, what changes would INS advocate?

Does INS have any plan to advocate legislative changes regarding the employer sanctions?

I realize that is a long list. Just file each one for the record. You will be furnished, your Commissioner will be furnished, everybody will be furnished and we will try to lay it out.

Now let me move in the limited time here to another query.

What are your thoughts regarding an extradition treaty whereby illegals do prison time in the country of origin?

I have suggested that. That is part of a House-passed bill. It is over before the Senate. I have talked to the President about it and this would mean renegotiating the prisoner transfer treaties because as you know right now they have to give consent to go back.

What I want to see happen is if a State or Federal court sentences an illegal to jail or prison time that the treaty would be rewritten so they would have to serve that time in the country of origin, which would relieve the California taxpayer, the national taxpayer, et cetera.

I just wondered, does that make any sense to you?

Mr. DE LA VINA. It sure does, Mr. Chairman.

I think that that has been explored probably by another State. I think Florida has taken a look at that also.

Anything that will assist us in the identification and removal of especially the felon from our criminal institutions, from our prisons, from the county jails is definitely welcome and to be explored and evaluated.

As long as they serve their time, it would be here or another country, I think that's a good idea.

Mr. HORN. Mr. Rogers.

Mr. ROGERS. In the treaty transfers right now one of the stumbling blocks is that the conditions of confinement have to be the same.

We have the best conditions of confinement in the entire world and we'll never be able to duplicate that in such like countries of Mexico, Colombia, and that is one of the—

Mr. HORN. Now this is in the existing treaties, is that correct?

Mr. ROGERS. Yes.

Mr. HORN. And as I remember, the one with Mexico is about 18 years old, isn't it?

Mr. ROGERS. Yes.

Mr. HORN. And that is the one that requires consent so they don't even have to return home but what you are saying is, and I hadn't realized this until you have just mentioned it, that the condition of confinement must be the same?

Mr. ROGERS. Yes.

Mr. HORN. Well, then even with consent most Mexican prisons wouldn't make that standard of a Federal judge's standard on the humane constitutional jail space so how many do we send home?

Mr. ROGERS. In the State of California the attorney general probably will be able to identify that more—very few, because this is a term State also.

Mr. HORN. What do you mean by that?

Mr. ROGERS. They are required to serve a specific amount of their sentence in the institution within the State.

Mr. HORN. I see—before going home.

Mr. ROGERS. Yes.

Mr. HORN. Yes. OK. Let me move to the next question again, like the previous one just file it for the record but I want you to get a flavor of what we are after and if you feel there are some other things that you want to get in there, do it.

Do current INS policies assume interception at the border for the purpose of controlling illegal immigration?

What policies will have to be changed to improve our interception abilities?

If it is impossible to control illegal immigration solely through interception should we consider a guest worker program to better track those who are here? In other words, the old Public Law 78 Bracero Program, which applied primarily to agricultural laborers as I remember.

As employer sanctions are not successfully deterring the hiring of illegal immigrants, wouldn't employers be more inclined to obey the law if employees could be hired through a guest worker program?

If a guest worker program were established, wouldn't those illegally immigrating today enter through a legal guest worker program? The point is if interception isn't working today and employer sanctions have been unsuccessful would we not be better off with a guest worker program, which makes sense for all employers to participate in the program, thereby eliminating the illegal job opportunity, which is what induces the individual to come here in the first place.

Is it not a fact that the jobs did not exist except through a guest worker program individuals would lose the incentive to enter the United States except through the recognized guest worker program?

I don't know if any of you are old enough to remember the Public Law 78 but what was your reaction to that? Should we get back to that?

I mean I remember it in the 1960's because I was a young Senate assistant and the issue was being fought out in the Senate, in the mid-1960's in particular.

Mr. DE LA VINA. I was in south Texas during the Bracero program. Again I was young back then. [Laughter.]

Mr. HORN. Yes.

Mr. DE LA VINA. The numbers were so different than what they are right now. I think we were dealing with, if I recall it was a controllable amount of people. It was agricultural. There weren't a lot of field laborers involved. Even then there was a lengthy process and bookkeeping that went with it and what have you. It appeared to be semi-successful.

In today's climate and I see and would ask Mr. Williams how many apprehensions his agents made on the border last night. He says anywhere between—what was it, Johnny, 2,300?

Mr. HORN. Was that just the San Diego border?

Mr. WILLIAMS. Yes, sir.

Mr. HORN. And about how many tried to come over? Three thousand last night?

Mr. WILLIAMS. We hope not—2,012.

Mr. HORN. But it's usually a couple thousand a night and you catch about 1,000 and 1,000 get in, don't they?

Mr. WILLIAMS. We believe the percentage of our effectiveness has risen dramatically since Gatekeeper and without going into numbers, because someone else could have another number that I couldn't disprove, but we think we have at least doubled our efficiency since Gatekeeper.

Mr. DE LA VINA. So with these huge numbers, you know, 2,000 arrests, the program would be targeting such a limited number, even in agriculture, number of people that would be let's say employed, it would still be a huge, huge magnet and I just don't see the feasibility of that. My personal opinion is there's too many coming across right now.

Mr. HORN. Yes. I have one last question and then Mr. Flanagan has a question.

It seemed to me 20, 25 years ago there were a lot of people helping the Border Patrol patrol illegal immigration—local police, sheriff's office, so forth. Just for the record, what happened? Why don't they help anymore? Were those Federal court rulings primarily? What was it?

Mr. DE LA VINA. I think one of the areas and we have all worked the border during those timeframes, I remember when there used to be a fee paid to the police and what have you for holding an undocumented person until the Border Patrol arrived and what have you.

The society changed. The aspect of it's been on a curve, up and down, whether it's either political or sensitive—there's been a lot of interests, a lot of sensitivities involved. It's been up and down and in Texas it's semi-accepted. It's an on-the-border issue. In the interior it's viewed a little bit different.

Within the last 2 years here in California we are seeing a tremendous turnaround of cooperation with the local, State primarily in assisting us in controlling illegal immigration so we have seen a big turnaround coming back again on that curve and assisting the U.S. Border Patrol.

Johnny.

Mr. WILLIAMS. Yes. I'll add to that. Before being a chief in San Diego I was a chief for 5 years in Imperial-El Centro sector and in San Diego I find it unprecedented the amount of cooperation that we are having from every law enforcement agency.

We are part of all the task forces in San Diego. We are working with the chief of police in San Diego now with an officer assigned around the clock to respond to suspected illegal aliens. The police departments, the sheriff's departments and officials are furnishing us with information on illegal aliens and we are looking at enhancements to that so we are very pleased with the direction things are going.

Mr. HORN. Well, that's good news, Mr. Williams, to see that turnaround. I suspect Imperial isn't doing that because they are using them pollinating palm trees or shade trees or whatever. [Laughter.]

Mr. WILLIAMS. Over in Imperial right now there is a project going on where there's 15 agencies combined in a task force toward drug interception and as part of that, an outcropping of that is information on illegal aliens and the smuggling of aliens, so 15 agencies working together on a focused effort is really something.

Mr. HORN. Well, that's good news.

Mr. Flanagan.

Mr. FLANAGAN. Thank you, Mr. Congressman.

Let me preface my remarks by saying that usually which you do not ask about you tacitly agree with and approve, so if I seem a little vitriolic today it's not because I want fluid borders. No one wants rigid borders more than I do and the Gatekeeper program and other things that you have worked on are outstanding achievements forward and anything you do to help control the flow of illegal immigrants is fine. I am merely continuing to question the efficacy of the employer's role and in augmenting and making that easier.

In that regard, I have a hypothetical for Mr. Rogers. Maybe you could handle it.

Illinois is the fourth-largest repository in the Nation for illegal immigration—where I am from. It is in the middle of the country and the vast majority of the immigration, illegal immigration that we get there is from Europe and I am an employer. I am a good guy. I don't want illegals working for me. I want to control them and turn them in and either get them documented or get them out of the country because they should not be here, and I have got a small shop and I have got 25 people working for me and a guy comes in with a thick Irish accent and smiles at me broadly and says Mike, I want a job.

I say well, OK, are you a citizen?

He says yes.

What do I do? I've got sanctions hanging over me. I've got the price of doing business staring me down the throat here. Well, what is my recourse? Where do I go? Do I take him at face value

or do we have a system where I am now required to prove that he is a citizen with some document or something or do I just suffer the consequence and have the price of doing business?

This is not someone who is pretending to be a documented alien. This is somebody who is pretending to be a citizen.

Mr. ROGERS. You are required to get them documentation. We have a system that requires you to get documentation from that individual so at least to indicate he is a resident of the United States and a citizen.

Mr. FLANAGAN. And what would that documentation be?

Mr. ROGERS. There is a myriad of documentation such as a birth certificate, a driver's license, a Social Security number, a State ID card—there's numerous that an individual can produce.

Mr. FLANAGAN. And this is a requirement put upon me to avoid the sanction from INS?

Mr. ROGERS. That's based on the law.

Mr. FLANAGAN. Well, right, and so consequently I would be a foolish employer indeed if I did not make it a policy in my company to have to prove your citizenship to be employed here.

Mr. ROGERS. If you do not comply with the law, you are subject to sanctions. That's correct.

Mr. FLANAGAN. So we have made great strides in the direction of having to demonstrate your citizenship and employment status because of immigration law as opposed to any other law.

Mr. ROGERS. Right. As well as aliens' right to work also. It's non-discriminatory.

Mr. FLANAGAN. Mr. Chairman, he really voiced my concern. I find that troublesome and I yield back. Thank you.

Mr. HORN. I thank the gentleman from Illinois.

I thank the panel. You have given some excellent testimony. We look forward to your answers to those questions.

As you know, the authorization committees, subcommittees headed by two very able Members of the House and the Senate are working diligently on this issue and we certainly would hope to make sure you get the resources that you ought to have to do the job the Nation is expecting you to do, so I thank you for your helpfulness.

We are going to take a 5-minute recess now and then we will begin the next panel, headed by the attorney general in California and joined by the secretary of the State of California.

Thank you, gentlemen.

[Recess.]

Mr. HORN. The subcommittee will come to order. Gentlemen, we have a tradition on the Committee on Government Reform and Oversight of swearing in all witnesses, no matter how dignified they are.

[Witnesses sworn.]

Mr. HORN. We will now begin with the attorney general. The very distinguished former colleague in Congress, distinguished citizen of this part of the State. After Attorney General Daniel E. Lungren, completes his formal testimony, we will hear the secretary of the State of California, the newly elected Williams Jones. We welcome you.

Attorney general, please proceed.

**STATEMENT OF DANIEL E. LUNGREN, ATTORNEY GENERAL,
STATE OF CALIFORNIA; AND WILLIAM JONES, SECRETARY
OF STATE, STATE OF CALIFORNIA**

Mr. LUNGREN. Thank you, Mr. Chairman. It is a pleasure to be here back in my old congressional district. I would like to salute this committee for meeting outside Washington's beltway to discover the real world, particularly on an issue as important as this.

One of the things that is so challenging about this issue is that it talks about the movement of fellow human beings across political life.

As a result, it engenders all of the emotions, all of the belief systems, all of those kinds of things that make us what we are. It is probably as difficult a challenge as you will face because it involves something, I believe, as strong as the instinct of survival.

In this regard, democratic societies are particularly challenged because we have to balance our shared value of compassion with the responsibility of a nation state to protect the integrity of its borders.

I've always thought that a mutual friend of ours, Father Hesburgh, the former president of Notre Dame when he was chairman on the Select Commission on Immigration and Refugee Policy during the Carter and Reagan years, I always thought that he said it best when he said that if we are to keep the front door of legal immigration open we must close the back door of illegal immigration.

I do not find myself in the same position as those who believe we ought to have no immigration to this country.

I always note when people say that their last name is usually not Running Bear or something like that. I think they are as happy as I am that a relative, an ancestor, got over here. I don't cotton much to the notion that since I've gotten here we ought to bring up the draw bridge and make sure nobody else shows up.

What I do believe is we have a more difficult challenge which is to articulate a reasonable, responsible, rational and compassionate policy that nonetheless recognizes that we as a Nation have a right to determine our own borders, and we've not done a very good job of it.

While our laws, therefore, must reflect a sense of fairness, they must also communicate, I think, very specifically to the rest of the world and beyond our borders that to come to the United States you must first obey our laws.

When I look at the issues, I try and expand my view and understand that there are literally tens of millions of people who would like to be here in the United States, perhaps hundreds of millions.

And by virtue of the fact that we do not control our border and allow large numbers in, we are saying to those who are following the law that what you are doing is nonsensical. Why not join the group and just come in here illegally.

As you know, back in the 1970's we went to a worldwide quota system where we basically said that everyone in the world had an equal chance to come to the United States. Before that time we had been heavily slanted toward Western Europe.

The slant toward Western Europe is no more pronounced than the slant toward our own hemisphere if, in fact, we do not control

our borders. A family in Africa, a family in Asia, a family in Eastern and Western Europe ought to have the same belief that they will be treated as fairly as anybody else to come to the United States, and if they have to wait in line because there are many that are there, it is easier for them to accept that fact if they know they're being treated as fairly as anybody else. So I think we ought to understand that.

The fiscal impact of illegal immigration upon the taxpayers in California cannot be discounted. I have in my prepared comments mentioned the cost articulated by the Governor in his budget proposal. Let me just concentrate on one area, and that is our State prison system.

We house approximately 19,200 illegal immigrant felons representing about 14 percent of our adult inmate population. To put this in perspective, these illegal alien felons could virtually fill eight prisons in California at 100 percent capacity.

To put another way, we would not have to build eight prisons, maintain eight prisons, if, in fact, we did not have the presence of these illegal alien felons in our State.

You have to realize in California that only 25 percent approximately of all felons go to State prison, so I'm talking about of that 25 percent that go to State prison, presumably the worst of the worst, 19,200 we believe are illegal immigrant felons. Just 7 years ago the illegal immigrant population in California was estimated at 5,700, so you can see the tremendous jump that we have had.

Fiscal cost to the State for incarceration and parole related costs has jumped from \$122 million to \$503 million in that period; one-half a billion dollars in California tax dollars are being spent to house illegal alien felons.

So while it is not the vast majority of people in our prison system, and sometimes people heighten this and suggest that's the case—and I do not want to suggest it is the case—nonetheless, it is significant.

I would also like to remind the committee of another fact, and I've been asked to do this by local law enforcement. Another incarceration cost frequently omitted from this debate is the cost to counties for incarceration of illegal aliens in the local jails. Local jails serve the purpose of holding people pending trial, if, in fact, they do not or cannot make bail, but it also is the place where people serve their time for less than a felony.

In some cases during the pendency of trial and so forth, it lasts long enough that they get credit for that time for serving their felony convictions.

According to the State board of corrections, local jails in California housed an average of 6,625 illegal immigrants per day in 1993, at a cost of \$120 million annually.

You know and you've heard of the cost impact on our schools. So when you take all these things together, it is obvious to say that in California we are impacted as much as—well, actually, more than any other State.

What do we do? It seems to me we have to recognize, as sociologists do, that there are push factors and pull factors. Push factors in the sending countries, difficulties in living in those locations for economic reasons, political reasons, other kinds of reasons. We can

indirectly affect that, I suppose, with the state of our foreign policy, with the state of our foreign aid.

Sometimes it appears that we've done more to send people out because of the perverse aspects of foreign aid than otherwise, but nonetheless, we recognize, must recognize that as indirect at best.

In terms of the pull factors, those which relate to the attraction of people in this country, I would say that that is where we can impact most directly. Both of those things come into play at the same time. We have to consider both of them it seems to me, particularly when we deal with the question of pull factors. We have to deal with the question of the attraction of employment in this country.

That is why I believe when we passed the 1986 immigration law it was well-balanced in part because we said that for many who had been here illegally for many, many years, generations, in large numbers, that we would have a one-time-only legalization program. I think that was important. I'd like to believe that I garnered sufficient votes to create the margin for passage for that. I thought it was important.

But I also thought it was important that it be one time only. You do it two or three or four times and you have a rolling legalization program. Frankly, any prospect that we ever are going to have for controlling our borders is out the window because you would react as I would react in a country outside of the United States; if you wanted to come here and you saw the United States would every few years have a legalization program, you would do your darnedest to get yourself and your family members over the border and wait for the next legalization program.

At the same time, we also balanced off with enhanced enforcement: employer sanctions. I was not elected to the Congress in my first term with the idea that I was going to support employer sanctions, but I came to that position recognizing that it was important if we were going to deal with the pull factors.

Why have employer sanctions not worked? I believe they have not been effective due to the lack of integrity of the verification documents.

As members of the committee know, producing false documents has become a cottage industry throughout California and elsewhere, and to a great degree this has undermined the effectiveness of the sanction.

I would hope that the committee would consider a proposal I recommended a decade ago as a Member of Congress which would involve the issuance of tamper-proof Social Security cards, and might even borrow the concept of a toll-free 800 number where employers could verify the authenticity of the card, the identity of its holder, and whether the individual is eligible for employment in the United States.

As you know, the U.S. Commission on Immigration reform has endorsed this concept.

Since this is a document that all workers are presently required to possess, not to carry on them at all times—and we ought to make this very, very clear: there is a major distinction between these people and a national ID card.

A national ID card such as that required in some countries is one that you have to have in your possession at all times, and which a law enforcement official can ask you for at any time, and for which you are violating the law if you don't have it in your possession at all times.

We are talking about the Social Security card; we are talking about the context of employment under the immigration law which says that you either have to have it at the time you seek employment or bring it within, I think, 24 or 48 hours thereafter, which is an amendment that I sought to have in the bill because I thought there are times when someone might start work and not have that in their possession, and you ought to give them a chance to bring it within 24 hours or 48 hours.

So the only change in the law, therefore, would concern the integrity of the document itself, and I think we ought to stress that and we get away from the arguments about a national ID card if you just talk about strengthening the integrity of the document that exists today.

