

United States.

**TEMPORARY SUSPENSION OF DEPORTATION OF
CERTAIN ALIENS**

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HEARING
BEFORE THE
SUBCOMMITTEE ON
IMMIGRATION, REFUGEES, AND INTERNATIONAL LAW
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 4447

TEMPORARY SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

APRIL 12, 1984

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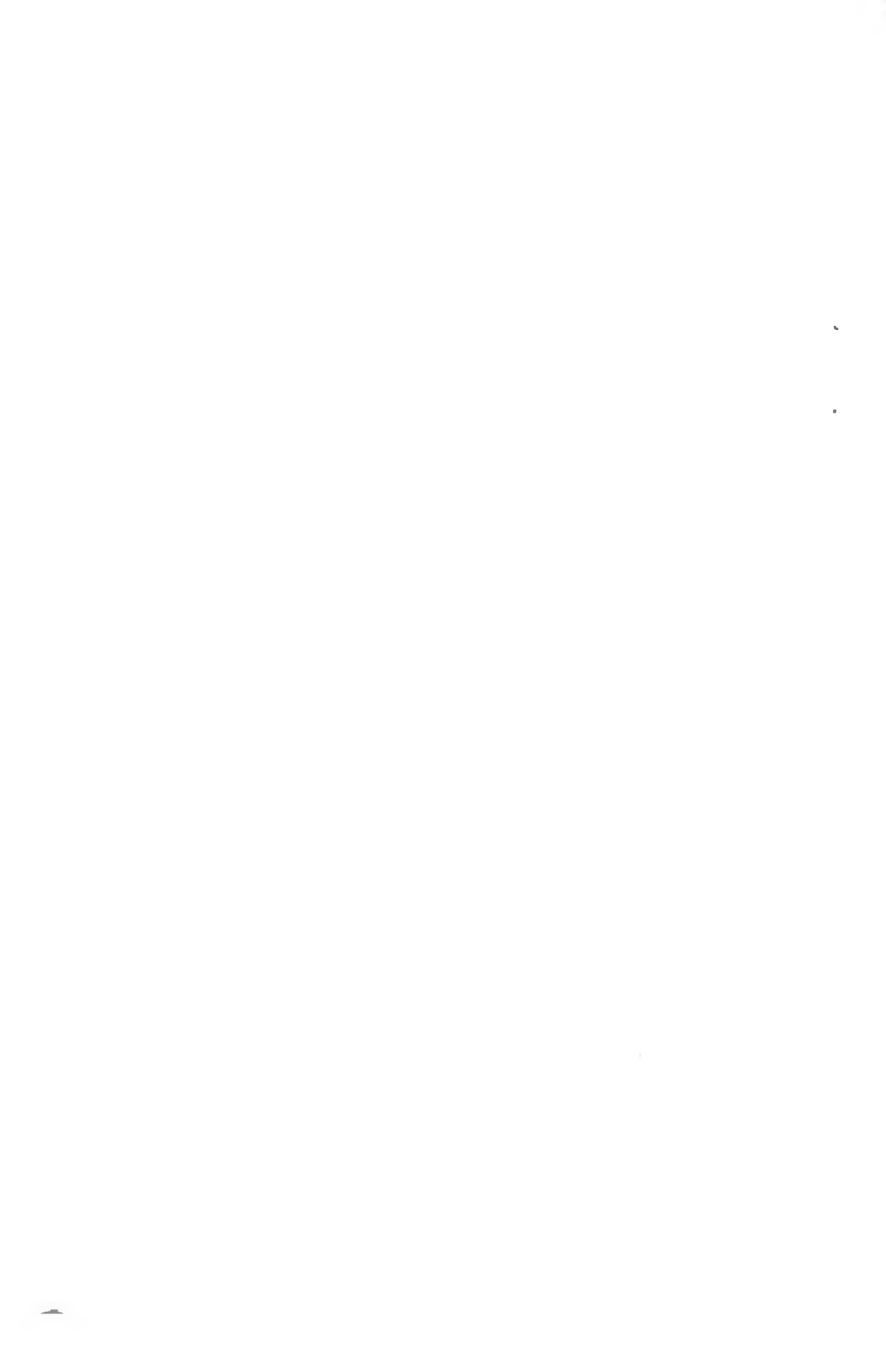
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TEMPORARY SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

THURSDAY, APRIL 12, 1984

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION, REFUGEES,
AND INTERNATIONAL LAW,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to call, at 9 a.m., in room 2237, Rayburn House Office Building, Hon. Romano L. Mazzoli (chairman of the subcommittee) presiding.

Present: Representatives Mazzoli, Hall, Frank, Crockett, Smith, Lungren, McCollum, and Fish.

Staff present: Arthur P. Endres, Jr., counsel; Lynn Conway and Eugene Pugliese, assistant counsel; Peter Regis and Bernadette Maguire, legislative assistants; and Peter J. Levinson, associate counsel.

Mr. MAZZOLI. Ladies and gentlemen, the subcommittee will come to order.

I will make a short opening statement and then yield to our friend from Massachusetts.

Today's hearing has been called to consider legislation which has been introduced to provide for the temporary suspension of deportation for Salvadoran nationals now in the United States.

This legislation, H.R. 4447, has been introduced by our distinguished colleague from Massachusetts, Joe Moakley, along with several cosponsors.