Our current system, I have to admit, does not work. Employers are threatened with Federal sanctions for hiring illegal aliens, but we have not enabled employers to reasonably know whether the people they are hiring are here legally in the first place.

Another advantage of such a system would be reduced paperwork burden on employers. According to the U.S. Commission on Immigration Reform, employers have cited what they consider to be excessive administrative requirements under the current paperwork regime.

This is not an easy thing. I don't point the finger at the INS or anybody else. I know how difficult it was for us to come to a compromise in the Congress back in 1986. Nonetheless, that shouldn't be the excuse for us failing to act now.

The enhanced verification system I've suggested would greatly reduce the complexity of the current system while at the same time enhancing its integrity. Once the tamper proof identification card is established and employers have reasonable means to check on whether a prospective employee is here legally, we must follow through by enforcing sanctions on those employers who continue to flaunt the laws.

You can see this problem any number of different places throughout California. Recently I was at a wonderful place, I believe, it is in your district, Catalina Island.

Mr. HORN. It is not in my district. It should be. [Laughter.]

Mr. LUNGREN. You suffer the same as I did when I was in the Congress. As you know, I didn't have Catalina Island. I had all of Long Beach Harbor and half of Los Angeles Harbor, so if someone were on a boat while in Long Beach Harbor they were in my district. However, if they fell in the water, they were no longer in my district, they were then in the district of Bobbi Feidler because she was contiguous by water to Marina Del Rey to Ventura, and she also had, as you know, Catalina.

However, I will assist you in any effort you try to make to have it redistricted properly.

But I was there recently and spoke with some folks there, and they talked about how difficult the INS was to deal with the prob-

lem on the island. The INS had come in and done some sweeps and found a lot of people were there illegally, and businesses were upset, and they wanted some direction, and then the INS came over and had training sessions for some time.

Nobody knows there is a flux there. Nobody wants to talk about and everybody whispers about it. This is the United States, and if we have a law that everybody has to whisper about, otherwise law-abiding citizens, then I think we need to go back and take a look at it. So I think we need to do that.

After we've done that, we need to do some other things. Obviously, the first line of defense in protecting our borders rests with the U.S. Border Patrol.

It is quite clear that if undocumented aliens are successful in making it into the interior the risks of apprehension are greatly diminished. Additional border patrol in conjunction with innovative strategies incorporating the use of new technologies is essential.

I would like to say I have been down to the southern border in the last month, reviewed it from the air, and on the ground, and the difference between what I saw 15 years ago and 12 years ago and 10 years ago as a Member of Congress and today is startling.

The soccer field no longer exists. We used to see thousands of people organize themselves in a rather convivial atmosphere as they waited for dark to come upon them. They were actually on the U.S. side already. They were playing soccer. I assumed they would be there in camouflaged clothes because they were going to sneak across the border.

They were there in gaily-colored clothes. I remember seeing women with red sweaters on and men with brightly colored shirts and so forth, waiting for dark. They'd waive at the Border Patrol and they saw the Border Patrol waiting for them, and then by thousands they would come across and the Border Patrol would be lucky to stop a couple hundred. That no longer exists.

We have a fence along that line, which was very controversial 10 years ago, but has been put into effect.

The other thing I want to say is let's not forget the National Guard. I think the DOD Defense bill does forget the National Guard, and I think some decisions made by DOD this year are going to hamper efforts by the California National Guard to continue to do a great job of support.

If you were down there 5 years ago you would have recognized that there were no available roads on our side of the border by which the INS could respond to different groups of people coming across. Now there is a road system.

Before, the INS had one grader and one contractor, and they would start at the ocean's edge, and they would move inland. By the time they got in, the rainy season started and would wash out the roads that they worked on, and they would start again next year.

Now, you have the border patrol being able to access different parts of the border with a series of roads that have basically been created by the California National Guard. They work their way inland; they still have a number of miles to go. I think they've done about half the job.

If the cuts that are suggested as a result of the DOD budget go into place, either they will have to stop their activity, or it will be 10 years rather than 2 years before they complete that task. That would be one of the silliest things the Congress and the Federal Government could do.

If you understand that contingent of the National Guard, then you understand that before then we had to train them to build roads. So what do we do? We go find areas where they build roads, and then after they finish we make sure they put it back into the condition it was when they got there so that when the next crew comes in they can build a road in a new area. It is teaching them something, but it is of no new permanent assistance.

Here, it is giving them a product that can be utilized immediately, and the difference between having that there and not having that there is the difference between the Border Patrol being able to respond from one area to the other area of the border by some sort of mobile vehicle. If you understand that you can see it.

If you go down there you will see one officer or two Border Patrol officers sitting in one vehicle in a high position, basically being able to see one-half mile of the border, and recognizing that they are controlling that half mile by virtue of their access and the fence, you will understand the difference.

I think it is absolutely astonishing that DOD would not understand how important that is. This is a perfect marriage of a military and nonmilitary operation. They are not invading, they are not out arresting people, they are not doing what I do not wish a PFC to be doing, which is trying to stop people from coming across the border. They are a great assistance and I think we ought to look at that.

I'm aware that the Law Enforcement Act of 1994 authorized funding of \$675 million through 1998 to implement a deterrent strategy along the southwest border. At the same time, as a former Member of Congress I recognize that if we are going to have coherent strategy, there must be a close connection between what is authorized and what is realistically possible in the appropriations process, otherwise effective planning is hampered.

I present to the committee's attention a study conducted by the University of Texas concerning the impact of Operation Hold The Line in the El Paso/Juarez sector. I think it makes good sense.

The committee should also take note of the progress that has been made and continues to be made in California with regard to illegal immigration. I'm proud to say that a product conducted jointly by the California Department of Justice, my department, the California Department of Corrections and the U.S. Immigration and Naturalization Service to accurately identify returning illegal immigrants using California's sophisticated computerized fingerprint system is working. We're very proud of that.

Many people think the FBI has the largest computerized fingerprinting system in the world. That is wrong; our office does. We are now utilizing an aspect of that in cooperation with those other departments and services as I've mentioned.

The bottom line is that illegal immigrants who use a different name every time they get caught for illegal entry can no longer

count on escaping accurate identification thanks to this joint information sharing effort.

While serving on the Immigration Subcommittee I joined in the adoption of language in the 1986 act to expedite the deportation of aliens convicted of criminal, deportable offenses.

Two years later in the 1988 drug bill we created a special category of aliens convicted of aggravated felonies. Just last year the Congress addressed the question of detention or removal of criminal aliens and specifically require the Attorney General to operate a criminal alien tracking center.

The enforcement of these existing laws must be given the highest possible priority. I think now we are beginning to work with the Feds on this. I think there is some real progress on this, but much more needs to be done. I'm convinced that we need to specifically deal with those alien felons who, following conviction and deportation, return to the United States in violation of the Federal laws.

Last year, Joe Sandoval, the secretary of California Youth and Adult Correction Agency and I wrote Janet Reno in requesting Federal action to apprehend and prosecute an identified 1,226 illegal alien felons who had been deported following release from parole from State prisons only to return to the United States illegally, and who then began reporting to their State parole officers. They evidently feared more about not reporting to California parole officers than they did being identified as being in the United States illegally.

I might remind you that last year the Congress passed and the President signed a bill increasing the penalty for a felon coming back to the United States after being formally deported to 20 years in prison.

That has not been prosecuted at the level I would like, and I know after talking with a number of people in U.S. attorney offices what they would like.

I recently met with Alan Berson, U.S. attorney in San Diego who has stepped up Federal prosecution of previously deported felons who illegally re-enter the country. We will be working together to have a better flow of information. He has made a commitment that there will be some prosecutions in that regard. We received a positive response from Michael Yamaguichi, the U.S. attorney in San Francisco, on behalf of the other U.S. attorneys. We think we can do it.

I think that we have some high-profile tough cases where illegal aliens have committed felonies in California, have been deported and now come back, are prosecuted, and are given stiff sentences, that will send a message of deterrence out there.

Two problems. One is the normal sentence given by Federal judges now is much, much, much less than 20 years. Second, the U.S. Sentencing Commission has not revisited this issue, and therefore the sentencing guidelines are very low in terms of the sentences that would normally be given for this.

Alien smuggling is a major concern that warrants prioritization. I would suggest that when you look at additional INS positions and funding it ought to be considered a priority for enhancement of the INS Investigations Branch. Sometimes they're left behind.

Another option which should be considered by this commitment and others is encouragement of the use of the RICO statute against alien smugglers.

It just seems to me that so much has been done over the last number of years, but so much more needs to be done. I would hope that we would look at all of these things and work with them.

As I end my statement, I would suggest that we not dismiss the suggestion that a guest worker program may make some sense. I have been working on this since 1978, not because I want to take jobs away from Americans but because the reality exists, continues to exist, that large numbers of foreign laborers, the largest number coming from Mexico, have come to this State, to the country, but particularly this State, in this century, to work.

They have worked in large numbers in agriculture. I think they work in even larger numbers in agriculture now.

Now, you can bemoan the fact that Americans ought to be doing it; you can bemoan the fact that college and high school students used to do it; you can bemoan the fact that we don't have as many farms as we used to. The fact of the matter is, there apparently is a need that exists and that need is filled by labor from outside this country.

We can either close our eyes and pretend it doesn't exist, or we can attempt to regulate it, which I think does several things. One, it allows the United States to determine policy. Two, it has a system by which we would have some incentive for people returning to their home country. Three, it would give or grant legal status of a temporary nature to individuals who were here working, and that status would allow them all the protections of the law that would pertain otherwise.

I can't see how some who say they are concerned about the conditions of workers today believe that those folks achieve a better situation by being here illegally than they would be legally. In response to those who say, well, if they're going to work here for a short period of time they ought to be able to come in and live permanently, I say that is another debate for another time.

I always recognize that we have men and women in uniform who are required to work for long periods of time in foreign countries, some under the seas, without seeing their families, and we do not think that is too much of a sacrifice for them to make.

I've always wondered why we think it is acceptable for those who defend this country, and yet we say for others it is either all or nothing. Either they come in for a full legalization program and preferred status compared to everybody else in the world, or we don't allow them in at all.

We ought to recognize the reality of the situation and do something rather than disclaim one another in rhetorical excess.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Lungren follows:]

**TESTIMONY OF CALIFORNIA ATTORNEY GENERAL DAN LUNGREN
BEFORE THE HOUSE SUBCOMMITTEE ON GOVERNMENT MANAGEMENT,
INFORMATION AND TECHNOLOGY**

Bellflower, California
June 12, 1995

Thank you, Chairman Horn. It is a pleasure to be here, back in my old congressional district with you to exchange views on an issue that is vital to all Californians. I applaud you for bringing this committee outside Washington's Beltway in order to get a better grasp of the challenges we face with respect to illegal immigration. I recall thinking while I was in the Congress that if we moved our nation's Capitol to California, this complex problem would have received the attention it deserves far earlier.

Upon being elected to Congress in 1978, I sought to serve on the Judiciary Committee's Subcommittee on Immigration, Refugees and International Law. At that time there were no Californians on the subcommittee, and I felt it was important for me to change that.

During that time we were confronted with a number of daunting challenges which gave rise to the Refugee Act of 1980, and to the Immigration Reform and Control Act of 1986. I can tell you from experience that your work in this area will most likely be a thankless task, given the complex and emotional nature of this issue. The factors that contribute to the movement of our fellow human beings across political boundaries reflect the hopes and aspirations about life that we all share and are sometimes as strong as the instinct to survive.

In this respect, democratic societies have the difficult task of balancing our shared value of compassion with the responsibility of a nation state to protect the integrity of its borders. There are few questions confronting policymakers that rise to this level of significance in terms of who we will be and how immigration policy will be integrated into our notions about national sovereignty.

In this respect, I think that Father Hesburgh and the Select Commission on Immigration and Refugee Policy had it right in concluding that if we are to keep the front door of legal immigration open, we must close the back door of illegal immigration. While this may be a statement of the obvious, it is one that is worth restating in the current environment where the distinction between legal and illegal immigration is all too often lost in the heat of rhetorical excess.

Legal immigration has had an enormously positive impact on the economic and social evolution of our country. As the U.S. Commission on Immigration Reform observes:

...the Commission members agree that immigration presents many opportunities for this nation. Immigrants can contribute to the building of the country. In most cases, they have been actively sought by family members or businesses in the U.S. The tradition of welcoming newcomers has become an important element of how we define ourselves as a nation.

At the same time, the very notion of sovereignty presents the need for a national immigration policy that is defined by our national interests. While our laws must reflect a sense of fairness, they must also communicate to the world beyond our borders that to come to the United States you must first obey our laws.

The fiscal impact of illegal immigration upon the taxpayers of California cannot be discounted. California is home to more than 1.8 million illegal immigrants and it is estimated that an additional 125,000 cross the border to settle here each year.

California is mandated by the federal government to provide education and emergency health care to illegal immigrants, as well as custody or supervision for illegal immigrant felons.

The Governor's budget projects that in 1995-96 California will have to bear more than \$3.6 billion in state costs for services to illegal immigrants. When an estimate of state taxes paid by illegal immigrants is considered, the net cost borne by taxpayers is estimated to be \$2.8 billion.

Our state prisons house approximately 19,200 illegal immigrant felons, who represent about 14% of the adult inmate population. To put this in perspective, these illegal alien felons could virtually fill eight prisons at 100 percent capacity. Just seven years ago the illegal immigrant population in California prisons was only 5,700. The fiscal costs to the state for incarceration, parole and related costs has jumped from \$122 million to \$503 million in that period. I would also remind the committee of another incarceration cost frequently omitted from this debate, the cost to counties for incarceration of illegal aliens in local jails. According to the state Board of Corrections, local jails in California housed an average 6,625 illegal immigrants per day in 1993, at a cost of \$112 million annually.

Our state's primary and secondary schools will take in an estimated 355,000 illegal immigrant children in 1995-96, at a cost to the public of \$1.7 billion.

California spend an estimated \$1.8 billion annually on health services for illegal immigrants, mandated by the federal government.

As you know, my office has filed a lawsuit on behalf of the Governor against the federal government seeking reimbursement for these costs. The people of California have attempted to address the issue through passage of Proposition 187, which my office is currently defending in federal court.

However, until we address what I believe is the greatest factor contributing to illegal immigration -- the desire to work at better-paying jobs -- the problem will persist as it has historically.

Every aspect of the immigration issue is related to the complex and multi-faceted reasons which prompt people to leave their home countries for ours. These underlying motives can essentially be narrowed down to two categories:

- 1) Push factors, concerning the domestic environment in the country of origin; and
- 2) Pull factors, which relate to the attraction of the country of destination.

While these dual factors are distinguishable from each other, I have presented them conjunctively since they also interact to produce incentives to immigrate. They are important to your consideration in that they provide some guidance concerning the underlying factors that must be considered in formulating a coherent immigration policy.

Border Enforcement

It should be recognized that much of the research -- certainly the findings of our subcommittee when I served in the Congress -- and the U.S. Commission on Immigration concur that the economic magnet provides the major incentive for unlawful immigration. In this regard, if we are to have any prospect for controlling the flow of unlawful immigration, enforcement of employer sanctions enacted in the 1986 act is the critical element of an effective policy.

Unfortunately, employment verification has not been effective due to a lack of integrity of verification documents. As the members of this Committee know, producing false documents has become a cottage industry throughout California and elsewhere. This has to a great degree undermined the effectiveness of the sanctions.

I would suggest that the Committee consider a proposal I recommended as a member of Congress which would involve the issuance of tamper-proof Social Security cards. We might even borrow the concept of a toll-free 800 number where employers could verify the authenticity of the card, the identity of its holder and whether that individual is eligible for employment in the United States. As you know, the U.S. Commission on Immigration Reform, chaired by former Congresswoman Barbara Jordan, has endorsed this approach.

Since this is a document that all workers are presently required to possess and since it is currently used for purposes of employment verification under IRCA, the only change in the law would concern the integrity of the document itself. Thus, concerns expressed by some that such a policy would amount to creation of a "national identification card" are unfounded. The only issue presented would concern the reliability of an already-established document.

Our current system does not work. Employers are threatened with federal sanctions for hiring illegal aliens, yet we have not enabled employers to reasonably know whether the people they wish to hire are here legally in the first place.

Another advantage of such a system would be a reduced paperwork burden for employers. According to the U.S. Commission on Immigration Reform, employers have cited what they consider to be excessive administrative requirements under the current paperwork regime. The enhanced verification system that I have suggested would greatly reduce the complexity of the current system while at the same time enhancing its integrity.

Once a tamper-proof identification card is established and employers have reasonable means to check the whether a prospective employee is here legally, we must follow through by enforcing sanctions against those employers who continue to flaunt the law.

Border Patrol

Obviously, however, our first line of defense in protecting our borders rests with the U.S. Border Patrol. It is quite clear that if undocumented aliens are successful in making it into the interior, the risks of apprehension are greatly diminished. Additional border patrol in conjunction with innovative strategies incorporating the use of new technologies is essential. For example, rapid response teams to address the fluctuations in the movement of undocumented aliens and strategically placed sensors can be of significant value in preventing new illegal entries.

I am aware that the Law Enforcement Act of 1994 authorized funding of \$675 million through 1998 to implement a deterrence strategy along the Southwest border. At the same time, if we are to have a coherent strategy there must be a close connection between what is authorized and what is realistically possible in the appropriations process. Otherwise, effective planning is hampered.

I would also commend to the Committee a study that was conducted by the University of Texas concerning the impact of "Operation Hold the Line" in the El Paso-Juarez sector. This involves an approach which stresses prevention of unlawful entry rather than apprehension following illegal entry. Although such a strategy would need to be applied across the entire border in order to avoid merely shifting illegal entries to other sectors, this approach warrants your close scrutiny.