This subcommittee has closely monitored developments relating to the return of Salvadorans to El Salvador over the past two Congresses. In this connection, on my part a letter was sent to the Secretary of State in January of this year, requesting information from the Department with respect to a report on the status of those people who have been returned to El Salvador. The letter also requested an urgent submission of departmental reports on this legislation.

I am obliged to report that to date I have not received any response to our letter and the departmental report has been submitted only late this week.

Many of our colleagues feel strongly that our Government should grant extended-voluntary-departure status to Salvadorans in view of the conditions in their home, and in view of the fact that such status applies to Poles, Ethiopians, Afghans.

In today's hearing we will receive testimony from our friend from Massachusetts and other colleagues on this point. We will also today hear from administration witnesses with respect to why the administration sees the extended voluntary departure as not necessary or appropriate at this time.

[A copy of H.R. 4447 follows:]

98TH CONGRESS
1ST SESSION

H. R. 4447

To provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and to provide for Presidential and congressional review of conditions in El Salvador, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 1983

Mr. MOAKLEY (for himself, Mr. PRITCHARD, Mr. FRANK, Mr. WEISS, Mr. OTTINGER, Mr. JEFFORDS, Mr. TOWNS, AND Mr. LOWRY of Washington) introduced the following bill; which was referred jointly to the Committees on Foreign Affairs, the Judiciary, and Rules

A BILL

To provide for the temporary suspension of deportation for certain aliens who are nationals of El Salvador, and to provide for Presidential and congressional review of conditions in El Salvador, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 That (a) the President shall investigate and report to the
 4 Congress, not later than eighteen months after the date of
 5 the enactment of this Act, concerning—
 6 (1) displaced persons in El Salvador, including—
 7 (A) the number of such persons;

1 (B) the living conditions of such persons,
2 with particular attention to their personal safety
3 and the availability of food and medical assist-
4 ance;

5 (C) the resources available for humanitarian
6 assistance for them, including the methods and
7 policies respecting distribution of such assistance
8 and obstacles which may prevent the efficient and
9 equitable distribution of such assistance; and

10 (D) steps that can be taken to improve the
11 status of such persons;

12 (2) Salvadoran nationals who are displaced per-
13 sons outside El Salvador, including—

14 (A) the number of such nationals in Hondu-
15 ras, Guatemala, and Mexico, and

16 (B) the matters described in subparagraphs
17 (B) through (D) of paragraph (1) with respect to
18 such nationals; and

19 (3) the conditions and fates of aliens deported
20 from the United States to El Salvador, with particular
21 attention to those who have suffered violations of
22 fundamental human rights upon their return to El
23 Salvador.

24 SEC. 2. Upon Congress's receipt of the report described
25 in the first section of this Act but in no case later than two

1 years after the date of the enactment of this Act, the Com-
2 mittees of the Judiciary, of the House of Representatives,
3 and of the Senate, shall conduct hearings to consider—

4 (1) the availability of safe resettlement within El
5 Salvador or neighboring countries of displaced nation-
6 als of El Salvador, and

7 (2) treaty obligations of the United States, hu-
8 manitarian considerations, and previous practice of the
9 United States respecting the treatment of aliens in sim-
10 ilar circumstances,

11 in order to determine (A) the appropriate steps to be taken to
12 provide assurances of personal safety and adequate, efficient,
13 and equitable distribution of assistance with respect to Salva-
14 dorans who are displaced within El Salvador or who have
15 fled to other countries in Central America, and (B) whether it
16 is appropriate to extend, remove, or alter the restrictions
17 contained in section 3 of this Act.

18 SEC. 3. (a) The Attorney General shall not detain or
19 deport (to El Salvador) aliens described in subsection (b)
20 during the three-year period beginning on the date of the
21 enactment of this Act, except as may be provided by the
22 Congress after its consideration under section 2 of the Presi-
23 dential report submitted under the first section of this Act.

1 (b) The nationals referred to in subsection (a) are aliens
2 who are nationals of El Salvador who have been determined
3 to be deportable only under—

4 (1) paragraph (1) of section 241(a) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1251(a)), but
6 only as such paragraph relates to a ground for exclu-
7 sion described in paragraph (14), (15), (20), (21), (25),
8 or (32) of section 212(a) of such Act (8 U.S.C.
9 1182(a)), or

10 (2) under paragraph (2), (9), or (10) of section
11 241(a) of such Act (8 U.S.C. 1251(a)).

12 (c) With respect to an alien whose deportation is tempo-
13 rarily suspended under subsection (a) during a period, the
14 period of such suspension shall not be counted as a period of
15 physical presence in the United States for purposes of section
16 244(a) of the Immigration and Nationality Act (8 U.S.C.
17 1254(a)).

Mr. MAZZOLI. Without further ado, I welcome our friend from Massachusetts, Congressman Joe Moakley, who is the main sponsor of the bill, H.R. 4447. Joe, your statement, of course, will be made a part of the record, and we welcome you.

TESTIMONY OF HON. JOE MOAKLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. MOAKLEY. Thank you very much, Mr. Chairman. And I would like to thank you for holding hearings on this legislation today, and for giving me the opportunity to speak on behalf of H.R. 4447 and the Salvadoran refugees who face uncertain futures if sent back to their homeland.

You may be asking yourself why I became so interested in this issue, particularly because I am not a member of either the Judiciary or Foreign Affairs Committee.