This Committee should also take note of the progress that has been made and continues to be made in California with regard to illegal immigration. I am proud to report that a pilot program conducted jointly by the California Department of Justice, the California Department of Corrections and the U.S. Immigration and Naturalization Service to accurately identify returning illegal immigrants using California's sophisticated computerized fingerprint system is working. The bottom line is that illegal immigrants who use a different name every time they get caught for illegal entry can no longer count on escaping accurate identification thanks to this joint information sharing effort.

While serving on the Immigration Subcommittee, I joined in the adoption of language in the 1986 Act to expedite the deportation of aliens convicted of criminal deportable offenses. Two years later, in the 1988 Drug Bill, we created a special category of aliens convicted of aggravated felonies. Just last year the Congress addressed the question of detention and removal of criminal aliens and specifically required the Attorney General to operate a criminal alien tracking center.

The enforcement of these existing laws must be given the highest possible priority. The criminal alien population -- a relatively small percentage of the overall illegal alien community but a significant presence nonetheless -- is not only a financial burden on our state but poses a very real threat to the safety of our communities as well. In this regard, our commitment must reflect both innovation as well as common sense. For example, rather than simply release criminal aliens at the U.S.-Mexico border, we should be expanding contacts with Mexico in order to facilitate the release of criminal aliens in the interior of the country.

Efforts should also be made to expand the use of bilateral treaties that would enable aliens to serve their sentences in their countries of origin. These are ideas that have received the support of the U.S. Immigration Commission.

I am convinced that we are making additional progress with respect to illegal alien felons who, following conviction and deportation, return to the U.S. in violation of federal law. Last June, I was joined by Joe Sandoval, Secretary of the California Youth and Adult Correctional Agency, in requesting federal action to apprehend and prosecute 1,226 illegal alien felons who had been deported following release on parole from state prisons, only to return to the U.S. illegally and begin reporting to state parole agents. As you know, a previously-deported felon who illegally returns to the U.S. is guilty of a federal crime punishable by up to 20 years in prison. The fear of violating state parole, however, appears to be taken more seriously by these alien felons than the threat of a 20 year federal prison sentence as evidenced by their willingness to report to parole agents upon returning to California.

Recently I met with Alan Bersin, the U.S. Attorney in San Diego, who has stepped up federal prosecution of previously-deported felons who illegally re-enter the country. Mr. Bersin, I believe, shares my concern with respect to vigorous federal prosecution not only of those felons who are apprehended at the border, but of previously-deported felons who have reached the interior of California and now represent a significant threat to the public safety and cost to our taxpayers. I have also received a positive response to this problem from Michael Yamaguchi, the U.S. Attorney in San Francisco, who is interested in helping develop a more effective system of information sharing to identify and locate previously-deported felons. The responses of these two federal prosecutors to our concerns is encouraging and I am now quite hopeful that we are on the road to successfully addressing this problem through increased federal prosecution.

I am also encouraged by the increased resources being directed by the U.S. Justice Department to the Border Patrol and INS, though these agencies need far more to do the job adequately.

Alien smuggling

Another area that warrants prioritization concerns the trafficking in human cargo in alien smuggling operations. While the Congress recently enacted enhanced penalties with respect to these cases, there is much more that needs to be done. Emphasis should be given to preventive action ranging from increased diplomatic efforts with foreign governments to involvement of U.S. intelligence agencies to gather information about alien smuggling operations in order to stop smuggling activities before they occur.

In this regard, I would also suggest that when additional INS positions are considered that a priority be given to the enhancement of the INS investigations branch.

Another option which should be considered by this Committee concerns the use of the RICO statute against alien smuggling operations along with expanded use of existing forfeiture statutes. Perhaps the most effective way to attack this industry in human cargo is to uproot these operations by the destruction of their economic base. I am pleased to say that this approach received the support of the U.S. Commission on Immigration Reform as well.

It should be kept in mind that the resources used against alien smuggling operations are a good investment because they attack a source of illegal immigration. In addition, there is a significant overlap with many of these operations and other organized criminal activity such as narcotics and prostitution. Thus, an enforcement prioritization with respect to these criminal enterprises can pay significant dividends.

Prospects for Future Success

While there are clearly many more steps we need to take to get control of the illegal immigration problem, from my perspective it is clear that we are making some progress. I can tell you, having recently toured the California-Mexico border area from the air and on the ground, our border patrol efforts are far improved from the time I first toured that area as a member of the Congress in the early 1980s. Much of the progress is owed to technological advancements, but we have also finally started to acknowledge that our Border Patrol needs to be greatly increased if we are to realize any sense of control. The coordinated support role of the National Guard in these efforts cannot be underestimated. The road-building capacity of the Guard provides an infrastructure boost to the Border Patrol mission that has to be seen to be believed.

I have attempted to provide several areas in which federal action can contribute to ultimately regaining control over our borders through a sound immigration policy. However, I would like to close by asking this committee to consider another possible reform of our immigration policy that would, in my opinion, greatly reduce the problem.

Even with more effective border control, and even if the provisions of Proposition 187 are fully implemented, the facts underlying illegal immigration will not change. Migrant laborers are likely to be a reality in California and the southwestern United States no matter how effective our border control efforts.

Earlier I mentioned the existence of "push" and "pull" factors which together encourage illegal immigration into the U.S. The undeniable fact is that the American agricultural industry, and to a lesser extent other service-oriented industries, represent an overwhelming and understandable "pull" factor to those from other countries who seek a better existence. At the same time, we must be honest about the fact that there are many jobs in agriculture that Americans simply refuse to take. That may be a sad comment on the work ethic of many Americans, but it is an undeniable fact.

The question, then, in recognition of these realities, is what should our national policy be with regard to migrant labor.

Our national policy should allow for temporary laborers who will fill those unwanted jobs to enter the U.S. safely and legally, provided they have jobs with safe, regulated conditions and that there are strong, effective incentives to return home when their work is done.

It is my belief that we should abandon our current "Seasonal Agricultural Worker" and "Replenishment Agricultural Worker" programs and substitute a form of the "Guest Worker Program" I advocated as part of the 1986 Act.

The SAW and RAW programs have been failures. They allowed workers to enter the U.S. legally, ostensibly to work in agriculture, but provided no incentive to compel workers to return to their own countries. Many workers in these programs have taken advantage of loose rules and lax enforcement to gain legal residence here, contrary to the our stated policy.

In contrast, the guest worker concept I first proposed in 1980 would have allowed a predetermined number of migrant workers to enter the U.S. legally, based on regional assessments of need by the U.S. Labor Department, for the purpose of taking agricultural jobs. The jobs available to guest workers could be expanded to other industries later, subject to approval by both the U.S. and Mexican governments.

A designated percentage of each guest worker's wages earned in the U.S. would be deposited at a U.S. consulate in Mexico. To provide the essential incentive for workers to return home once their employment ended, they could only retrieve those funds in person, in their home country.

Some involved in this debate assume, wrongly, that what we are proposing is a new "bracero" program, referring to the system which allowed companies in need of labor to bring Mexican workers into the U.S. Perhaps the biggest flaw leading to abuses in the bracero program was the common practice of restricting a migrant laborer to one employer. Migrant workers whose legal status in this country

was directly tied to a particular employer had little opportunity or incentive to lodge a complaint against an abusive employer.

A modern guest worker program, or "campanero" program, would prevent such an abusive scenario, allowing laborers to act as free agents who can go from one employer to another and enjoy all the protections of state and federal labor laws accorded to legal workers.

The guest worker program simply would allow for the current practice -- and the long-term reality -- of migrant farm labor to continue, with the imprint of illegality on both immigrants and employers removed, and with the added benefit of an incentive for migrant laborers to return home. The Los Angeles Times, in a July, 1994 editorial calling for "adult solutions" in the illegal immigration debate, stated that an effective guest worker program "could be a solution to perhaps 50% of the problem: a treaty to legalize the flow of Mexican workers into -- but also eventually out of -- the United States."

The question we must address is whether the current system should continue. Our current system encourages an underground labor supply which is unregulated and therefore vulnerable to exploitation. It also places employers in a Catch-22: They are expected to hire only legal residents or face federal sanctions, yet we have failed to provide a means of accurately determining workers' legal status. I believe that we must confront the historically constant reality of migrant labor in this country and act to bring it above ground, rather than continuing to silently tolerate the current system with all its fraud, illegality and misuse. A well-regulated guest worker program should be part of the solution.

Mr. Chairman, you have undertaken a huge task, and I again applaud you and the members of this Committee for your willingness to engage in the search for solutions. I believe that what you are doing today contributes to an intelligent, reasoned debate about illegal immigration in this country and protects our nation's legacy as an inclusive society which welcomes legal immigration. Thank you very much.

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Mr. HORN. We thank you, Mr. Attorney General for that excellent commentary reviewing the very touch feels that are involved in this subject.

Before we go to general questions, I would like to ask secretary of the State of California, Mr. Bill Jones, to make his statement and then Mr. Flanagan and I will have the opportunity to question both of you and maybe relate some of the testimony each of you are making to each other.

Mr. JONES. Thank you, Mr. Chairman and Mr. Flanagan. We appreciate the chance to be here today and understand that the gist of this hearing dealing with the immigration issue is possibly, at first blush, outside of the domain of the secretary of State.

I would like to begin by saying I concur with much of what my colleague, the attorney general stated. I think he did it very well, and obviously very knowledgeable on this issue.

I believe his suggestions, especially since he has had the experience of working with Congress, should be taken to heart, especially the fact that he has been here in California the past few years looking at it on a first-hand basis from the law enforcement perspective.

In our situation as the chief elected official in California, we come from a little different tact. Our opportunities moving into the 21st century for the franchisement of more people and the participation of more people in the election process through technology, all the new and exciting possibilities, is second to none.

In talking with people who have participated in elections around the world, believe it or not, there are even nations far more backward than ours who are yet much further advanced in many respects when it comes to the election technology.

We have the advent of Motor-Voter Act, which we will be implementing in California. While we have some disagreement with the way in which the act was drafted, and we are pursuing—I say we, the Governor and myself and others—some changes in that act, and I'm working through the National Secretary of State Association for amendments that we hope to bring before the Congress sometime this summer.

Nevertheless, with changes that would allow us to properly identify duplicates, people who have died, illegal residents, and clean up the rolls which currently in California are fully 15 or 20 percent duplicates or people that fit in the category I just mentioned.

We have an opportunity with motor-voter to increase the number of people that participate with these changes, but along with increasing the franchise, the requirement for security is paramount. When we have files of 14 million registered voters, the sheer volume of this activity of the elections is substantial, especially in comparison to other States.

We are compounded here in California with the problem of the potential for illegal residents participating, which I don't believe Californians feel is appropriate. It is illegal, and the attorney general has been very cooperative in working with our office since January when I took office to try and resolve some of the jurisdictional issues to try and work for cleaning up this problem in California.

I come to you today not to express my problems in the generic area of elections in California, because we will work some of those

out and hopefully, with some amendments in motor-voter can make that work too.

I come to you today to talk about an issue that relates specifically to your committee, and that is the question of our relationship, the secretary of State's office, in communication and dialog with the Immigration and Naturalization Service.

We are currently working on more than 170 cases; 32 of which involve more than 300 allegations from election fraud in California from primarily the last November's election.

It is absolutely essential that we have, with respect to the cases that deal with the question of residency, the ability to work on a private basis with the Immigration and Naturalization Service.

I don't know any way we are going to be able to bring these cases to a conclusion without that kind of support. This support and this type of relationship is not unprecedented in California. A number of years ago, Senator Alfred Alquist passed a bill that allowed the Department of Motor Vehicles to set up a memorandum of understanding with INS, and they have gone about working on that for a number of years.

I had a chance to listen to a little of the testimony in the previous panel, which was an excellent panel, and I think they spoke to some of these points.

If you would know where we are in this process, we are further behind than they are. We really do not have a relationship at all. Yet, we wish to develop one.

One of the elements of our election summit that we held in February in California where we brought together election officials from around the State, was that it was necessary to fully answer the questions of election fraud and not leave the cloud out there that people continually question the credibility of elections, whether it be in California or any place else.

So our goal is to fully encourage more participation of as much, if we can, 100 percent of legal residents and at the same time have a zero tolerance for fraud.

We believe that the technology will help us. We are moving with a statewide voter file bill in Sacramento, AB 1701, and also in that bill is a unique identifier. It gives us the opportunity to have a driver's license on the registration form when people register to vote in California, a simple means by which we are able to sort out the fully 15 to 20 percent of people who have either died, moved, or duplicates on the role.

With the outset of motor-voter this month, we very possibly can run into a situation where a person can go into DMV in the morning and register as W. Jones, go by the welfare office and register as B. Jones, and stop by the WIC office and register as Bill Jones.

They may do this, even not intentionally, but many times when people go and ask for support from government they get a lot of forms that they sign and each one of these offices will now be asking them to sign forms, and inadvertently they may do this and sign the name differently even if it is not intentional.

The problem that we have is that we are asking for a unique identifier, the driver's license, and if we have that, which we believe will help us, then that will deal with the 73 percent of the

people as the Department of Motor Vehicles representative mentioned earlier, that really have a State ID or driver's license.

What we are asking from INS is an opportunity that when, in fact, within this realm of allegations, that we are able to check just as DMV checks currently. We are also, in our statewide voter file, looking at hopefully hooking up a network where we are able to move this information from our 58 individual counties, who will each have a separate list, to a statewide host. Not to replace the counties, but just allow them to master check with DMV and with us to make sure that a person didn't go from Fresno to Los Angeles and ends up in a situation where they might vote in either place.

I have written letters to the majority leader, Bob Dole, and the Senate and to the Speaker of the House, and raised the issue of cooperation with INS in our office. We are in the process at some point, hopefully, of receiving that cooperation.

But I come to you today and ask for your help and your support because I believe it is imperative, and without that I do not believe that the cases that we have brought forward will ever be resolved.

So it is not my intention to cast dispersions on INS. I know they have a big job to do. I just look for the same cooperation that the Department of Motor Vehicles has achieved in California. With that, I believe we will be able to provide that assurance of the election process, and I hope that the people will be satisfied that after the election they know that the results have been fully justified and that everyone, winners and losers, can at least walk away knowing that they've had a fair shake.

The attorney general and I have also worked a number of other areas, and we're hoping to beef up our three people, or investigator on our election staff or the whole of California, with a good cooperative working relationship with the district attorneys and the attorney general's office to help us accomplish our job at that same time that we deliver the service for California.

I appreciate very much you allowing me to come today, Mr. Chairman, and speak to the committee.

[The prepared statement of Mr. Jones follows:]

DIVISIONS:
 Archives
 Corporate Filings
 Elections
 Information Technology
 Limited Partnership
 Management Services
 Notary Public
 Political Reform
 Uniform Commercial Code



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BILL JONES
 Secretary of State
 State of California

TESTIMONY SUBMITTED TO THE SUBCOMMITTEE ON GOVERNMENT
 MANAGEMENT, INFORMATION AND TECHNOLOGY OF THE U.S. HOUSE OF
 REPRESENTATIVES' GOVERNMENT REFORM AND OVERSIGHT COMMITTEE.
 JUNE 12, 1995 -- BELLFLOWER, CALIFORNIA

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE. I APPRECIATE THE OPPORTUNITY TO ADDRESS YOU TODAY ON A MATTER OF THE UTMOST IMPORTANCE TO ME AS SECRETARY OF STATE, AS THE CHIEF ELECTIONS OFFICIAL OF THE STATE -- AND ALSO AS A CALIFORNIA VOTER.

WE ARE ENTERING A VERY EXCITING TIME IN THE ADMINISTRATION OF ELECTIONS. TECHNOLOGICAL ADVANCES WILL SOON ALLOW US TO COMMUNICATE WITH AND EDUCATE VOTERS AND CANDIDATES IN NEW WAYS AS ELECTION RETURNS AND CANDIDATE INFORMATION BECOME AVAILABLE TO MORE AND MORE PEOPLE "ON-LINE."

ALSO, THE NEW FEDERAL MOTOR-VOTER LAW WILL CHANGE THE WAY WE REGISTER AND TRACK VOTERS. WE HOPE TO BE ABLE TO EXTEND THE VOTING RIGHT TO MORE CALIFORNIANS THAN EVER BEFORE.

BUT ALONG WITH THESE CHANGES AND ADVANCES COME CONCERNS ABOUT THE SECURITY OF THE VOTER ROLLS. FOR A CITIZEN'S VOTE TO BE VALUABLE IT MUST BE PROTECTED AGAINST THOSE WHO WOULD ABUSE IT.

IT IS A MATTER OF CALIFORNIA LAW -- AND, I BELIEVE, A FUNDAMENTAL REQUIREMENT OF OUR SYSTEM OF GOVERNMENT -- THAT ONLY THOSE PERSONS WHO ARE CITIZENS OF THE UNITED STATES AND OF CALIFORNIA BE REGISTERED TO VOTE IN CALIFORNIA. ONE OF THE FUNDAMENTAL INCENTIVES TO BECOME A U.S. CITIZEN IS TO VOTE IN OUR DEMOCRATIC SYSTEM.

TO MAINTAIN CONFIDENCE IN OUR SYSTEM, I HAVE WITHIN THE OFFICE OF THE SECRETARY OF STATE AN INVESTIGATIONS UNIT WHOSE MISSION IS TO LOCATE THOSE WHO BREAK OUR ELECTION LAWS, AND SEE TO IT THAT THEY ARE PROSECUTED TO THE FULLEST EXTENT OF THE LAW.

"Ensuring the integrity of California's election process"

Printed on Recycled Paper

THE HON. BILL JONES
PAGE 2

THESE INVESTIGATORS ARE CURRENTLY WORKING ON MORE THAN 170 CASES -- 32 OF WHICH INVOLVE MORE THAN 300 ALLEGATIONS OF NON-CITIZENS EITHER VOTING OR BEING REGISTERED TO VOTE.