This situation was first brought to my attention about 1 year ago by a number of church and human rights organizations in my district, as well as other individuals in my district in Massachusetts, who work with the Salvadoran refugee population in the Boston area. They approached me with dozens of horror stories of murders, torture, and imprisonment of Salvadorans.

In fact, the concern was so great that many churches in and around my district have put themselves in legal jeopardy by providing sanctuary to Salvadoran refugees rather than allow the Immigration and Naturalization Service to deport them.

These church and human rights groups had made numerous requests for extended-voluntary-departure status for these refugees. This is a status, as you have explained, has in the past been granted to other nationals from countries experiencing civil war and other dangerous conditions; countries including Ethiopia, Poland, Afghanistan, Uganda, and Lebanon, just to mention some of them.

However, Mr. Chairman, the State Department repeatedly denied these requests claiming that asylum procedures in this country were adequate and that the offers of safe haven in countries closer to El Salvador, such as Honduras, Mexico, or Costa Rica were sufficient to take care of the refugees needs.

Because of this lack of support by the administration and the absence of any congressional action on this refugee crisis, my constituents sought my assistance in bringing this matter to the attention of the Congress.

In April 1983, I received the support of 87 of my colleagues in sending letters to both the Attorney General and the Secretary of State urging that extended-voluntary-departure status be granted to Salvadorans in the United States until such time that it is safe for them to return to their homeland.

As you know, Mr. Chairman, the Department of Justice, in consultation with the Department of State, has the authority to temporarily halt deportation of refugees in very special circumstances; thus, I felt this was the most appropriate procedure to take in attempting to rectify the present situation. Unfortunately, our request was denied by both the Attorney General and by the Secretary of State.

The arguments stated in their responses, however, did not address the conditions within El Salvador, which is generally the relevant standard for EVD.

Efforts in the House of Representatives to remedy this situation continued with the passage of a sense-of-the-Congress clause in the 1983 State Department authorization bill which urged that Salvadorans be granted extended voluntary departure. The State Department, in spite of this urging, announced that EVD was not considered appropriate for Salvadorans at this time.

So because of the lack of action on the part of the State Department and the Justice Department to utilize the EVD provisions in the current INS regulations and because the conditions in El Salvador have failed to improve, I felt compelled to introduce legislation that would provide the necessary protection for these people.

As you know, H.R. 4447 calls for a temporary suspension of detention and deportation of Salvadoran nationals in the United States, while the administration conducts a study of the Salvadoran refugee situation in El Salvador and the surrounding countries.

The study would include the fates of aliens deported from the United States to El Salvador with particular attention to those who have suffered violations of fundamental human rights upon their return to El Salvador.

In addition, Mr. Chairman, a study of the conditions which face Salvadoran nationals, who are displaced persons both inside and outside of their homeland, would also be included.

The results of this assessment of conditions would be presented to the House and Senate Judiciary Committees to determine the best future course for immigration policy for this region. And also built into this legislation is a maximum time period of 3 years for the suspension of deportation, barring any actions that may result from this study and the committee assessment of the situation.

Now, clearly, the risks to the Salvadoran people have not diminished, as was suggested in the July 19, 1983, letter to me and my colleagues from the Attorney General. El Salvador remains in turmoil and civil war continues to tear apart the country both politically and economically; and there are serious shortages of food and medical supplies at the present time.

Random shellings and bombings, by both the left and right factions, have caused death and terror in the civilian population. Bridges and other infrastructure have been destroyed; the major roads to villages are often blocked or controlled by Government soldiers or rebel guerrillas.

Since 1979, the Socorro Jurid—my Spanish isn't that good, Mr. Chairman, so please forgive me.

Mr. MAZZOLI. Your English isn't all that good either, but that's neither here nor there. [Laughter.]

Mr. MOAKLEY. Yes, I know. Well, we coming from Boston speak awful funny.

Socorro Juridico Cristiano—which is not bad for—

Mr. MAZZOLI. That is pretty good.

Mr. MOAKLEY [continuing]. A high school graduate—an independent human rights organization, and the Tutela Legal, the official Human Rights Office of the Archdiocese of San Salvador, have tab-

ulated more than 38,000 murders of civilian, noncombatants, by Government forces.

Rightwing death squads have murdered and tortured hundreds of individuals who were believed to have so-called connections or sympathies with the rebel forces. And the rebel forces, in turn, have sought out those civilians who were believed to support the right.

Destruction of villages has caused major displacement of civilians, fleeing because of fear and because their homes were being destroyed.

A recent State Department report estimates that nearly one-half million Salvadorans still in El Salvador have been driven from their homes. Another one-quarter million people have fled to other Central American countries, and an estimated 300,000 to 500,000 are in the United States.

Now, while a number of Salvadorans were in this country before the onset of the civil war in 1980, at least half of them have arrived since that time.

Many of the individuals brought to my attention in the Boston area are professionals, church people, teachers, businessmen, who left promising careers and a good life in El Salvador. They fled to the United States not for a better life and not for a better job, but out of fear of their own lives and the lives of their families.

One man was a school principal, successful in that career. He owned his own home; he was raising a family. He left El Salvador to come to the United States for safety. He now opens clam for a living. I am certain that this is not his idea of a better life in America.

He wants to return to his country, as do the majority of the refugees in Boston and around the country who have sought assistance from the various church and human rights groups trying to help these people.

The primary conditions for granting extended voluntary departure or a temporary suspension of deportation as my bill calls for, appear to be based on dangerous, unstable conditions in the aliens' homeland; at least in the past of these criteria have always been cited as the reason for the approval of EVD.

Mr. Chairman, attached to my testimony are INS statements concerning previously granted extended voluntary departures to countries such as Poland, Afghanistan, Lebanon, and Nicaragua, all of which substantiate this claim.

Clearly the conditions in El Salvador, as documented by nearly every major human rights organizations in the world, are extremely dangerous.

There are some in the administration who would have us believe that asylum is a viable alternative for the Salvadoran refugees. I disagree. Asylum provides an opportunity for readjustment to permanent residential status. It is applied for on an individual basis and the person must be able to document actual, specific threats of dangers that make it unsafe for this individual to return to his or her country.

The number of asylum cases that have been granted are very low for Salvadorans. In 1983, Mr. Chairman, under 3 percent of the cases reviewed by INS district directors were approved.

Extended voluntary departure or a temporary suspension of deportation is not a permanent situation. It provides temporary safe haven until it is determined that it is safe to return to the homeland. When the suspension is lifted, those aliens must leave the country and INS will be able to enforce deportation procedures.

It does not confer any benefits on the people except the prevention of deportation and the opportunity to apply for permission to work. And I stress the word "apply." It does not guarantee, anyway, that they may work.

A temporary suspension of deportation as provided for in my bill, or EVD will encourage these aliens to register with the INS, thus, making it easier for this agency to estimate the number of aliens as well as their locations, a situation which will be helpful when the status is lifted and these people must leave the United States.

Mr. Chairman, this also frees the INS from dealing with these refugees and allows them to pursue other immigration problems that we face in our country.

Now, despite the fact that the Reagan administration is opposed to granting any type of temporary status to Salvadorans, I, nonetheless, strongly believe that this should be a bipartisan effort. The issue here is not administration foreign policy toward El Salvador. I repeat: It is not administration foreign policy toward El Salvador.

I have my own feelings about that, and I am sure that members of this subcommittee also have strong views on this issue. However, that should be the subject of a different debate.

The issue today is a humanitarian one. Put simply, we are deciding, in light of all the documented human rights violations in El Salvador, whether it is safe, humane, and just to deport Salvadoran refugees back to their homeland. I don't think it is.

There can be no doubt that the people of this war-torn country have suffered immensely, far more than most of us in this country can understand.

I feel that this modest piece of legislation does the minimum possible to protect these people from an uncertain future in El Salvador. It is a temporary measure that requires no additional fiscal burden to the budget.

It is a humanitarian gesture to these people, who through no fault of their own, have been displaced from their homes and their homeland, and have nowhere else to turn and who are afraid to go back to El Salvador.

Mr. Chairman, for many of these people, this bill could make the difference between life and death.

Thank you very much.

[The statement of Mr. Moakley follows:]

TESTIMONY BY CONG. JOE MOAKLEY (D-MA) ON HR 4447

MR. CHAIRMAN. MEMBERS OF THE COMMITTEE. I WOULD LIKE TO THANK YOU FOR HOLDING HEARINGS ON THIS LEGISLATION TODAY AND FOR GIVING ME THIS OPPORTUNITY TO SPEAK ON BEHALF OF H.R. 4447 AND THE SALVADORAN REFUGEES WHO FACE UNCERTAIN FUTURES IF SENT BACK TO THEIR HOMELAND.

YOU MAY BE ASKING YOURSELF WHY I BECAME SO INTERESTED IN THIS ISSUE, PARTICULARLY BECAUSE I AM NOT A MEMBER OF EITHER THE JUDICIARY OR FOREIGN AFFAIRS COMMITTEE.

THIS SITUATION WAS FIRST BROUGHT TO MY ATTENTION ABOUT A YEAR AGO BY A NUMBER OF CHURCH AND HUMAN RIGHTS ORGANIZATIONS, AS WELL AS CONCERNED INDIVIDUALS IN MY DISTRICT IN MASSACHUSETTS-- WHO WORK WITH THE SALVADORAN REFUGEE POPULATION IN THE BOSTON AREA. THEY APPROACHED ME WITH DOZENS OF HORROR STORIES OF MURDERS, TORTURE AND IMPRISONMENT OF SALVADORANS. IN FACT, THE CONCERN WAS SO GREAT THAT MANY CHURCHES IN AND AROUND MY DISTRICT HAVE PUT THEMSELVES IN LEGAL JEOPARDY BY PROVIDING SANCTUARY TO SALVADORAN REFUGEES RATHER THAN ALLOW THE INS TO DEPORT THEM. THESE CHURCH AND HUMAN RIGHTS GROUPS HAD MADE NUMERDUS REQUESTS FOR EXTENDED VOLUNTARY DEPARTURE STATUS FOR THESE REFUGEES. THIS IS A STATUS THAT HAS, IN THE PAST, BEEN GRANTED TO

OTHER NATIONALS FROM COUNTRIES EXPERIENCING CIVIL WAR AND OTHER DANGEROUS CONDITIONS: COUNTRIES INCLUDING ETHIOPIA, POLAND, AFGHANISTAN, UGANDA AND LEBANON.