IT IS ABSOLUTELY ESSENTIAL THAT WE BE ABLE TO DETERMINE WHETHER OR NOT THE PERSONS INVOLVED ARE CITIZENS OF THE UNITED STATES. IF NON-CITIZENS ARE FOUND TO HAVE VOTED, OR TO HAVE REGISTERED TO VOTE, THEN TO PROTECT THE ELECTIONS PROCESS THEY MUST BE CAUGHT AND PROSECUTED. ON THE OTHER HAND, IF PEOPLE HAVE BEEN WRONGLY ACCUSED, THEN WE NEED TO BE ABLE TO DETERMINE THE FACTS OF THE CASE AND CLEAR THESE PEOPLE FROM SUSPICION.

UNFORTUNATELY SOME OF THE INFORMATION WE NEED TO MOVE FORWARD ON THESE CASES IS NOT AVAILABLE TO US. OUR INVESTIGATORS HAVE BEEN UNABLE TO GET THE COOPERATION FROM THE IMMIGRATION AND NATURALIZATION SERVICE THAT THEY NEED TO DETERMINE WHETHER OR NOT THESE PEOPLE BROKE THE LAW.

OUR REPEATED REQUESTS FOR ACCESS TO FILES -- OR AT LEAST DOCUMENTARY EVIDENCE RELATED TO ALLEGATIONS UNDER INVESTIGATION -- HAVE BEEN MET WITH DELAY OR OUTRIGHT REFUSAL.

THIS DELAY IS UNREASONABLE AND COUNTER-PRODUCTIVE TO OUR GOAL OF PREVENTING FRAUD AND CRIMINAL MANIPULATION OF ELECTIONS IN OUR STATE -- A SITUATION THAT I BELIEVE OUR CURRENT CONGRESS WILL NOT TOLERATE.

I CANNOT EMPHASIZE ENOUGH THE NEED FOR INS RECORDS TO BE MADE READILY AVAILABLE FOR THESE LEGITIMATE LAW ENFORCEMENT PURPOSES.

THIS ACCESS AND COOPERATION IS NOT WITHOUT PRECEDENT IN OUR STATE. THE CALIFORNIA DEPARTMENT OF MOTOR VEHICLES CURRENTLY HAS IMPLEMENTED A WORKING RELATIONSHIP WITH THE I.N.S. FOR A SIMILAR GOAL. THE RELATIONSHIP THAT WE SEEK WITH I.N.S. WOULD BE AN EXTENSION OF THAT COOPERATIVE EFFORT.

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE, IT IS MY HOPE THAT I.N.S. AND THE CALIFORNIA SECRETARY OF STATE'S OFFICE CAN ESTABLISH A PRODUCTIVE WORKING RELATIONSHIP. SUCH AN ARRANGEMENT IS ESSENTIAL TO OUR TASK -- WHICH IS TO ENSURE THE INTEGRITY OF OUR ELECTIONS, AND RESTORE PUBLIC FAITH IN THE SYSTEM.

TO DATE, OUR EFFORTS TO ESTABLISH SUCH A RELATIONSHIP HAVE FAILED TO MOVE THE I.N.S., AND FOR THAT REASON I AM TURNING TO THE CONGRESS AND YOUR LEADERSHIP.

THE HON. BILL JONES
PAGE 3

WITH YOUR HELP, I AM OPTIMISTIC THAT WE CAN ESTABLISH A COOPERATIVE GOVERNMENTAL ENDEAVOR TOGETHER WITH THE IMMIGRATION AND NATIONALIZATION SERVICE, WHICH WILL SERVE AS A MODEL FOR THE REST OF THE COUNTRY.

AND WITH A LITTLE HELP FROM I.N.S., WE CAN GET ON WITH OUR JOB OF MAKING CALIFORNIA'S ELECTIONS SYSTEM THE OPEN, ACCESSIBLE, SECURE SYSTEM OUR CITIZENS DESERVE.

I THANK YOU FOR YOUR TIME AND CONSIDERATION.

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Mr. HORN. I thank you, Mr. Secretary. Have you had discussions with the western region of the INS on this matter, and if so, where are we?

Mr. JONES. Mr. Chairman, we are following the same procedure that the Department of Motor Vehicles followed after the legislation was passed in the early 1980's, which is to work with the policy initiatives in Washington to make sure that we—whatever we do in relationship to receiving information, which has to be of substantive nature for us to be able to use it and turned over to the district attorney and attorney general, that we follow the correct procedures out of Washington. So we have worked with the Washington office in order to achieve this goal.

Mr. HORN. Do you see any problems?

Mr. JONES. I don't know whether it is the bureaucracy or just the policy differences or whether they have some policy problems internally. We have not been successful to this point. We have some requests outstanding clear back to last October.

Mr. HORN. Do we have any comments that they have made in writing as to where you were having a problem with them?

Mr. JONES. Mr. Chairman, I had a chance to talk to our senior investigator before we came in. I'm not sure that our people even know. It is like, you know, oftentimes you ask the question and it just doesn't come back. I don't know whether there are some internal policy issues, but they have not informed us as to what the problems are.

I will say—again, I want to re-emphasize that we have to have a procedure established that gives us verifiable information, as you are well aware, that we in turn can turn over to the law enforcement activities.

So we are working on that. The Speaker suggested and, I believe, referred the letter to your committee for us to review with you, and that's the reason why I'm here. To just bring you up to speed as directed, and let you know what we're doing. I hope we're able to resolve this.

But I strenuously believe to the greatest extent I possibly can emphasize that there will not be the assurance of the elections being free from fraud in California unless we are able to commit to the people who raised the question with us that the information is valid and that we've checked it out, and that they know that we really mean what we say.

Mr. HORN. Is Mr. de la Vina still here? Here he is. Do you know if there has been any contact with the western region and the secretary of State on this, or is it strictly a Washington matter?

Mr. DE LA VINA. At this point, I believe it is in Washington. Our contact right now is the Department of Corrections. We would be happy to meet with Mr. Jones and with his staff.

Mr. JONES. Thank you.

Mr. HORN. I think that would be helpful because it seems to me we ought to clue in the regional officials here. After all, we're trying to decentralize everything we can out of Washington back to the regions, so that is the gentleman on the firing line.

And I would think they also would want a recommendation from their regional director in the Western Region before they did anything. They're always good people to touch base with.

And this is a matter that the subcommittee will take up. There are three issues out of the attorney general's and your testimony. I have already asked the staff to work with the staff of the attorney general and your staff on a letter to follow up on this that could be signed by the whole delegation from California relating to the National Guard and the building of roads. I think we need to nail that down with a letter to the Secretary of Defense as well as the Guard, and also a letter to the sentencing commission on the points that you made. I think that needs to be nailed down.

So staff will work with your staff. We'll get those to the next meeting of the delegation on our side, and then ask those on the other side to also join in on a joint bipartisan effort to get this problem resolved.

I have found the Attorney General of the United States usually tries to be very cooperative, so we will ask her about these and see if she can be helpful.

Let me pursue a few questions before turning it over to Mr. Flanagan.

First, Mr. Attorney General, as I remember under 187, there was a false documents provision there, and the last I knew, there was some attempt to implement it and no judge had put a restraining order or stay on that part of 187; is that correct?

Mr. LUNGREN. Generally speaking, all of 187 is under some sort of order at the present time. With respect to the question of a law making it an additional offense for someone producing it, we were arguing that in fact certain parts of the act were so different than other parts of the act that the court would deal with it differently, but right about now the entire act is at a standstill as we are fighting in the courts.

Mr. HORN. Are there other laws on the books in the State of California that if false documents were being sold in MacArthur Park as the Los Angeles Times has had regular articles, as Senator Feinstein was able to go and secure documents and Senator Simpson has been able to go and secure false documents, do we have any laws that people can be prosecuted for a State offense, not simply a Federal offense?

Mr. LUNGREN. There are some laws that apply, but those laws—let's just put it this way. When local law enforcement are dealing with the problems of homicide and rape and other things on the streets, to expect them to make arrests and prosecutions with, I believe, misdemeanor status these kind of offenses, is rather unrealistic.

Mr. HORN. When we have the percent of illegal aliens committing felonies as well as—

Mr. LUNGREN. Absolutely.

Mr. HORN [continuing]. That we didn't have 30 years ago when we had a guest worker program, even with illegal immigration at that time, which was a trickle, it seems to me they might give a little attention to dealing with the problem of why people are here and stay here because of false identification.

Mr. LUNGREN. We have a catch-22 situation facing law enforcement at the present time in that law enforcement has over the years in California attempted to cooperate with the INS, and I believe does a fairly good job of that.

There was a mandate that that be done, carried in Proposition 187. One of the aspects of our argument before the Federal courts was that kind of mandated cooperation did not in any way violate the Federal law. As a matter of fact, was consistent with the Federal laws.

Nonetheless, the argument thus far has prevailed that we are preempted from doing certain things because the Federal Government has in essence preempted the field on immigration laws.

Hopefully, by the time we finish our multiplicity of cases involving 187, that will be resolved.

Would you like to add anything, Mr. Jones?

Mr. JONES. I don't believe so, Mr. Chairman.

Mr. LUNGREN. It seems to me that we do need to do something on that false document situation at both the Federal level—if reporters can get that false documents, if U.S. Senators driving up in big cars can get false documents, I don't understand why law enforcement can't get false document people. It seems to me that should be dealt with as the preventive aspect of the problem.

AB 1701, you mentioned, Mr. Secretary, is the statewide voter bill. Where is that? Before a committee now? The assembly? Is it anywhere in the assembly?

Mr. JONES. Yes, Mr. Chairman. We've received pretty good bipartisan support. I believe the 1701 passed off of the assembly floor, passed out of the Senate Election Reapportionment Committee chaired by Senator Polanco last week. Senator Polanco has a bill that has been amended to be identical to 1701, his 518, and the senator double-joined them last week.

So I believe we will have legislation at the Governor's desk on this issue hopefully in the next few weeks.

Again, in the bill we don't speak to the Social Security number. I know the attorney general's comments on the Social Security number and the card as being a way of—if you can make it tamper-proof, being a plus would be a great help, but we don't have that authority. You have that authority in Washington.

We used it once originally back in the seventies, prior to 1978. We used to use it on the registration cards, but we don't anymore, and there are many secretaries, I understand, most of those that are going the statewide voter file route, which we are going to go here in California, that at some point would like to have that ability again.

But what we are trying to do is what we can get done in California to solve our problem. With 73 percent of the people having the state ID or a driver's license, we believe that we could clean up at least half to three quarters of these 2 million duplicates on the rolls with just this kind of a fix.

Mr. HORN. Does California still have the authority to purchase the roles if people haven't voted for a number of elections?

Mr. JONES. No, Mr. Chairman. As of January with the advent of motor-voter there is a process now. We really haven't had a positive purge, as you are well aware, since 1978. The old way, which was if you didn't vote in two elections and we sent you a couple cards and you didn't send them back, we took you off. Since then—

Mr. HORN. Why hasn't that happened since 1978? Was there a State court ruling on that?

Mr. JONES. No. There was a law that was passed, and Governor Jerry Brown at the time did not allow us to go forward with the positive purge past 1978, so what we have had since then is a negative purchase which is if you don't vote in two elections we send you a card. Unless you send it back telling us you have moved or died, we don't take you off.

So as you can see, that doesn't work real well.

Mr. HORN. The reason I voted against that bill, as one of the first votes I cast, was the unbelievable potential for fraud and the fact that you could not purge anyone—it was offered in committee that you purge after 5 years, purge after 25 years, and finally, after that had been turned down by the 10 majority, not the current majority, it was asked to be purged after 100 years, and that was also turned down. So it means that the dead could continue to vote.

At that point, I'm going to yield to my friend from Chicago, since in 1936 during the Roosevelt campaign that election in November was known as resurrection day since several hundred thousand of the dead voted, and I'm sure you will have numerous questions on elections.

Mr. Flanagan.

Mr. FLANAGAN. Thank you, Mr. Chairman.

The history of mankind is composed of those who are now, those who have gone before, and those who are yet to come. In Chicago, they all vote. [Laughter.]

Mr. FLANAGAN. I believe that many of the difficulties that you are about to encounter with motor-voter in California and the correct identification problem, illegal aliens participating in the voting process, is very—is a concern, and I'm glad it is one of yours now.

An unholy alliance in Chicago for over a century has been between the illegal immigrant and the dead resulting in a vote cast. The illegal immigrant is compliant because the work boss provides him with a job or something, and they take a voter off the rolls who has been in a box in the ground for many years, and that person continues to vote in hand with the immigrant who is sent to the polls.

We have combated it in Chicago over the years and, although apocryphally to no success, I will tell you with great success. And I would tell you the Chicago Board of Election Commissioners, the Cooke County Board of Election Commissioner could actually provide you with excellent voter protection plans that will help you accomplish what it is you're trying to do in no small way, from true experts in a problem that you are looking at. I would be happy to facilitate that for you.

Further, I would observe that the voting difficulty that you have identified in the future will continue to be a problem in whatever regard you take it with you and then to motor-voter it because as you make it easier to enter the rolls, you make it easier to enter the rolls.

Consequently, while it is a great benefit to those who can enter the rolls legally, for those who would enter the rolls under fraud and deceit and other ways, it is also easier for that to happen too.

I'm sure that over the years you will have a better formed opinion as to the value of motor-voter, either a strengthened opinion that this really works and was a great idea, or you will be able to look at it again and say this is something that—this is a great idea, this was something that was a wonderful idea but isn't workable.

I don't know which you will come to. I look forward to hearing about that.

I have just one question for the attorney general. You mentioned the use of the RICO statute and expanded use of that. Does California have a RICO complementary statute?

Mr. LUNGREN. We do not have an absolute complement to the Federal RICO statute. We do have conspiracy statutes, but I would not say that we have something that is on all fours with the Federal RICO statute.

Mr. FLANAGAN. The Federal RICO is indeed one way to approach this problem that has great efficacy, particularly among the employers who indulge in sweatshop work, and actually work very hard to circumvent the law and encourage illegal immigration.

Do you have any concrete ideas on how you would like to see the Attorney General of the United States or the U.S. attorney here in California implement RICO or work on it?

Mr. LUNGREN. What we were talking about most specifically was RICO statutes being brought in in terms of alien smuggling. Alien smuggling is an aspect of the problem; not the total problem. I don't mean to suggest that at all. But is a part of the problem that is of a serious nature.

A RICO statute brought with respect to some of these groups that may be loosely connected but nonetheless affiliated, would send a strong message out there that the United States is very serious about alien smuggling.

These folks are dealing in a cargo of human beings. While some would argue that they are not as nefarious as drug smugglers because drug smugglers are bringing a product that will destroy those who use it, they nonetheless deal with these people in a way that is oftentimes inhumane, resulting in injury and death.

I don't think we have sent the message strongly enough out there, and the RICO statute has been utilized in various different settings, as you know. Some I have some problems with, on the civil side of things, but in terms of the criminal side of things, it does increase penalties, and it is a strong shot across the bow of those otherwise involved in this.

Mr. FLANAGAN. I will expose this to Senator McCullum of the relative Judiciary Subcommittee, a committee which I also sit on. I think there is room for expanded RICO usage, not just for the smuggling, but for the pattern of misbehavior by repeat offenders, particularly those running the sweatshops and the other.

It's an illegal immigrant cartel, if you will, as described by the INS, and I think there is a possibility for very strong Federal sanctions as opposed to transgressions of Miranda laws. I think it has great efficacy.

Thank you, Mr. Chairman.

Mr. HORN. Thank you. Let me pursue a few questions with you, Mr. Attorney General. You have stressed some of it, but I just want to get it on the record in one place.

If all the dollars collected in the form of sanctions were required to be distributed back to State and local governments into employer-sanctioned enforcement programs, would employer sanctions be increased in California? Should we broaden it beyond the Federal Government in terms of employer sanctions?

Mr. LUNGREN. Are you talking about the moneys returned?

Mr. HORN. Yes.

Mr. LUNGREN. I frankly don't know what the total amount is at the present time and how significant it is. I just don't have any gauge of that whatsoever.

Mr. HORN. We had a figure given. Do we know on the amount of employer sanctions fined in the Western Region or the Los Angeles area, either one? Is there a ballpark figure? Is it in the hundreds of thousands of dollars annually?

Mr. ROGERS. In Los Angeles it is.

Mr. HORN. In Los Angeles or in the seven counties?

Mr. ROGERS. The seven counties.

Mr. HORN. So it would mean some money conceivably?

Mr. LUNGREN. Mr. Chairman, I would never turn down funds to allow us to do the job that needs to be done, even though I do believe there are limits to the Federal Government largesse.

Mr. HORN. There are, but on the other hand, either it needs to buy more INS personnel, or it needs to go to a joint State-Federal operation.

Mr. LUNGREN. Mr. Chairman, for the years I was in the Congress we were consistently attempting to redress the imbalance of resources in the area of illegal immigration pursuit where it would do the best job, that is, the Southwest border.

And while there have been some significant increases over the last several years, I still think the magnitude of the problem that is reflected in the Southwest is not reflected in the total disbursement of resources.

Mr. Chairman, if I might, I might correct the record a little bit on the question you asked me concerning 187. While the plaintiff's case against us involves all of 187, the injunction specifically does not apply to sections 2 and 3 of 187.

So the fraudulent document sections that have increased the penalties are in fact in effect.

Mr. HORN. That was my impression, so the State could pursue that, or could they if they were strictly fraudulent Federal documents? Do they have to be fraudulent State documents?

Mr. LUNGREN. It is the fraudulent documents either manufactured for the purpose of obtaining benefits and so forth, or the actual use of obtaining illegal benefits.

Mr. HORN. And those would have to be State? Federal?

Mr. LUNGREN. Those are fraudulent documents in any instance. Whatever kind that would be used as verifies for the State in providing a service.

Mr. HORN. Very good. Do you know whether that is being seriously pursued then by law enforcement agencies?

Mr. LUNGREN. I am aware, I believe, of two cases brought in the Los Angeles County jurisdiction earlier on. Other than that, I am not aware at the present time.

Mr. HORN. I had raised with the earlier panel the problems I've learned from some of the local judges just 2 weeks ago, and that is when an illegal alien has committed a crime and they are sentenced to a year in the county jail, that they go in on Monday, that the sheriff is essentially releasing them within 1, 2, or 3 days from their arrival at the jail, and sending them back for deportation, not having served the sentence on the grounds, I'm assuming, that the Los Angeles County jails are very crowded, and under their classification system, if they fall under that, that are up for release.

I haven't had a chance to pursue this yet with the sheriff, and the staff will, as to whether or not they're under court order. I remember Sheriff Gates was under a court order in terms of overcrowded jails, but as one judge told me, he sentenced a person to a year in jail on Monday, and he was back in his court on Thursday, and that he had been to Mexico and back, over the border, made it illegally, in that interim. The judge was sort of surprised to see him show up in that court, but he needed something he thought the judge could provide him so he came back to get it, and he was supposed to be serving a year in the county jail.

Is that a concern of you as the chief law enforcement officer in the State?

Mr. LUNGREN. It is of concern to me that we have to allow people out in many of our local jails, serving only a small portion of the sentence for which they were given.

However, in most cases of which I am aware, the sheriff is making a determination to keep the more violent criminals in.

There has been some criticism of three strikes and you're out. I happen to be a strong supporter of it; it is working, but I view it somewhat like a rat going through the snake, if you've ever watched that.

The rat is at the beginning of the snake at the present time. It will soon move on and hopefully be digested. I think in the short-term local jurisdictions are going to receive a disproportionate impact, but as we take people out of circulation who have been in and out and in and out of the system, all we're doing is canceling recess, and they will no longer be out to commit more crimes, and ultimately that will be to the benefit of local and county government because they won't endure those charges.

But in the context of that and the general overcrowding, there is no doubt that people are being cited out. And if, in fact, they are cited out before the INS can have an opportunity to do a check on them and have them deported, they're going to slip through the cracks twice.

As far as I know, Sheriff Block—he and I have spoken on this before—has a good relationship with INS, has cooperated with the INS, has tried to identify immediately to the INS people who have come to their attention, while staying at his hotel, that they give evidence on not being there legally.

Now, he doesn't make the final determination, he just gives that to the INS. I will say there has been enhanced effort by the INS in cooperating with local jurisdictions and the California correctional institutions in recent years. It is still not where it ought to be. We still have a lot more to be done.

Frankly, when you see the numbers that I articulated, that tens of thousands that are in our prison systems who are here illegally, the Federal Government ought to bear the burden of that. I mean, that would take part of the pressure off of us if they were incarcerated in a Federal institution.

And I think Federal institutions could provide the incarceration for those convicted of local and State crimes, but who are here illegally as a result of the Federal Government not enforcing the immigration laws or adequately enforcing them, or doing enough so that they're deterring large numbers who are coming here.

Mr. HORN. Well, I think you're absolutely right. I've raised with the previous panel a number of points. One, this language was passed by the House to renegotiate the prisoner transfer treaties with various foreign nations. The Mexican treaty, which is now 18 years old, requires the consent of the individual before they are sent back before the border.

That needs to be renegotiated, and I want to see the sentence assigned by either State or Federal court served out in the jails of the host country, if you will, or the country of origin, from which that illegal comes. There are about 49 countries of origin, the last I remembered, that sent illegals through the southern border as well as the northern border.

How do you feel about that?

Mr. LUNGREN. I think that is an attractive proposition. I would have to caution us, however, on a constitutional difficulty, and that is that treaty in many ways has withstood constitutional question because it involves the permission or agreement of the prisoner involved.

If Federal judges do, in fact, have the right to enforce their interpretation of the U.S. Constitution on State and local government with respect to standards of conditions by which people are held in local and county jails or State prisons, it is hard for me to believe they would allow us to send our prisoners to foreign prisons where as soon as they leave our territory they're out of our jurisdiction.

Interestingly enough, I am told one of the reasons why prisoners did not agree to go to other countries to serve their time is conditions generally are better here. We always hear people deploring how bad our conditions are.

Second, I'm informed conjugal visits are easier to come by here in California than they are in the other countries. As you know, we are trying to restrict that, but we have a judge that has just issued an injunction telling us we cannot do that, which we are presently fighting in the courts right now.

So as much as I love what you are doing in Congress and the devolution of authority and power to the States and local governments, if that does not include the Federal courts, we may have a victory without true victory.

Mr. HORN. I know exactly what you're talking about. Now, the average citizen is correct on this. I've heard it and maybe you did town meetings in the eighties where they say why can't we use surplus military barracks in some of these places and have them as the holding centers in wherever it is, Barstow or some hot part of the State of California. Granted, you have a problem staffing these, but people live there anyhow; some people like heat.

I know INS and the Federal Bureau of Prisons has looked at some of these, but do you feel that we're missing something in both the State and the Federal Government in not making better use of surplus military camps?

Mr. LUNGREN. I think we ought to make better use of surplus military camps, but I will also tell you that we are under orders and review in Federal courts in virtually every instance.

I think in some cases the conditions to which we subject our men and women in military would not meet the standards Federal courts have set for prisoners. That sounds ludicrous, but I will tell you it is ludicrous.

We have a case we're handling right now with respect to the mental health program within the California Department of Corrections. I would never argue that we're all perfect. I would never argue that there's not room for improvement, but sometimes you believe that they wish us to create a system which will guarantee a standard of medical care—in this case, mental health care—that is superior to that available to the average citizen. And not even the average citizen, the upper income citizen of the State of California.

So many times I would say to you, yes, I would like us to make better use of abandoned military or surplus military installations. At the same time, I would be less than honest if I didn't tell you that the standards which are applied to us by courts on a regular basis make it very difficult at times to say we would be able to achieve that.

Mr. HORN. Now you know why some of us in the majority prevailed—did not permit the Federal courts article II judiciary to be exempt from unfunded mandates and other matters that the Congress, on at least the House side, has passed; just because of those worries, that we have a truly independent judiciary that sometimes go beyond reasonable rules of incarceration.

Mr. LUNGREN. Just remember: Alexander Hamilton said the judiciary would be the least dangerous branch of Government because it would be so weak. We ought to bring him back and have him—if we can bring Elvis back, we can bring Alexander Hamilton back and maybe he can tell us what he thinks about it.

Mr. HORN. I think you're right. Well, we have appreciated you coming and sharing some of your perspectives with us in this area.

I might say, Mr. Secretary, since the assassin of the presidential candidate in Mexico lived in the 38th Congressional District and did not vote, but he registered twice in the county of Los Angeles to vote, I have a major interest in you trying to get some clarity and sorting out among illegal aliens voting.

Mr. JONES. I appreciate that, Mr. Chairman. We are well aware of that problem and we're looking to try and resolve that. Your help today has been greatly appreciated.

Thank you, Mr. Chairman.

Mr. HORN. Thank you for coming.

Mr. LUNGREN. Thank you, Mr. Chairman.

Mr. HORN. Thank you very much.

OK. Panel 3, the members representing the Santa Barbara County, we welcome you here, and we will swear you in.

[Off the record.]

[Witnesses sworn.]

Mr. HORN. We will begin the testimony with the chairman of the board of supervisors of the County of Santa Barbara, Mr. Timothy Staffel.

STATEMENTS OF TIMOTHY J. STAFFEL, CHAIRMAN, BOARD OF SUPERVISORS, COUNTY OF SANTA BARBARA; JIM THOMAS, SHERIFF, COUNTY OF SANTA BARBARA; AND THOMAS W. SNEDDON, JR., DISTRICT ATTORNEY, COUNTY OF SANTA BARBARA

Mr. STAFFEL. Thank you very much, and thank you for conducting these hearings. I am privileged to be here today. I am Tim Staffel, chairman of the board of supervisors, County of Santa Barbara.

I am going to talk a little bit about the local cost impact about illegal immigration. The Immigration and Naturalization Service estimates that 1.4 million illegal aliens reside in California.

Santa Barbara County, a mid-sized county in the State here, comprises 1.2 percent of the State population. As heard in the testimony this morning, there are a number of reasons, legal reasons, why we cannot determine the precise number of illegal aliens who live in Santa Barbara County. We do know that Santa Barbara County has a proportionately higher share of illegal immigrants than does the State as a whole because of both data.

Of 584,483,000 births in California in 1993, 2,032,201 deliveries were funded by Medicaid. Medicaid funded births of illegal aliens are classified as over-Medicaid, and those on the committee know that from Omnibus Budget Reconciliation Act, and of those 39.7 percent in Santa Barbara County were over-Medicaid funded.

In Santa Barbara County 42.2 percent of the Medicaid-funded births were over cases. And of the 6,601 births in Santa Barbara County in 1993, 19.6 percent were over-Medicaid.

I'm giving the statistical data. It is one of the few ways that we can verify or extrapolate information that leads to a conclusion that 1 in 5 births in Santa Barbara County were to illegal alien mothers whose deliveries were funded by Medicaid. These statistics were from the California Department of Health Services.

Because Santa Barbara County is a federally qualified health center, there are no direct county costs associated with these births. The Federal and State governments pay all these costs. Once the children are born, however, they are U.S. citizens and if they meet certain income requirements, they qualify for AFDC, Aid to Families with Dependant Children, food stamps and Medicaid.

These cases are classified as child-only cases. Between 1985 and 1992, the child-only cases accounted for more than one-third of Santa Barbara County's case load growth. No calculations have been made of the estimated direct cost to the county. The State and Federal Governments provide most of the funding for these services. Santa Barbara County does have a direct match for AFDC.

Other miscellaneous health and welfare costs include tuberculosis control and programs for the homeless. The direct county cost for the TB program is anticipated to be \$280,000 in fiscal year 1995-96. A study conducted in 1994 estimated that 50 to 60 percent of those infected with TB were illegal aliens. For every TB

case, another 10 people are exposed and TB is thus moving into the general population. The number of cases is increasing.

Santa Barbara County runs two homeless shelters in the winter months. In a survey conducted in 1993, 48 percent of those in the North County shelter, which is in Santa Maria, CA were newly arrived in the area, and 40 percent of them from the Santa Maria shelter indicated they were from Mexico.

In a Santa Barbara shelter, which is a South County shelter, 23 percent were newly arrived and 30 percent of the total said they originated in Mexico. Again, these are from surveys. As you know, you cannot ask certain questions. These are from surveys.

There is no way to quantify the numbers because of this, the new arrivals who are illegal aliens, and no data is available as to the immigration status of those shelter residents.

The cost of this program to Santa Barbara County is \$132,000 per year. The largest cost to Santa Barbara County is associated with the criminal justice system because all these costs are direct county costs and are not offset by State and Federal revenue.

According to the State department of corrections, 18 percent of Santa Barbara County commitments to the State prison system in October had INS holds.

In 1993, 12 percent of youths in Santa Barbara County juvenile institutions were undocumented. These rates were applied to the total adult and criminal justice costs in the county which include all costs of misdemeanors and felonies.

The total estimate of costs associated with these services was \$10.5 million in 1993-94 fiscal year. This includes the cost of court special services, district attorney, public defender, sheriff and custody and juvenile institutions and probation services.

Santa Barbara County District Attorney Tom Sneddon, and Mr. Jim Thomas will testify about the fiscal and practical acts the illegal immigration issues have on their departments.

I think what you will find from the testimony is that the figures I've stated are quite conservative, in fact, understated. But we are trying to go forth with verified data to the extent that we can, and again, it is difficult to get data in this area.

The most significant impact on localities is the cost of providing public education to the children of illegal aliens. In the fall of 1994, the General Accounting Office estimated that 6.5 percent of students in California were illegal alien students.

The total number of limited-English-proficient [LEP] students was 1.2 million. One could draw the conclusion that LEP students are U.S.-born children or illegal immigrant children.

In 1994, there were 13,417 limited-English-proficient students among the 56,977 children enrolled in Santa Barbara County public schools. If you extrapolate that figure, 6.5 percent of State students are illegal aliens, and if you utilize that figure for Santa Barbara County, again I suggest it is a conservative figure. Perhaps 3,700 of those enrolled in Santa Barbara County schools are illegal aliens or children of illegal aliens.

The General Accounting Office report indicated that the cost of educating one child in 1994 was \$4,830. Therefore, the total cost of educating illegal alien children is \$17.9 million per year, and that is an estimate for Santa Barbara County. We know, however,

that Santa Barbara County has a larger percentage of illegal aliens as does the State as a whole. Again, the figures that have been cited are somewhat conservative figures.

The GAO study and the Urban Institute studies do not include the cost of U.S. citizen children of illegal immigrants as an overall cost of illegal immigration. These costs are borne by local and State taxpayers.

As of 1993, 1 in 5 births in Santa Barbara County were births to illegal aliens that were funded by Medicaid, and we may make the conservative estimate that 1 in 5 added students enrolled in our schools are U.S. immigrant children of illegal immigrants.

Between 1989-90, and 1992-93 school years, 4,131 added students enrolled in county schools in Santa Barbara County. We might estimate that at least 1,000 of the additional children were born in the United States to illegal immigrants. This is an additional \$483,000 in education costs.

Of the 4,131 added students, there were that many in the Federal lunch program additional and 4,887 of the added students did not speak English.

Because of the legal prohibition against receiving immigration status information with respect to students and/or parents, there is no way to provide precise data with respect to the number of illegal immigrants or U.S. citizen children of illegal immigrants enrolled in these programs.

Santa Barbara County is a microcosm of the State. The reason I've spoken so much about education costs, even though you might say why would a county supervisor speak of education costs, that is because the financing situation of the State as a whole affects counties. The costs of providing health, welfare and education at the State level are skyrocketing.

In the 1989-90 fiscal year to the 1995 fiscal year funding for K through 12 has risen from \$23.9 billion to \$30.1 billion statewide. An increase of \$6.2 billion. Because State revenues are flat or declining, depending upon the tax, the State has shifted an increasing number for counties. In addition in the last couple of fiscal years, the State has shifted 3.5 billion for property-tax revenue from local entities to fund schools.

The counties are therefore suffering the burden of illegal immigration more than the estimated direct cost to the counties would suggest. To balance our budget in Santa Barbara County, the county of Santa Barbara County has seen 6 successive years of budget reductions, and we have inadequate discretionary revenue for libraries, parks, street lights, roads and a myriad of other local services that the public desires and wants and the taxpaying citizens demand who pay local property tax primarily to provide the local school costs which have been skyrocketing.

Additionally, we have had increased fees and raised benefit assessments to fund services which were formerly funded by property taxes. The full cost to carry out Federal mandates should be borne by the Federal Government in the areas where the growth in local costs to administer mandated programs can be attributed to immigration policies set by the Federal Government. This will provide a direct incentive to provide legal methods to identify specific costs associated with serving illegal immigrants. It would also serve to

better facilitate policy decisionmaking as to whether certain federally mandated programs and services should be extended to illegal immigrants given the cost to taxpayers associated with providing such services.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Staffel follows:]

Testimony of Timothy J. Staffel, Fourth District Supervisor,
Santa Barbara County Board of Supervisors, Santa Barbara,
California

The Immigration and Naturalization Service estimates that in October 1992, 1,441,000 illegal aliens resided in California (Warren, April 1994). Santa Barbara County comprises 1.2% of the state population. Although we are not able to determine the precise number of illegal aliens who live in Santa Barbara County, we do know that we have a proportionally higher share of illegal immigrants than does the state as a whole because of birth data.

Of the 584,483 births in California in 1993, 232,101 deliveries were funded by Medicaid. Medicaid-funded births of illegal aliens are classified as OBRA-Medicaid (Omnibus Budget Reconciliation Act). Of the 232,101 Medicaid births in 1993, 91,596 or 39.7% were OBRA Medicaid-funded. In Santa Barbara County, 44.2% of the Medicaid funded births were OBRA cases. Of the 6,601 births in the county in 1993, 1,292 or 19.6% were OBRA Medicaid; extrapolation of this data leads to the statistical conclusion that one in five births in our county were to illegal alien mothers whose deliveries were funded by Medicaid (CA Dept. of Health Services).

Because Santa Barbara County is a Federally Qualified Health Center, there is no county cost associated with these births. The federal and state governments pay for all of the costs. Once the children are born, however, they are United States citizens and if they are poor, they qualify for Aid to Families with Dependent

Children (AFDC), food stamps and Medicaid. These cases are classified as child-only cases. Between 1985 and 1992, the child-only cases accounted for more than one-third of the county's caseload growth. No calculations have been made of the estimated direct cost to the county. The state and federal governments provide most of the funding for these services.

Other miscellaneous health and welfare costs include tuberculosis control and programs for the homeless. The direct county cost of the tuberculosis program is anticipated to be \$280,000 in fiscal year 1995-96. A study conducted in 1994 estimated that 50% to 60% of those infected with TB were illegal aliens. For every TB case, another 10 people are exposed and TB is, thus, moving into the general population and the number of cases is increasing.

The county runs two homeless shelters in the winter months. In a survey conducted in 1993, 48% of those in the shelter were newly arrived in the area and 40% of those in the shelter indicated that they were from Mexico. In the Santa Barbara shelter, 23% were newly arrived and 30% of the total said they originated in Mexico. There is no way to quantify the precise number of these new arrivals who are illegal aliens and no data is available as to the immigration status of the shelter residents. The cost for the program is \$132,000.