HOWEVER, THE STATE DEPARTMENT REPEATEDLY DENIED THESE REQUESTS CLAIMING THAT ASYLUM PROCEDURES IN THIS COUNTRY WERE ADEQUATE AND THAT OFFERS OF SAFE HAVEN IN COUNTRIES CLOSER TO EL SALVADOR, SUCH AS HONDURAS, MEXICO OR COSTA RICA WERE SUFFICIENT TO TAKE CARE OF THE REFUGEE NEEDS.

BECAUSE OF THIS LACK OF SUPPORT BY THE ADMINISTRATION AND THE ABSENCE OF ANY CONGRESSIONAL ACTION ON THIS REFUGEE CRISIS, MY CONSTITUENTS SOUGHT MY ASSISTANCE IN BRINGING THIS MATTER TO THE ATTENTION OF THE CONGRESS.

IN APRIL OF 1983, I RECEIVED THE SUPPORT OF EIGHTY-SEVEN OF MY COLLEAGUES IN SENDING LETTERS TO BOTH THE ATTORNEY GENERAL AND THE SECRETARY OF STATE URGING THAT EXTENDED VOLUNTARY DEPARTURE STATUS BE GRANTED TO SALVADORANS IN THE UNITED STATES UNTIL SUCH TIME AS IT IS SAFE FOR THEM TO RETURN TO THEIR HOMELAND.

AS YOU KNOW, THE DEPARTMENT OF JUSTICE, IN CONSULTATION WITH THE DEPARTMENT OF STATE, HAS THE AUTHORITY TO TEMPORARILY HALT DEPORTATION OF REFUGEES IN SPECIAL CIRCUMSTANCES; THUS I FELT THIS WAS THE MOST APPROPRIATE PROCEDURE TO TAKE IN ATTEMPTING TO RECTIFY THIS SITUATION. UNFORTUNATELY, OUR REQUEST WAS DENIED BY BOTH THE ATTORNEY GENERAL AND THE SECRETARY OF STATE. THE ARGUMENTS STATED IN THEIR RESPONSES, HOWEVER DID NOT ADDRESS THE CONDITIONS WITHIN EL SALVADOR, WHICH IS GENERALLY THE RELEVANT STANDARD FOR EVD.

EFFORTS IN THE HOUSE OF REPRESENTATIVES TO REMEDY THIS SITUATION CONTINUED WITH THE PASSAGE OF A SENSE OF THE CONGRESS CLAUSE IN THE 1983 STATE DEPARTMENT AUTHORIZATION BILL WHICH URGED THAT SALVADORANS BE GRANTED EXTENDED VOLUNTARY DEPARTURE. THE STATE DEPARTMENT, IN SPITE OF THIS URGING, ANNOUNCED THAT EVD WAS NOT CONSIDERED APPROPRIATE FOR SALVADORANS AT THIS TIME.

BECAUSE OF THE LACK OF ACTION ON THE PART OF THE STATE DEPARTMENT AND THE JUSTICE DEPARTMENT TO UTILIZE EVD PROVISIONS IN CURRENT INS REGULATIONS AND BECAUSE THE CONDITIONS IN EL SALVADOR HAVE FAILED TO IMPROVE, I FELT COMPELLED TO INTRODUCE LEGISLATION THAT WOULD PROVIDE

NECESSARY PROTECTION FOR THESE PEOPLE. AS YOU KNOW, H.R. 4447 CALLS FOR A TEMPORARY SUSPENSION OF DETENTION AND DEPORTATION OF SALVADORAN NATIONALS IN THE UNITED STATES, WHILE THE ADMINISTRATION CONDUCTS A STUDY OF THE SALVADORAN REFUGEE SITUATION IN EL SALVADOR AND THE SURROUNDING COUNTRIES. THE STUDY WOULD INCLUDE THE FATES OF ALIENS DEPORTED FROM THE US TO EL SALVADOR WITH PARTICULAR ATTENTION TO THOSE WHO HAVE SUFFERED VIOLATIONS OF FUNDAMENTAL HUMAN RIGHTS UPON THEIR RETURN TO EL SALVADOR. IN ADDITION, A STUDY OF THE CONDITIONS WHICH FACE SALVADORAN NATIONALS WHO ARE DISPLACED PERSONS BOTH INSIDE AND OUTSIDE OF THE THEIR HOME LAND WOULD ALSO BE INCLUDED.

THE RESULTS OF THIS ASSESSMENT OF CONDITIONS WOULD BE PRESENTED TO THE HOUSE AND SENATE JUDICIARY COMMITTEES TO DETERMINE THE BEST FUTURE COURSE FOR IMMIGRATION POLICY FOR THIS REGION. BUILT INTO THIS LEGISLATION IS A MAXIMUM TIME PERIOD OF THREE YEARS FOR THIS SUSPENSION OF DEPORTATION, BARRING ANY ACTIONS THAT MAY RESULT FROM THIS STUDY AND THE COMMITTEE ASSESSMENT OF THE SITUATION.