The largest costs for the County are the costs associated with the

criminal justice system because virtually all costs are direct county costs and are not offset by state or federal revenue. According to the state Department of Corrections, 18% of Santa Barbara County commitments to the State Prison System in October 1993 had INS holds. In 1993, 12% of youths in Santa Barbara Juvenile Institutions are undocumented. These rates were applied to the total adult and juvenile criminal justice costs in the county which include all costs of misdemeanors and felonies. The total estimate of costs associated with these services was \$10.5 million in 1993-94 fiscal year. This includes the costs of court special services, district attorney, public defender, sheriff and custody, and juvenile institutions and probation services. Santa Barbara County District Attorney Tom Sneddon and Sheriff Jim Thomas will provide testimony about the fiscal and practical impact the illegal immigration issue is having on their departments.

A most significant impact on localities is the cost of providing a public education for the children of illegal aliens. In the fall of 1994, the General Accounting Office (GAO) estimated that 336,489 illegal alien children attended California's public schools out of a total of 5,166,261 total students which means 6.5% of those enrolled were illegal alien students. The total number of limited English proficient (LEP) students was 1.2 million. One can draw the conclusion, therefore, that most LEP students are US born children or legal immigrant children.

In 1994 there were 13,417 limited English proficient students among the 56,977 children enrolled in county public schools. If 6.5% of the state students are illegal aliens, then perhaps 3,700 of those enrolled in the county are illegal aliens. The General Accounting Office report indicated that the cost of educating one child in 1994 was \$4,830; therefore, the cost of educating illegal alien children is \$17.9 million per year. We know, however, that Santa Barbara has a larger percentage of illegal aliens than does the state as a whole so this is a conservative estimate.

The GAO study and the Urban Institute studies do not include the costs of United States citizen children of illegal immigrants as an overall cost of illegal immigration. These costs are borne by local and state taxpayers. As in 1993 one in five births in our county were births to illegal aliens whose births were funded by Medicaid, we might, therefore, make a conservative estimate that one in five added students enrolled in our schools are United States citizen children of illegal immigrants. Between 1989-90 and 1992-93 school years, 4,131 added students enrolled in county schools. We might estimate, then, that at least 1,000 of the additional children were born in the United States to illegal immigrants. That is an additional \$483,000 in education costs.

As an aside, of the 4,131 added students, 4,131 added students enrolled in the federal lunch program and 4,087 of the added students did not speak English. Because of the legal prohibition

against receiving immigration status information with respect to students and/or parents, there is no way to provide precise data with respect to the number of either illegal immigrants or United States citizen children of illegal immigrants enrolled in these programs.

Conclusion

Santa Barbara is a microcosm of the state. The costs of providing health, welfare, and education at the state level are sky rocketing. For example, in the 1989-90 fiscal year to the 1995-96 fiscal year, funding for public K-12 education has risen from \$23.9 billion to \$30.1 billion, an increase of \$6.2 billion. Because state tax revenues are flat or declining depending on the tax, the state has shifted an increasing share of its costs to counties. In addition, in the last several fiscal years the state shifted \$3.5 billion of property tax revenues from local entities to fund schools. Counties were and continued to be the most affected by this shift. The counties are, therefore, suffering the burden of illegal immigration more than the estimated direct costs to the counties would suggest.

To balance our budget, the County of Santa Barbara has seen six successive years of budget reductions. We have inadequate discretionary revenue for libraries, parks, street lights, roads, and a myriad of other local services to our taxpaying citizens who pay local property taxes primarily to provide for these local

property related services. Additionally, we have had to increase fees and raise benefit assessments to fund services which were formerly funded by property taxes.

The full cost of carrying out federal mandates should be borne by the federal government particularly in areas where the growth in local costs for administering mandated programs can be attributed to immigration policies set by the federal government. This would provide a direct incentive to provide legal methods to identify specific costs associated with serving illegal immigrants. It would also serve to better facilitate policy decision-making as to whether certain federally mandated services should be extended to illegal immigrants given the cost to taxpayers associated with providing such services.

Mr. HORN. We thank you. Let me just ask for the population of Santa Barbara County so the reader of the hearing and the listener today has an idea of the population there.

Mr. STAFFEL. 400,000.

Mr. HORN. All right. That is two-thirds of a congressional district. A congressional district in this State is roughly 600,000.

Mr. HORN. Is Ventura still in yours?

Mr. STAFFEL. Actually, the very small part of Santa Barbara County, Carpinteria, ties in with Ventura, but the majority of Santa Barbara County is tied in with San Luis Obispo County.

Mr. HORN. I think it is very interesting because those living in Los Angeles can tie it in with the 38th Congressional District which is all of Downey, all of Bellflower, all of Paramount, 70 percent of Lakewood, all of Signal Hill, 70 percent of Long Beach, and 5,000 in downtown San Pedro.

If you applied the Santa Barbara figures at even a conservative estimate, it gives you an idea of how these demands on public services are spread throughout the congressional districts of California. Essentially, the Santa Barbara, that is two-thirds of this congressional district. As Senator Dirkson said, if you add it up, you're talking about real money. I think we are talking about that.

Now the sheriff of Santa Barbara County, Mr. Jim Thomas. We are delighted to have you with us today.

Mr. THOMAS. Thank you, Mr. Chairman, Congressman Flanagan.

We all know that illegal immigration is a tremendous burden to all of our law and justice agencies. However, I speak to you today as a sheriff of Santa Barbara County, and my comment may or may not reflect valid concerns of my fellow law enforcement administrators.

My comments may also be an affirmation of the current planning of INS administration and staff. If so, take these statements as the point of view of a customer of theirs.

As you know California sheriffs are responsible for the operation of county jail systems as well as criminal investigation and patrol functions in the unincorporated areas of each county, and also includes contract cities.

My discussion will focus on three areas that have a direct impact on both of those broad responsibilities. First, a large number of illegal aliens in our jails; second, the increase in the illegal criminal element in narcotic and gang investigations; and third, the lack of effective, illegal employment investigations.

There is, however, one common element between the three areas of concern. That is INS staffing. It appears the focus of additional personnel of the Immigration and Naturalization Service is on the border with Mexico. This is not a criticism with INS, but I believe that this is probably the result of the direction that they have been receiving or felt they had been receiving from the Government.

And while that addresses illegal entry into the United States, it does not address the problem of criminally deportable who are already in California county jails and communities. It also does not address the ability to use INS investigators or agents on local and regional gang and narcotic test forces, or their ability to effectively investigate illegal employment practices.

My issue then is to plead that there be a substantial increase in staffing to the interior office of the Immigration and Naturalization Service in California as well as the border.

On any given day 14 to 20 percent of the jail population of Santa Barbara County is comprised of illegal aliens. That equates to \$9.2 million in system costs to the county each year. If you add the services of the health department and social services department, that cost escalates dramatically.

Currently, the staff at the Santa Barbara County Jail calls the Ventura office of INS and reports on who the jail staff believes may be in this country illegally. These are jail inmates who have been detained for some period of time.

The Ventura office of INS then sends one of its three agents to interview these suspected illegal aliens and places holds on them if appropriate.

While this does help some, I believe and know that there are many illegal aliens who are not being interviewed at all, and another number who are being released prior to being able to be interviewed. This allows the criminally deportable aliens to reenter our society and system without facing deportation.

At the request of the U.S. Attorney General Janet Reno, the Los Angeles County Sheriff is currently conducting a pilot program in its jail system. This program has allocated a number of INS personnel—I believe approximately 40—to interview and evaluate all individuals who voluntarily stated that they are foreign born and who are being released from the jail system.

In the first 6 days alone, 341 individuals or 14 percent, of all county inmates released were taken into Federal custody for possible deportation.

Obviously, this number does not consider the individuals who may be hiding the fact that they are foreign born. This is only a pilot project, and is not available to the other 57 counties at this time, but this type of program is essential if we are to identify and criminally deport immigrants statewide.

Additionally, any assistance from the Federal Government that would help implement what we call the direct connect portion of CAL ID would go a long way in helping us identify and deport criminally deportable aliens.

What that system does, it allows us to run a direct fingerprint from our jail system into the computer base in Sacramento and within 2 hours receive a verifiable identification and return.

By doing that, we would be allowed to then take these people that are being released prior to being interviewed and be able to also find out if they would also fall into that category. It is an expensive program, and I don't believe it is going to be up and going until 1996.

My gang in narcotics investigators tell me that we are experiencing a tremendous increase with contacts with illegal aliens while conducting major investigations.

In Santa Barbara County, we would like to incorporate INS investigators in our task forces to assist with those investigations. Today, the lack of available investigations personnel make that impossible. Again, the effort to combat the criminal element must in-

clude INS involvement and cooperation in interior investigations as well as increased staffing at the border.

The Santa Barbara community is divided on the issue of randomly intercepting illegal aliens on the city streets. I believe that the majority agrees that many employers are a magnet to the illegal population. Current procedures on employer verification are totally ineffective. I realize the issue involving tamper-proof identification and employer verification procedures are a part of the administration's effort to curb illegal immigration. However, there has been no substantial effort, at least in my area, to investigation violations of the current procedures.

I can only hope that the new procedures and work of this committee will also include the personnel resources to enforce these violations.

Without illegal employment, illegal aliens have little to gain by entering the United States. If we are vigilant in our efforts to identify and deport criminals who are also illegal aliens then they would have little to gain by staying in the United States.

In summary, I sincerely hope that the efforts of this committee and the administration result in substantially increased staffing level in the interior as well as the border regions. It is absolutely critical.

Additional agents, investigators, support staff, transportation equipment, holding facilities and immigration judges are all necessary for it to have any effect on the current problem of illegal immigration and the criminal element that has attached itself to Santa Barbara County.

[The prepared statement of Mr. Thomas follows:]


Sheriff's Department
 SANTA BARBARA COUNTY

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 P.O. Box 8427—4434 Calle Real
 Santa Barbara, California 93160
 Phone (805) 681-4100

JIM THOMAS
 Sheriff-Coroner
DAVE DORSEY
 Senior Chief Deputy

Wednesday, June 07, 1995

STATIONS

BUELLTON
 140 W. Highway 248
 Buellton, CA 93427
 Phone (805) 686-0137

Congressman Stephen Horn
 4010 Watson Plaza Drive, Suite 180
 Lakewood, CA

CARPINTERIA
 5775 Carpinteria Avenue
 Carpinteria, CA 93013
 Phone (805) 684-4861

Dear Congressman Horn:

Thank you for the opportunity to address the Subcommittee. Illegal immigration is a tremendous burden on the law and justice agencies in California. I speak to you today as the Sheriff-Coroner of Santa Barbara County. My views are my own and may not reflect other valid concerns of my fellow law enforcement administrators.

LOMPOC
 751 Runon Mene Road
 Lompoc, CA 93438
 Phone (805) 737-7737

As you know, California sheriffs are responsible for the operation of county jail systems as well as criminal investigation and patrol functions in the unincorporated areas of each county. My discussion will focus on three areas that have a direct impact on both of those broad responsibilities: 1) the large number of illegal immigrants in our jails, 2) the increase in the illegal criminal element in narcotic and gang investigations, and, 3) the lack of effective illegal employment investigations. There is, however, one common element between the three areas of concern - I.N.S. staffing. It appears that the focus of additional personnel for the Immigration and Naturalization Service is on the border with Mexico. While that addresses illegal entry into the United States, it does not address the problem of the criminally deportable who are already in California county jails and communities. It also does not address the ability to use I.N.S. investigators and or Agents on local and regional gang and narcotic task forces or their ability to effectively investigate illegal employment practices. My issue then, is to plead that there be a substantial increase in staffing to the interior offices of the Immigration and Naturalization Service in California as well as to the border.

NEW CUYAMA
 P.O. Box 169
 New Cuyama, CA 93654
 Phone (805) 766-2310

SANTA MARIA
 812-A W. Foster Road
 Santa Maria, CA 93454
 Phone (805) 924-8150

SOLVANG
 1745 Mission Drive
 Solvang, CA 93463
 Phone (805) 698-5800

MAIN JAIL
 4430 Calle Real Avenue
 Santa Barbara, CA 93114
 Phone (805) 681-4220

On any given day, 14 to 20 percent of the jail population of Santa Barbara County is comprised of illegal aliens. That equates to roughly

Congressman Horn
June 7, 1995
Page 2

\$9.2 million in cost to the County each year. If you add the services of the Probation Department, Health Department, and Social Services Department, that cost escalates dramatically. Currently, the staff at the Santa Barbara County Jail calls the Ventura Office of the I.N.S., and reports on who the jail staff believes may be in this Country illegally. These are jail inmates who have been detained for some period of time. The Ventura Office then sends one of its THREE agents to interview these suspected illegal immigrants and place holds on them, if appropriate. While this does help some, I believe there are many illegal immigrants who are not being interviewed at all and another number who are being released prior to being able to be interviewed. This allows criminally deportable immigrants to re-enter our society and system without facing deportation.

At the request of United States Attorney General Janet Reno, Los Angeles County is currently conducting a pilot program in its jail system. The program has allocated a number of I.N.S. Personnel (approximately 40) to interview and evaluate ALL individuals who voluntarily stated they are foreign born and who are being released from the jail system. In the first six days alone, 341 individuals, or 14 percent of all County inmates released, were taken into Federal custody for possible deportation. Obviously, this number does not consider the individuals who may be hiding the fact that they are foreign born. This is only a pilot project and is not available to the other 57 counties at this time. This type of program is essential if we are to identify and deport criminally deportable immigrants State-wide.

I need this system to those who voluntarily state they are foreign born

My gang and narcotics investigators tell me that we are experiencing a tremendous increase in contacts with illegal immigrants while conducting major investigations. In Santa Barbara County, we would like to incorporate I.N.S. investigators in our task forces to assist in those investigations. Today, the lack of available I.N.S. investigative personnel make that impossible. Again, the effort to combat the criminal element must include I.N.S. involvement and cooperation in interior investigations as well as increased staffing at the border.

The Santa Barbara community is divided on the efforts of randomly intercepting illegal immigrants on the City streets. I believe that the majority agrees that many employers are a magnet to the illegal population. Current procedures on employer verification are totally ineffective. I realize that issues involving temper-proof identification and employer verification procedures are a part of the Administrations effort to curb illegal immigration. However, there has been

Congressman Horn
June 7, 1995
Page 3

no substantial effort, at least in my area, to investigate violations of the current procedures. I can only hope that the new procedures will also include the personnel and resources to enforce violations. Without illegal employment, illegal immigrants have little to gain by entering the United States. If we are vigilant in our efforts to identify and deport criminals who are also illegal immigrants, then they will have little to gain by staying in the United States.

In summary, I sincerely hope that the efforts of this Committee and the Administration result in substantially increased staffing levels in the interior as well as the border regions - it's critical. Additional agents, investigators, support staff, transportation equipment, holding facilities and immigration judges are all necessary if we are to have any effect on the current problem of illegal immigration and the criminal element that has attached itself to it.

Sincerely,



Jim Thomas
SHERIFF-CORONER

Mr. HORN. Thank you, Sheriff Thomas.

Now we ask the district attorney, Mr. Thomas W. Sneddon, Jr., to give his briefing. We appreciate you coming here.

Mr. SNEDDON. Thank you, Mr. Chairman. Thank you, Congressman. It is nice to be back in the area where I grew up. I grew up just a few miles from here. In fact, my aunt and uncle are still constituents of yours.

Mr. HORN. Bless them. [Laughter.]

Mr. SNEDDON. I appreciate the opportunity to address some issues which I think are on everybody's minds today. I think there are a few issues that touch nearly every aspect of our lives, like the problem created by illegal immigration. It is a financial issue, a law enforcement issue, a social issue, and a quality of life issue for those of us who live in California.

Although my remarks will primarily rely upon my observations, limited data and experience as a 25-year prosecutor in both Los Angeles County and Santa Barbara County and my 12 years as the elected district attorney in Santa Barbara County, I believe that my experience and my exposure to the criminal justice system as a whole tells me what has been echoed by other people in this room here this morning that Santa Barbara County is fairly typical and, if anything, under-represents the magnitude of the problems created in local communities by illegal immigration throughout the State of California.

To say that illegal immigration negatively impacts crime and the criminal justice system states the obvious. Placing the exact figures on the nature or the magnitude of the problem is somewhat difficult. Most agencies, including ours, are not currently allowed to ask in every case the status of an individual defendant.

I'm now aware of any local prosecutors office that systematically tracks the percentage of cases that involve illegal immigrants or directly relates those statuses to the percentage of their case load of serious crime.

On the other hand, just because we're not able to get exact percentages or empirically arrive at data, this committee should not draw the conclusion that the negative impacts are not significant.

My remarks will focus on the activities and the responsibilities of three Federal agencies: the Immigration and Naturalization Service, the U.S. Attorney's Office, and the Social Security Office.

Although some of my remarks may seem to be critical about shortcomings of some of these agencies, I want to make it clear to this committee that my view of it is that it is not one of attitude; it is one of resources.

Enhanced resources, improved communications, new laws and regulations, a real commitment, a determination by Federal officials to assist State and local communities must be the key ingredients to any successful attack on the burdens that illegal immigrations places on the law and justice agencies in this community, Santa Barbara County as well as the State as a whole.

Let me briefly outline the problems so that my proposed solutions may be placed in their context. As you have been previously informed, about 14 to 20 percent of the inmate population in Santa Barbara County is composed of illegal aliens. In 1993, Department of Corrections statistics say that 18 percent of Santa Barbara

County commitments to State prison had INS holds on them. Another 12 percent undocumented use were incarcerated in juvenile institutions.

In as much as the individuals sent to State prison from Santa Barbara County have increased by almost 10 percent since that time, there is every reason to believe that the estimated \$10.5 million associate with incarcerating the above-mentioned should be adjusted by at least that percentage increase.

Profiling inmates is also informative in evaluating the impact of their crimes on any particular community. Unfortunately, profiles on these cases reveal individuals who have been repeatedly convicted of serious offenses usually involving murder, attempted murder, aggravated assaults, burglaries, and drug trafficking.

The profile shows criminal rap sheets replete with instances of either failure to deport after conviction or deportation, reentry and subsequent criminal activity within a very short period of time. It is obvious from reviewing their criminal histories that they return to the United States without much difficulty, and within days of their deportation.

Characteristically, there is a total absence of any attempt by the U.S. Attorney's Office to prosecute deportees for illegally returning to the United States.

Another aspect of this serious crime problem is exemplified by California's recently enacted "three-strikes" legislation.

Santa Barbara County three strikes defendant profile indicate that between 25 and 30 percent of the defendants charged as three strikes candidates are in this country illegally. Under California three strike legislation that means that they have suffered at least two prior serious or violent felony convictions as defined in the legislation in addition to—in addition—to the new offense which has brought them to court for the third time, at least a third time.

In addition to the figures represented by incarcerated inmates, it is estimated by my staff that about 25 percent of our nearly 15,000 serious misdemeanors filed annually involves illegal immigrants. Not unexpectedly, a high percentage of those cases involved individuals charged with driving without a license, driving with no insurance, hit and runs, and driving under the influence.

It is estimated that over 50 percent of the individuals cited for driving under the influence and who fail to appear at arraignment are illegal aliens.

Flight to Mexico by illegal aliens who commit serious crimes is another impact. Although the United States and California have treaty agreements with the country of Mexico which authorizes the Mexican authorities to try individuals in Mexico for a crime committed in the United States based upon affidavits, the reality is in many instances offenders cannot be located, and when their paper work—when they are, the paperwork involved in the process is almost overwhelming and very time consuming.

Nevertheless, my office averages about one to two such prosecutions a year and they usually involve murder, attempted murder or child molestation.

A slightly different aspect of this problem is the fact that our child abduction unit has averaged about another one or two cases a year where the parents involved, one of the parents involved, vio-

lates a court order, absconds with the child, and conceals the child from detection in Mexico. Although we have been very vigorous in attempting to recover the children, it is almost an impossible task.

Hopefully, even these remarks, having been brief, the committee can generally perceive the magnitude of the impact on local communities.

Therefore, I would like to spend just a few minutes talking about some of the solutions. As I stated in my introduction, the solutions are quite simple. Basically, their likelihood of success will be geometrically proportional to the seriousness and the commitment on the part of Federal Government to making the fight against illegal immigration something more than political rhetoric.

Immigration and naturalization. There are two prongs to any successful INS program, at least from the local level as I see it. The sheriff has eloquently articulated the need for enhanced resources at the border in order to discourage, reduce and prevent illegal entry, and I think that was done well this morning by the INS representatives.

As a corollary to any such enhanced enforcement program, there must be a commitment, a streamlined, timely, and efficient INS enforcement program to pick up and deport illegal immigrants who have been arrested, detained and incarcerated in our local facilities.

The latter without the former would be ineffective, and the former without the latter would continue to allow nondeported, recidivist illegal aliens criminals to substantially contribute to the serious crime problems in our local communities.

By the way, it is not in my written remarks, but we have also had problems with INS on voter fraud. We've had at least one voter fraud case recently where we attempted to get cooperation to prove the illegal status of the individual and we couldn't get anywhere with the people to help us verify that incident.

Mr. HORN. What office were you dealing with on that?

Mr. SNEDDON. In that case we were dealing with the Oxnard office.

Mr. HORN. I think we just got to have the Federal cooperation. I would hope—yes, one of the representatives is still here. We need some cooperation in the Oxnard office on voting fraud. I couldn't agree with you more. It's scandalous.

Mr. SNEDDON. I want to reiterate: I think it is more a question of resources in some instances than it is attitude, but it is immaterial when you try to go to court and prove these cases whether it is attitude or recourse and you prove a case.

The second is the U.S. Attorney's Office. I think that the Federal Government needs to legislatively set what they believe should be the attitude and the prioritization of the U.S. Attorney's Office and the Attorney General's Office on illegal immigration because I don't believe that attitude is there today, for one reason or another.

Despite what I've heard here this morning on the prosecutions of illegal aliens, but which, even given the numbers that they're citing coming across, is minuscule in light of the flood of immigrants coming across the border, as a local prosecutor I can tell you what my experience is and it is nonexistent.

I recall very vividly 5 years ago calling up a U.S. attorney's office and asking for a prosecution on somebody we were prosecuting who had seven prior deportations, and they said that they just couldn't handle it because they had too many other cases to do, and it wasn't a big enough priority in their office.

I know of no case in my county since I've been the elected district attorney in the last 12 years that they've prosecuted anybody who has been a multiple deportee from our jurisdiction or other jurisdictions in California.

There are laws that are currently on the books. I share the Attorney General's observation that there is legislation currently that makes it a Federal crime for 20 years to prosecute somebody who has committed a felony while they're in the State or Nation or also has been deported.

When I say in my remarks it has to be substantial punishment, what I mean is that there is no credibility to it. What good is it to have a law—it is like to old truth in sentencing in California where we were sending people away for 50 years, or in Texas where they give them 300 years for a crime and everybody knows that it doesn't really mean that.

I think that the Congress needs to look—I don't know what the ramifications or parameters are for Congress in setting dictates on sentences, but I know what had to happen legislatively in the State of California when the judiciary didn't pay attention to the priority of the citizens. They took it away from them and they made mandatory sentences, and they made it a mandatory amount of time they had to serve.

I suggest that Congress explore the possibility in working with their experts in passing a 20-year law that says you serve 85 percent, like the three strikes law.

When somebody has been sentenced to prison in California and they've been deported, and they come back, and they commit another crime, and their committed to prison again, that that ought to be a situation where the U.S. Attorney's Office takes as serious, and not simply as an illegal immigration problem or a deportee problem, but as a substantial crime problem.

That is the way those of us in the local community look at these things. It is a substantial crime problem. It is a quality of life problem.

To me it is a credibility issue in the type of legislation that I suggest. Of course, I've never met you before this morning, Mr. Chairman, and I didn't know what your attitudes were toward the treaty and the facility in Mexico, but I've got to tell you, I think you're on the right track.

My belief as a local prosecutor, while there may be some legal issues that the Attorney General has adequately touched upon I don't think that should stand in the way of Congress exploring the fact that we've renegotiated a treaty or that we explore ways to get around the problems dealing with the quality of the facilities that are needed.

I think those are, in my view, mechanical; those aren't policy. We need to set policy about what we're going to do in this country about this problem, and leave it to the other people to worry about

the mechanics of it. If we have to go to court and fight for it, I think it is a battle well fought for.

So I encourage you to not give us the battle because there is some hurdles to overcome. I think that is what makes it worthwhile in my view.

Social Security Administration. As I indicated in my remarks, you are probably wondering what does the Social Security Administration have to do with illegal immigration. It has precisely to do with the questions you asked the Attorney General, and I can tell you that in our county the prosecution of people who use illegal and false identification, under penal code section 113 and 114 which were passed in 187 is alive and well.

As I indicated in my remarks, we have conducted two undercover investigations in cooperation with the sheriff's department and some local law enforcement agencies in the Santa Maria area where we have a lot of illegals.

We busted two of these outfits that are providing illegal documentation. Unfortunately, we couldn't get the cooperation of the Social Security Administration in coming down and testifying as an expert that the cards that we found were forgeries.

We couldn't even get them to come down and testify that the names on the cards were forgeries. They claimed that it was confidential and privileged information.

Well, I can't understand why it is confidential and privileged information for an illegal alien to be in possession of a false and phony Social Security card. It is mind boggling to me.

Mr. HORN. Which Social Security office did you ask to help you?

Mr. SNEDDON. We asked—it went everywhere. It went from the local ones up to the regional area, and then—

Mr. HORN. In other words, there is an area office in Santa Barbara? How about in Santa Maria, do they have one too?

Mr. SNEDDON. I couldn't tell you that. I know we—

Mr. HORN. Staff needs to check that. I just spent about an hour with the commissioner and hopefully she is going to testify this coming week on field offices/area offices.

Mr. SNEDDON. It is beyond that. I wrote a letter to the Social Security Administrator, and I got a letter back saying that there's nothing they can do about it. They're looking to changing their regulations, but they're sorry. I went to the top.

Mr. HORN. Could we get a copy of that letter?

Mr. SNEDDON. Surely.

Mr. HORN. I'll need it by Monday.

Mr. SNEDDON. I don't know if it was her, but it was a response.

Mr. HORN. When is that hearing, tomorrow in Washington?

Mr. STOKER. Tomorrow.

Mr. HORN. If staff could give him the fax number, we will get it to Washington.

Mr. SNEDDON. Yes, I will fax it there. Thank you.

Mr. HORN. And any response you got there.

Mr. SNEDDON. Yes. So to me that is an area. If we're really seriously interested in going after these fraudulent areas that needs to be taken care of.

I'm not unmindful of the fact that some, if not all, of the solutions I've recommended above will require additional commitment

of financial and personnel resources to combat the negative impacts created by illegal immigration in this country, in the State and in our communities.

However, in view of the astronomical amount of money that could be saved by a meaningful full court press on illegal immigration, I believe in the long run it would be a cost effective program.

Moreover, I do not believe that either this committee nor Congress should ignore the negative social implications created by a policy of encouraging benign neglect of illegal immigration to the point where it substantially detracts from the public support and confidence in the ability of Government to protect them from the negative financial, criminal and quality of life impacts created by the current illegal immigration crisis.

I have a couple of comments, Mr. Chairman, about some of the things that have come up this morning.

Mr. HORN. Sure. I would be glad to hear them.

Mr. SNEDDON. Mr. Flanagan, in response to your hypothetical to the Immigration and Naturalization Service individual, about the identification and that you want to hire somebody in Chicago, I shouldn't think—and I'm not looking at it as an INS person; I'm looking at it from the big picture point of view as an employer, and my dad was a small businessman, so I know what it is like to employ. That's a simple thing.

Everybody needs a Social Security card. You need it as an employer because you have to pay the taxes and withhold taxes, and we all know that because of what has happened here about some politicians who have hired maids that came in, and didn't take it out.

So you as an employer, you would want that protection in any case. So I don't see this identification issue as being a major thing, of asking what you would be required by law and the IRS to do if you want to hire somebody.

I don't see where that has anything to do with making suspects of employers. They're already suspects by IRS if you don't withhold it. Besides that, you couldn't hold elected office. That's what has happened in California. That is one aspect of it.

The other thing is I would like to make sure that this committee notes and the Congress knows who reads these things that it is nice that INS is going to get stipulations for deportation, but I can tell you stipulations don't work.

For years in Santa Barbara County when we had people convicted of crimes that we knew they were illegals, that is exactly what would happen. We would put a term alternate delivery condition of probation on their case that they not return to the United States. They would be back and caught before the ink was dry on the stipulation.

So it is important that people understand that those are only as good as the enforcement actions and the seriousness of the commitment of the law enforcement agencies behind them to do something.

I just want to emphasize that what we have here is a revolving door situation and I think it is only going to be cured by a full court press and many faceted enhanced enforcement presence in

California. I thank you very much for the opportunity to come here and address you.

[The prepared statement of Mr. Sneddon follows:]

THOMAS W. SNEDDON, JR.
District Attorney



PATRICK J. McKINI
Assistant District Attor
CHRISTIE SCHULT
Assistant District Attor

COUNTY OF SANTA BARBARA
DISTRICT ATTORNEY

June 8, 1995

Congressman Stephen Horn
4010 Watson Plaza Drive
Suite 160
Lakewood, CA
ATTN: Ms. Connie Sziebl
District Director

Dear Congressman Horn:

Thank you for the invitation to attend your Committee's upcoming hearing related to Border Patrol Implementation Strategies. There are few contemporary issues that touch nearly every aspect of our society like the problems created by illegal immigration. It is a financial issue. It is a law enforcement issue. It is a social issue. It is a quality of life issue.

Although my remarks will primarily rely upon my observations, limited data and experiences as a 25 year career prosecutor in Santa Barbara County and 12 years as the elected District Attorney, I believe my experience and exposure to the criminal justice system as a whole tells me that Santa Barbara County is fairly typical and if anything under-represents the magnitude of the problems created in local communities by illegal immigration.

To say that illegal immigration negatively impacts crime and the criminal justice system states the obvious. Placing exact figures or percentages on the nature or magnitude of the problem is difficult, because most agencies, including ours, are not currently allowed to ask in every case the status of the individual defendant. I am not aware of any local prosecutor's office that systematically tracks the percentage of cases that involve illegal immigrants or directly relates that status to the percentage of their caseload or serious crime. On the other hand, just because we are not able to give exact percentages or empirically arrived at data, this Committee should not draw the conclusion that the negative impacts are not significant.

My remarks will focus on activities and responsibilities of three federal agencies: **THE IMMIGRATION AND NATURALIZATION SERVICE - THE UNITED STATES ATTORNEY'S OFFICE - THE SOCIAL SECURITY ADMINISTRATION.**

Santa Barbara Office
Courthouse
1105 Santa Barbara Street
Santa Barbara, California 93101

Lompoc Office
115 Civic Center Plaza
Lompoc, California 93436
(805) 737-7760

Lompoc Office
401 E. Ocean
Lompoc, California 93436
(805) 737-7777

Santa Maria Office
312-D East Cook Street
Santa Maria, California 93
(805) 348-7340

Congressman Stephen Horn
June 8, 1995
Page 2

Enhanced resources, improved communications, new laws and regulations and a real commitment and determination by federal officials to assist state and local communities must be the key ingredients to any successful attack on the burdens that illegal immigration places on the law and justice agencies in this community, as well as in the state as a whole.

Let me briefly outline the problems so that my proposed solutions may be placed in their context. As you have been previously informed, 14-20% of the inmate population in Santa Barbara County is composed of illegal aliens. 1993 Department of Corrections statistics say that 18% of Santa Barbara County commitments to state prison had I.N.S. holds. Another 12% of undocumented youths were incarcerated in Juvenile Institutions. Inasmuch as the number of individuals sent to state prison from Santa Barbara County has increased by almost 10% since that time, there is every reason to believe that the estimated \$10.5 million dollars associated with incarcerating the above inmates should be adjusted by at least that percentage increase. Profiling these inmates is also informative in evaluating the impact of their crimes on any particular community. Unfortunately, profiles in these cases reveal individuals who have been repeatedly convicted of serious offenses, usually involving murder or attempted murder, aggravated assault, burglaries, and drug trafficking. The profiles show criminal rap sheets replete with instances of either failure to deport after conviction or deportation, re-entry and subsequent criminal activity within a very short period of time. It is obvious from reviewing their criminal histories that they return to the United States without much difficulty and within days of their deportation. Characteristically, there is a total absence of any attempt by the U.S. Attorney's Office to prosecute deportees for illegally returning to the United States.

Another aspect of this serious crime problem is exemplified by California's recently enacted three strikes legislation. Santa Barbara County's three strike defendant profiles indicate that between 25% and 30% of the defendants charged as three strike candidates are in this country illegally. Under California's three strike legislation, that means that they have suffered at least two prior serious or violent felony convictions in addition to the new offense which has brought them before the court.

In addition to the figures represented by incarcerated inmates, it is estimated by my staff that about 25% of the nearly 15,000 serious misdemeanors filed annually involves illegal immigrants. Not unexpectedly, a high percentage of those cases involved individuals charged with driving without a license, driving with no insurance, hit and runs, and driving under the influence. It is estimated that over 50% of individuals who are cited for driving under the influence and who fail to appear for arraignment are illegal aliens.

Flight to Mexico by illegal immigrants who commit serious

Congressman Stephen Horn
June 8, 1995
Page 3

crimes is another impact. Although the United States and California have treaty agreements with the Country of Mexico which authorizes the Mexico authorities to try an individual in Mexico for a crime committed in the United States based upon affidavits, the reality is that in many instances offenders cannot be located and when they are the paperwork involved in this process is almost overwhelming and very time consuming. Nevertheless, this office averages between one and two such prosecutions a year and they usually involve murder, attempted murder or child molest cases. A slightly different aspect of this problem is the fact that our Child Abduction Unit also averages about one or two cases a year where one of the parents involved violates a court order and absconds with the child to Mexico. Although we have been very vigorous in attempting to recover the children, it is an almost impossible task.

Hopefully, even though these remarks have been brief, the Committee generally perceives the magnitude of the impacts on local communities. Therefore, I will spend just a few of my remaining moments focusing on solutions. As I stated in my introduction, the solutions are quite simple. Basically, their likelihood of success will be geometrically proportional to the seriousness and commitment on the part of the federal government to making the fight against illegal immigration something more than simply political rhetoric.

1. THE IMMIGRATION AND NATURALIZATION SERVICE (I.N.S.).

There are two prongs to a successful I.N.S. program. The Sheriff has already eloquently articulated the need to enhance resources at the border in order to discourage, reduce and prevent illegal entry. As a corollary to any such enhanced enforcement program must be a commitment to a streamlined, timely and efficient I.N.S. enforcement program to pick up and deport illegal immigrants who have been arrested, detained or incarcerated in our local facilities. The latter without the former would be ineffective and the former without the latter would continue to allow non-deported recidivist illegal aliens to substantially contribute to serious crime problems in our local communities.

2. UNITED STATES ATTORNEY'S OFFICE - TOUGHER LAWS-HIGHER PROSECUTION PRIORITY.

The U.S. Attorney's prosecution for illegal entry into the country is almost non-existent. While there are currently laws making illegal entry into the country a crime, there are little resources, commitment or interest in prosecuting for illegal immigration status, regardless of how many times the individual has illegally entered the country or what havoc they have wrecked while here. I would propose that this Committee and Congress seriously consider legislation to create a new crime with substantial punishment for individuals who illegally enter this country after deportation and after having previously been convicted of a felony in any state or federal court. The legislation should create an additional crime or enhancement to the crime described above that

Congressman Stephen Horn
June 8, 1995
Page 4

would provide a greater punishment in a situation where an individual has illegally re-entered in this country after deportation and after having been previously convicted in a state or federal court proceedings and having served a prison term either in a state or federal institution.