CLEARLY, THE "RISKS" TO THE SALVADORAN PEOPLE HAVE NOT DIMINISHED AS WAS SUGGESTED IN THE JULY 19, 1983 LETTER TO ME AND MY COLLEAGUES

FROM THE ATTORNEY GENERAL. EL SALVADOR REMAINS IN TURMOIL AND CIVIL WAR CONTINUES TO TEAR APART THE COUNTRY BOTH POLITICALLY AND ECONOMICALLY. THERE ARE SERIOUS SHORTAGES OF FOOD AND MEDICAL SUPPLIES. RANDOM SHELLINGS AND BOMBINGS, BY BOTH THE LEFT AND RIGHT FACTIONS, HAVE CAUSED DEATH AND TERROR IN THE CIVILIAN POPULATION. BRIDGES AND OTHER INFRASTRUCTURE HAVE BEEN DESTROYED, THE MAJOR ROADS TO VILLAGES ARE OFTEN BLOCKED OR CONTROLLED BY GOVERNMENT SOLDIERS AND OR REBEL GUERRILLAS.

SINCE 1979, THE SOCORRO JURIDICO CRISTIANO, AN INDEPENDENT HUMAN RIGHTS ORGANIZATION, AND TUTELA LEGAL, THE OFFICIAL HUMAN RIGHTS OFFICE OF THE ARCHDIOCESE OF SAN SALVADOR, HAVE TABULATED MORE THAN 38,000 MURDERS OF CIVILIAN, NON-COMBATANTS, BY GOVERNMENT FORCES. RIGHT WING DEATH SQUADS HAVE MURDERED AND TORTURED HUNDREDS OF INDIVIDUALS WHO WERE BELIEVED TO HAVE SO-CALLED CONNECTIONS OR SYMPATHIES WITH THE REBEL FORCES. AND THE REBEL FORCES IN TURN HAVE SOUGHT OUT THOSE CIVILIANS WHO WERE BELIEVED TO SUPPORT THE RIGHT. DESTRUCTION OF VILLAGES HAS CAUSED MAJOR DISPLACEMENT OF CIVILIANS, FLEEING BECAUSE OF FEAR AND BECAUSE THEIR HOMES WERE DESTROYED.

A RECENT STATE DEPARTMENT REPORT ESTIMATES THAT NEARLY A HALF A MILLION SALVADORANS STILL IN EL SALVADOR HAVE BEEN DRIVEN FROM THEIR HOMES. ANOTHER 1/4 MILLION HAVE FLED TO OTHER CENTRAL AMERICAN COUNTRIES AND AN ESTIMATED 300,000 TO 500,000 ARE IN THE US. WHILE A NUMBER OF SALVADORANS WERE IN THIS COUNTRY BEFORE THE ONSET OF THE CIVIL WAR IN 1980, AT LEAST HALF HAVE ARRIVED SINCE THAT TIME.

MANY OF THE INDIVIDUALS BROUGHT TO MY ATTENTION IN THE BOSTON AREA ARE PROFESSIONALS: CHURCH PEOPLE, TEACHERS, BUSINESSMEN, ETC. WHO LEFT PROMISING CAREERS AND A GOOD LIFE IN EL SALVADOR. THEY FLED TO THE U.S. NOT FOR A BETTER LIFE AND BETTER JOB, BUT OUT OF FEAR FOR THEIR LIVES AND THE LIVES OF THEIR FAMILIES. ONE MAN WAS A SCHOOL PRINCIPAL, SUCCESSFUL IN THAT CAREER. HE OWNED HIS OWN HOME AND WAS RAISING A FAMILY. HE LEFT EL SALVADOR TO COME TO THE U.S. FOR SAFETY. HE NOW OPENS CLAMS FOR A LIVING. I AM CERTAIN THAT THIS IS NOT HIS IDEA OF A BETTER LIFE IN AMERICA. HE WANTS TO RETURN TO HIS COUNTRY AS DO THE MAJORITY OF THE REFUGEES IN BOSTON AND AROUND THE COUNTRY WHO HAVE SOUGHT ASSISTANCE FROM THE VARIOUS CHURCH AND HUMAN RIGHTS

AS DO THE MAJORITY OF THE REFUGEES IN BOSTON AND AROUND THE COUNTRY WHO HAVE SOUGHT ASSISTANCE FROM THE VARIOUS CHURCH AND HUMAN RIGHTS GROUPS HELPING THESE PEOPLE.

THE PRIMARY CONDITIONS FOR GRANTING E.V.D. OR A TEMPORARY SUSPENSION OF DEPORTATION AS MY BILL CALLS FOR APPEAR TO BE BASED ON DANGEROUS, UNSTABLE CONDITIONS IN THE ALIENS' HOMETLAND. AT LEAST, IN THE PAST THESE CRITERIA HAVE ALWAYS BEEN CITED AS THE REASON FOR APPROVAL OF E.V.D. ATTACHED TO MY TESTIMONY ARE I.N.S. STATEMENTS CONCERNING PREVIOUSLY GRANTED E.V.D.'S TO COUNTRIES SUCH AS POLAND, AFGHANISTAN, LEBANON AND NICARAGUA, ALL OF WHICH SUBSTANTIATE THIS CLAIM.

CLEARLY THE CONDITIONS IN EL SALVADOR, AS DOCUMENTED BY NEARLY EVERY MAJOR HUMAN RIGHTS ORGANIZATIONS IN THE WORLD, ARE EXTREMELY DANGEROUS.

THERE ARE SOME IN THE ADMINISTRATION WHO WOULD HAVE US BELIEVE THAT ASYLUM IS A VIABLE ALTERNATIVE FOR THE SALVADORAN REFUGEES. I DISAGREE. ASYLUM PROVIDES AN OPPORTUNITY FOR READJUSTMENT TO

PERMANENT RESIDENTIAL STATUS. IT IS APPLIED FOR ON AN INDIVIDUAL BASIS AND THE PERSON MUST BE ABLE TO DOCUMENT ACTUAL, SPECIFIC, THREATS AND DANGERS THAT MAKE IT UNSAFE FOR THIS INDIVIDUAL TO RETURN TO HIS OR HER COUNTRY.

THE NUMBER OF ASYLUM CASES THAT HAVE BEEN GRANTED ARE VERY LOW FOR SALVADORANS. IN 1983, UNDER 3% OF CASES REVIEWED BY I.N.S. DISTRICT DIRECTORS WERE APPROVED.

E.V.D. OR A TEMPORARY SUSPENSION OF DEPORTATION IS NOT A PERMANENT SITUATION. IT PROVIDES TEMPORARY SAFE HAVEN UNTIL IT IS DETERMINED THAT IT IS SAFE TO RETURN TO THE HOMELAND. WHEN THE SUSPENSION IS LIFTED, THOSE ALIENS MUST LEAVE THE COUNTRY AND I.N.S. WILL BE ABLE TO ENFORCE DEPORTATION PROCEDURES. IT DOES NOT CONFER ANY BENEFITS ON THESE PEOPLE EXCEPT THE PREVENTION OF DEPORTATION AND THE OPPORTUNITY TO APPLY FOR PERMISSION TO WORK. AND I STRESS THE WORD APPLY. IT DOES NOT GUARANTEE THAT THEY MAY WORK.

A TEMPORARY SUSPENSION OF DEPORTATION AS PROVIDED FOR IN MY BILL, OR E.V.D WILL ENCOURAGE THESE ALIENS TO REGISTER WITH I.N.S., THUS

MAKING IT EASIER FOR THIS AGENCY TO ESTIMATE THE NUMBER OF ALIENS AS WELL AS THEIR LOCATIONS. A SITUATION WHICH WILL BE HELPFUL WHEN THE STATUS IS LIFTED AND THESE PEOPLE MUST LEAVE THE UNITED STATES. THIS ALSO FREES THE I.N.S. FROM DEALING WITH THESE REFUGEES AND ALLOWS THEM TO PURSUE OTHER IMMIGRATION PROBLEMS IN THE COUNTRY.

DESPITE THE FACT THAT THE REAGAN ADMINISTRATION IS OPPOSED TO GRANTING ANY TYPE OF TEMPORARY STATUS TO SALVADORANS--I, NONETHELESS, STRONGLY BELIEVE THAT THIS SHOULD BE A BIPARTISAN EFFORT. THE ISSUE HERE IS NOT ADMINISTRATION FOREIGN POLICY TOWARD EL SALVADOR.

I HAVE MY OWN FEELINGS ABOUT THAT--AND I'M SURE THAT MEMBERS OF THIS SUBCOMMITTEE ALSO HAVE STRONG VIEWS ON THIS ISSUE. HOWEVER, THAT SHOULD BE THE SUBJECT OF A DIFFERENT DEBATE. THE ISSUE TODAY IS A HUMANITARIAN ONE. PUT SIMPLY, WE ARE DECIDING, IN LIGHT OF ALL THE DOCUMENTED HUMAN RIGHTS VIOLATIONS IN EL SALVADOR, WHETHER IT IS SAFE, HUMANE, AND JUST TO DEPORT SALVADORAN REFUGEES BACK TO THEIR HOMELAND. I DON'T THINK IT IS.

THERE CAN BE NO DOUBT THAT THE PEOPLE OF THIS WAR TORN COUNTRY HAVE SUFFERED IMMENSELY. FAR MORE THAN MOST OF US IN THIS COUNTRY CAN

COMPREHEND. I FEEL THAT THIS MODEST PIECE OF LEGISLATION DOES THE MINIMUM POSSIBLE TO PROTECT THESE PEOPLE FROM AN UNCERTAIN FUTURE IN EL SALVADOR. IT IS A TEMPORARY MEASURE THAT REQUIRES NO ADDITIONAL FISCAL BURDEN TO THE BUDGET.

IT IS A HUMANITARIAN GESTURE TO THESE PEOPLE, WHO THROUGH NO FAULT OF THEIR OWN, HAVE BEEN DISPLACED FROM THEIR HOMES AND HOMELAND AND HAVE NO WHERE ELSE TO TURN AND WHO ARE AFRAID TO RETURN TO EL SALVADOR. FOR MANY OF THESE PEOPLE, THIS BILL COULD MAKE THE DIFFERENCE BETWEEN LIFE AND DEATH.

THANK YOU.

[See appendix for attachments.]

Mr. MAZZOLI. Joe, thank you very much. That was very well stated and I appreciate your taking the time to join us.

Let me yield myself 5 minutes for questions and I will go around the panel to the extent we have people here.

Yes, thank you, Dan, if you would.

Mr. LUNGREN. Mr. Chairman, I ask unanimous consent that the subcommittee permit coverage of this hearing in whole or in part by television broadcast, radio broadcast, or still photography, in accordance with committee rule V.

Mr. MAZZOLI. Is there objection?

Hearing no objection, it is so ordered.

Mr. MOAKLEY. Is that ipso facto?

Mr. MAZZOLI. That is right.

Mr. LUNGREN. On this subcommittee.

Mr. MAZZOLI. All the good part is already in the can, Joe, you don't have to worry, it is already there. We don't erase tape around here, that is for sure. [Laughter.]