The third aspect of this legislation needs to address individuals who have been in the country illegally on multiple occasions either in combination with the factors outlined above, or simply because of their status of having re-entered the country illegally on multiple occasions. Inasmuch as the statistics above indicate that, just in Santa Barbara County alone, illegal immigrants significantly contribute to serious crime, and compose at least 18% of the adult population in prison and 12% of the youth population in the Juvenile Institutions, it seems that there is abundant justification for such legislation.

Perhaps, this Committee or Congress should study the advisability of creating a prosecutor's arm of the Immigration and Naturalization Service to prosecute these newly created offenses. I realize present workloads make it difficult for the U.S. Attorney's Office to give priority to illegal immigration cases so perhaps either creating I.N.S. prosecution units or creating a specific division within the U.S. Department of Justice or U.S. Attorney's Office, is the answer to making sure that these referrals are given the priority they deserve.

As a corollary to this proposition, I also suggest that this Committee consider, and Congress explore, the possibility of working out a treaty, or some other type of agreement, with the country of Mexico to house in a Mexican penal institution those convicted of these crimes. Consideration could be given to expanding the proposal to cover some selected classes of inmates currently incarcerated in state or federal penal institutions.

3. THE SOCIAL SECURITY ADMINISTRATION.

You probably ask what the Social Security Administration has to do with illegal immigration and crime? Current Social Security Administration regulations and policies preclude the Social Security Administration from assisting local authorities in prosecuting California's laws related to the distribution, manufacture, sale and possession of phoney identifications commonly used by illegal immigrants for identification purposes. In the last six months combined law enforcement and District Attorney investigation efforts have uncovered two fairly sizeable operations producing and distributing phoney immigration documents and social security cards in this county. All attempts to gain Social Security Administration assistance in simply testifying to the phoney names and numbers on the SSN cards was fruitless. The Administration, while sympathetic, disclaimed their ability to assist us in these prosecutions based upon current regulations. This Committee and Congress should hear testimony on this problem and seriously explore either regulatory or legislative changes to

Congressman Stephen Horn
June 8, 1995
Page 5

allow the Social Security Administration to cooperate with local law enforcement officials when phoney social security related information or documentation was used.

I am not unmindful of the fact that some, if not all of the solutions I have recommended above will require an additional commitment of financial and personnel resources to combating the negative impacts created by illegal immigration in this county, state and country. However, in view of the astronomical amount of money that could be saved by a meaningful, full court press on illegal immigration, I believe that in the long run it would be a cost effective program. Moreover, I do not believe that either this Committee nor Congress should ignore the negative societal implications created by a policy of encouraging by beguine neglect illegal immigration to the point where it substantially detracts from the public's support and confidence in the ability of government to protect them from the negative financial, criminal and quality of life impacts created by the current illegal immigration crisis.

Very truly yours,



THOMAS W. SNEDDON, JR.
District Attorney

TWS:lf

Mr. HORN. We thank you. All three of you have given excellent testimony from your various perspectives as officials, and it has been most helpful, and we're delighted to have it pinned down to specific instances, and what you've encountered in terms of cooperation of the Federal agencies. That is basically the purpose of the hearing.

We want to make sure that INS has the resources that they need to get the job done. Social Security, same thing. There is no excuse for noncooperation unless Congress passed a law that prohibited cooperation. They might be, in Social Security's case, interpreting that law, but certainly it is laughable that they can't come in.

If it didn't make me so angry, my usual, normal low blood pressure has just risen when I hear of an example like that. If they can't tell and swear what is an official legitimate Social Security card versus what is a fraudulent document, that is a disservice to Social Security, a disservice to the county and State of California. We will pursue that one, I can assure you, coming up tomorrow morning.

I yield to the gentleman from Illinois, Mr. Flanagan for questions.

Mr. FLANAGAN. I have a couple of questions, but first a rejoinder to your commentary.

To provide a tamper-proof taxing document, which is what a Social Security card is, is not the same thing as having to demonstrate citizenship as a condition of employment. They're not the same thing. And to be able to provide a document to an employer so that you can be taxed properly, that you are the individual demonstrated on that is one thing. To have to prove that you are a citizen to be employed is another one entirely. The distinction is not artificial.

They are very different things you are asking to be required through the use of that Social Security card, which card was never intended to be a demonstration of your citizen, but which was intended to be an object by which you can be taxed.

Mr. SNEDDON. I think in the context of the law you're referring to, however, it is the same thing because all you have to do to protect yourself as an employer is ask the person for a Social Security card. You don't have to ask them whether they're a citizen or not.

Mr. FLANAGAN. I will tell you, though, that if it turns out that you have a fraudulent Social Security card—

Mr. SNEDDON. You won't be prosecuted for that.

Mr. FLANAGAN. You might not be prosecuted, but you might be regulatory fined by the INS, and that is a problem. I can give you legions of examples where that has happened. That is the difficulty with the laws.

We have heard from all of you on the great difficulty laid upon you by the Federal Government of the United States to make you enforcement agents of INS regulations.

Apart from moneys that I believe should be forthcoming to you to deal with the problems in the jails or the problems in the school, as the case may be, for the Federal Government's failure to do its job, and that is to control legal immigration, what further would you have the Federal Government do?

Perhaps I can ask the question a little more specifically. I am an original cosponsor of the first amendment to make English the official language of the Nation required to be taught in schools, required that you get through and you speak English coming and going.

Will that somehow help you along your way, and apart from the magnitude of constitutional amendment, are there regulatory matters in between that we can address very specifically and very quickly to help you get to where you need to be to reduce the financial burden?

Mr. STAFFEL. If I can try to respond to the question, the difficulty in trying to produce numbers, we can't identify the costs because we can't identify the individuals.

Mr. FLANAGAN. Assuming it is huge.

Mr. STAFFEL. We know it is increasing the burden upon the county. If there was a way to identify these individuals and to really provide incentive and have the costs, the increase of these programs borne by the Federal Government and identified, I think Congress would then associate these costs in this budget for these programs, and we will debate in Congress whether to extend these programs to illegal aliens or not. You would have a discussion.

Right now, what is happening, why I concentrate on the school so much, the State of California, because of the growth in school costs, is taking away local property taxes from counties. It is impacted. It means that residents of our county, taxpayers, are not having street lights. We are having difficulty funding park areas, libraries. Services that are being reduced because of the growth in mandated programs.

And we are convinced that the growth in those programs is due to illegal immigration. If the cost of that—just the cost of the growth of the programs; we're not even asking the full cost at this point in time—could be borne by the Federal Government and include an incentive of the Federal Government to identify these individuals and find out what that is.

I think it would facilitate the debate that you all are going to have in Congress.

Mr. FLANAGAN. I would agree with you. I would say that the single most colossal unfunded mandate is our inability to control our borders and to restrict illegal immigration. I just question the method, but you have identified one which Congress must address and must be prepared to pay for their inaction.

But my question was more specifically is there, apart from the incidental problems that you have given to Chairman Horn most specifically in your areas with the Social Security Administration and any particular instance, is there a regulation that you butt your head against regularly that makes it very hard for you to do what you do, pay the bills that you pay, or some public rule that needs to be augmented or changed in some way that will help you save the money to accomplish a better running local government?

Mr. STAFFEL. I think the biggest impediment are the various laws that and regulations that do not all to inquire or find out the status of individuals. I think you've heard the district attorney describe several instances specifically. To me, it is those regulations and those laws that are the biggest impediment.

Mr. THOMAS. I hate to use the trivial term of "Band-Aid" approach, but in a way it is. It is only helping us get through the problems until we find the solutions. Regulations aside, the resources have to be absolutely the key in this area, and you have to be able to attack the problem to stop it.

There is a lot of hoopla over 700 agents being hired. If you take that over the different States, that is 100 agents for California, and 15 investigators, which isn't a whole heck-of-a-lot when you're looking at the type of interior problems we have to face in a minimum of 100 California jails. That doesn't include the State system.

I think the laws are there if we are able to enforce them. It is the same thing on employer sanctions. I think if you have the ability to enforce it, then you will find that we're going to make some progress.

The district attorney stated that basically noninvolvement in trying to enforce the laws over the years has made a joke out of the whole system.

Mr. FLANAGAN. Chairman Horn alluded to that earlier. You and the district attorney have given excellent testimony about the importance of the localities identifying the problems at the very base level and having INS act on that, and not their desire not to, but their inability to because of the lack of resources.

Mr. THOMAS. I think we've made that point. It is because of the lack of resources. In talking with other personnel, in dealing with them in our jail, they have been more than cooperative, but they just don't have the number of people to be able to respond. We release people before they have the opportunity to be able to interview them.

I know that was brought up before, Chairman Horn, on how they're getting out. We're overcrowded like any other jail. We're under court order that we're not allowed to let anybody sleep on the floor. We regularly release inmates prior to their release date as a matter of routine.

As people are coming in for minor offenses, we don't do a questionnaire whether they are legal or not. We do not even take it into consideration when we do a release on their own recognizance or a release by citation. So there are a lot of people coming through the system and getting out before we could even make that identification, which I alluded to the direct connection part of CAL ID which would allow us to make those identifications if that were possible.

Mr. FLANAGAN. I think the answer to my question is obvious from the testimony, but I will ask it pointedly anyway. If the law permitted you to do that, would that be something you would be willing to undertake?

Mr. THOMAS. If the law permitted me to do what?

Mr. FLANAGAN. To go ahead and identify these people.

Mr. THOMAS. Absolutely.

Mr. FLANAGAN. Thank you, Mr. Chairman.

Mr. HORN. Thank you. I will follow up on one point that Mr. Flanagan elicited, and that is you have a classification system; you're under a court order; you do let a number of people out.

Has electronic incapacitation been used at all in Santa Barbara County?

Mr. THOMAS. Yes.

Mr. HORN. Could it not be used on illegal aliens and you could keep them homebound and they couldn't go to a job?

Mr. THOMAS. Why?

Mr. HORN. Well, if we can't get——

Mr. THOMAS. I don't mean to be——

Mr. HORN. No, but if we can't get them out and that's a difficulty, and they have time to serve, I guess I don't understand why they can't serve it at home if the jail is a revolving door because of the judge or policy or whatever.

Mr. THOMAS. Many do. We do have probably about 14 to 20 percent. Many do their entire sentence, not only in a county jail on a misdemeanor offense, but also on the State prisons.

So it is not an issue that they're not serving. It is an issue of not being able to identify for purposes of further deportation people who are coming through the system early on and getting out before there is an opportunity to identify or question them in the booking process.

We don't have the ability to do it, and INS does not have the personnel to be able to assist us like they're currently doing in the Los Angeles project.

Mr. HORN. That's an expensive proposition.

Mr. THOMAS. It is, but what we've got now is that group that the judge mentioned to me the other day, actual court cases within the last month where they are put in the jail in Los Angeles County for 1 year, they are out in 2 days because the sheriff's classification system is applied; they go back to Mexico, come back to the United States.

It just seems to me to make no sense, and all they say is, hey, just go in there, serve a couple of days and you're out and you go about earning money again.

Mr. SNEDDON. That could be a short-term solution if the Government—maybe the Federal Government would like to finance some of that.

But the long-term solution is more of the kind of things we've been talking about this morning, and that is simply stronger enforcement, picking them up faster in a 2-day period, like the pilot project that should be expanded throughout the court.

You asked about a regulatory change. There is one thing on this serious felons that could be done right now if the Federal Government would make a commitment and the U.S. Attorney General is that if they would enforce these laws and get some serious punishment—if somebody is incarcerated in State prison in California and the U.S. attorney prosecutes them federally, they could be released to the Federal courts, prosecuted, sentenced in the Federal court, and serve their time concurrently in a Federal facility.

That would significantly decrease the number of clients that we have in our State institutions, but there is no credibility on the U.S. Government side.

Mr. HORN. Yes, and we need to follow up on that. The question I should have asked the Director, and staff will please ask and let's get it on the record since everybody remains under oath for further questions, is the INS used to have a policy of taking people deep

into the interior of the country from which they came, not merely letting them go over the border to come back the next night.

It seems to me they've sort of gotten away from that policy. We need to know to what degree has that been a diplomatic situation of the State Department, the government of whatever, Mexico, El Salvador, Guatemala, you name it, 49 countries are involved, and at least make it a little more difficult for them to hit the southern border.

We, of course, didn't even get into the northern border this morning, but the committee will get into that because we have thousands coming over the northern border.

We also have—and I've sat down with the Coast Guard recently on this—thousands trying to come in by ship from China at both the Atlantic and the Pacific, at \$30,000 a crack, believe it or not; \$2,000 is put up to the mob in China, and then \$28,000 of indentured servitude is served over here.

The Coast Guard has been very effective in interdicting those vessels, and diverting them to Latin America so now you find Chinese from one province in China also coming over the border at night.

We need to get that on the record as to what the exact breakdown is on border catches, if we will, and get all the data we did ask for, but to spell it out in terms of where are the resources located in the interior of California to meet the needs such as counties Santa Barbara, San Luis Obispo, Monterey, so forth and so on.

Granted, we're asking them to do a lot, but if they aren't able to meet the need, they need to ask for the resources, and that's why I wanted in that earlier question to—I don't know if you were in the room—to trace it through what did they ask the Attorney General, what did the Attorney General ask the President, what did he ask Congress, and what did we do with it, because the only way you get at it is just keep tracking it down and putting the heat on.

I think Congress, as I said earlier, is at last acting like they should have acted 15 years ago, very frankly, and the President seems to have an interest in it. I think Secretary Cheney, Secretary of Defense, was the only one who helped get some equipment to the Border Patrol so he was one bright spot in 20 years of ineptitude, in 20 years of doing nothing, regardless of party.

That obviously has concerned me a long time, and we're going to try to put this together with our colleagues in the Senate and in the House and see if we can't make a little progress.

Mr. THOMAS. Getting back to what Congressman Flanagan asked about, some type of procedures at the Federal level. I am a believer in that a majority of the people who are doing time in California could and should do their time in the country of origin.

I know the district attorney and I feel that there are some crimes, especially major crimes, that they should do their time here because of ensuring that those times are done.

But the standards of commitment portion of the treaty would definitely have to be looked at there. Any issues in the treaty that would allow transfers to be made would be greatly appreciated. I know that was mentioned by other people here, but certainly from

the standpoint—I think I can speak for all California sheriffs—that we would support that concept.

Mr. FLANAGAN. I would offer you that I think another rationale for punishing a criminal in this country for that is because the offense was committed against Americans and that had a lot to do with having that here. Perhaps that has changed, perhaps it has not, but certainly it has changed enough to be able to discuss this out loud and talk about sending people back to the country where they came from, even though their transgression was here against citizens in this country.

Consequently, the concept of retribution and having their punishment here was overriding for a very long time.

Mr. THOMAS. It would seem to me that even if we paid for it, it is going to cost us a heck of a lot less than what it costs to incarcerate them in this country anyway.

Mr. FLANAGAN. You get no argument from me.

Mr. HORN. One last question. You probably are aware of some studies suggesting that illegal immigration generates a positive financial impact for Government. Do you agree or disagree with this conclusion and why or why not?

These studies came out of, as I recall, the University of California at San Diego. There are some national studies also that say, gee, they're just such a great benefit for society, and we make money and all that for taxes. What is your feeling on that?

Mr. STAFFEL. Mr. Chair, I'm not familiar with all of those studies. I've done a cursory review of them. I don't think they fully set forth the costs, the incarceration costs, the jail costs, the education costs.

I do have here today Linda Thom from the County Administrative office who has conducted a rather thorough review of those studies, and if Linda could come forward, maybe she might be able to provide some additional information.

Mr. HORN. If she could supply it for the record, I would appreciate it, because I would like you to be submitting it since you're the one under oath.

Mr. STAFFEL. We will supply it.

Mr. HORN. Yes. If you would, we would be delighted to have it. We need studies such as that that are fairly accurate at the local level. We've had some problems with studies of other counties in the congressional hearing that was held at the Los Angeles International Airport a year or two ago. We had some real qualms with how they had sorted it out, so we would be delighted to have your study and put it in the record.

How long is it?

Ms. THOM. I'm certainly not going to read it. It is about four pages long.

Mr. HORN. We will put the whole thing in the record. We appreciate those types of data.

Mr. STAFFEL. Two points on that, Mr. Chairman. One is that the critique of some of the existing studies to which you refer, and second, the data that we've set forth today, we deliberately made conservative estimates because of some of the very problems you've cited in prior testimony from local officials.

Mr. HORN. We appreciate that. Any further questions?

[No response.]

Mr. HORN. Let me just thank those who have been involved in this hearing, and I want to first start by thanking the city of Bellflower for making available this fine facility. It is a good intimate hearing room.

I saw the mayor pro tem, Ray Smith. He left. And Ruth Gilson I noted was here. I didn't see any other council members. Are there any?

VOICE. Former.

Mr. HORN. Former ones are? OK.

We want to thank you. It is a wonderful facility. We used your Bristol Auditorium for a great briefing by the Corps of Engineers and the Federal Emergency Management Agency on the flood control situation a few months ago, so we will come back and feel very welcome in this fine hospitable town.

Let me also thank the counsel to the committee, Mike Stoker, who is on my left; Mark Brasher, the professional staff member for putting this together. Don Goldberg of the minority staff is here, and Connie Sziebel who is the district director for me.

Then we have Pamela Lee of my office, Ron Coppock of the Bellflower City Hall. We want to particularly thank you. We really appreciate all your help to the staff in setting up this hearing. Then Patricia Broughton from the district office, 38th District. She is outside. She is a caseworker, and if you have problems with INS, that's where you head. And then Mara Zhelutta who is the official reporter. We're most grateful for you being here because we want a complete record, and we're sure you're going to give it to us.

With that, ladies and gentlemen, we adjourn this hearing, and we thank you for your testimony.

[Whereupon, at 12:10 p.m., the subcommittee hearing was adjourned.]