Joe, let me again yield myself 5 minutes, and ask my distinguished colleague just a couple of questions because, you know, this thing is going to have to go through the subcommittee, full committee, the full process.

Mr. MOAKLEY. I understand, Mr. Chairman, and it is right on your shoulders.

Mr. MAZZOLI. While you have put it very forcefully, and I think in a way very poignantly, the situation that you have found, like

any question that reaches this table, there are different facets to it, but let me ask you this question:

You say, Joe, that there would be no financial involvement here, and I think in times, dollars ought not to be valued and balanced against lives. But let me just get to that point because we just yesterday passed big tax bills, we will have budget reconciliations coming up today.

If EVD were to be adopted for this group of people which might amount to 300,000 to 500,000 in the United States, would not many, many of them not be able to work either because they can't physically work, because they don't have a skill, because they would be in the jobs where they would be below minimum wages; would they not then turn to the State or to, for example, Boston, or to the State of Massachusetts, for help, and would that not add to the burden of the States?

Mr. MOAKLEY. Mr. Chairman, the way that most of them have fared up to now is they have been taking jobs that nobody else wants, the dishwashing type, the pot scrubbers, the street cleaners. And the difference, what they need to live on and what they are making, has been provided by church and charitable groups. They have not been on the backs of the city and State governments.

Mr. MAZZOLI. There has been some thought that the States, and counties, and cities are right now gearing up legislation that would, you know, provide—the same as it has been for refugee legislation—a Federal reimbursement or Federal support for any kind of fiscal impact that these people would have on their welfare system.

Mr. MOAKLEY. This doesn't bestow upon them any rights to apply for welfare, it just simply temporarily halts the deportation; then they have got to fend for themselves. It gives them the right to apply for permission to work, but it doesn't guarantee them actual work.

Mr. MAZZOLI. You say that this would not permit the people to get Federal or State benefits?

Mr. MOAKLEY. No.

Mr. MAZZOLI. Your bill doesn't, but I wonder if your bill would prevent them from getting this? It would probably not prevent them from obtaining it if they qualified.

Mr. MOAKLEY. The civilization of this bill is to provide a safe haven until the situation down in El Salvador subsides.

Mr. MAZZOLI. Joe, when you were consulting with your staff and with legal counsel in drafting the bill, is there some reason that the bill does not have a terminal date, a starter, or an end date to it? Because as you referred in your testimony to the State Department authorization that has a cutoff date. All the Salvadorans in before January 1, I think it was 1983. There is some point in not having this kind of a rolling thing which doesn't cut or set up a universe of people.

Mr. MOAKLEY. Mr. Chairman, it doesn't allow any Salvadorans to come into this country; they all came in illegally. So it really doesn't open the gates or close the gates, it just deals with the people who are currently in the country at the present time.

Mr. MAZZOLI. You don't think that their dates would fit into the bill in any fashion?

Mr. MOAKLEY. If the committee in their wisdom feel that you want open dates or closed dates, it is all right with me. But I just felt that we are dealing with a population that is dispossessed because of fear of human rights if they return to their own country.

Mr. MAZZOLI. Joe, let me ask you another question, if I could, please.

In reading your bill, I assume that first the President has to investigate and report to Congress—

Mr. MOAKLEY. That is right.

Mr. MAZZOLI [continuing]. And then Congress conducts the sort of hearings, or in any case the committees of Judiciary would conduct hearings to consider the bill—

Mr. MOAKLEY. We put a constraint on time there, Mr. Chairman, so that this thing doesn't drag on ad infinitum.

Mr. MAZZOLI. I think that is a good idea.

Let me ask you this: Do you contemplate, or does your bill contemplate, in effect Congress deciding at some point when conditions have improved or abated enough to allow the people to safely return?

Mr. MOAKLEY. The administration, through their investigation, through their study. I mean, I would—

Mr. MAZZOLI. Expect them to make it.

Mr. MOAKLEY [continuing]. I would love to be able to say the State Department would take care of it by themselves and just grant extended-voluntary departure as they have done in many other cases, which I don't think were as serious as the condition we see in El Salvador. But they haven't done it, so we have to force it upon them somehow.

I don't enjoy my role in this situation.

Mr. MAZZOLI. Do you think in effect, as you view your bill, Congress, at some point, following receipt of this information from the President would make a determination.

Mr. MOAKLEY. That is right.

Mr. MAZZOLI. Thank you. My time has expired.

The gentleman from California.

Mr. LUNGREN. Thank you, Mr. Chairman.

This is obviously a controversial issue. It is one that, as you suggested, perhaps we wouldn't want to visit unless the circumstances were such as some perceive it that we have to do something here.

I am concerned, as all of us are on this panel, about circumstances in El Salvador and elsewhere in Central and South America. The question here is, of course, are the circumstances so unique in El Salvador relative to the rest of this hemisphere that we are going to make a specific exception in this case?

I have, at virtually every townhall meeting I have in my district, as we do have a not inconsiderable El Salvadoran population throughout southern California, have people requesting that I support this legislation based on the premise that the people who are returned are in fact being persecuted.

My question is this, Joe: Currently, Salvadorans in the United States apply for asylum and the standard, of course, is that the applicant meet the refugee test of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

Now, that is done on an individual basis. Why, if in fact, these individuals cannot meet that test, ought we to have extended-voluntary departure for these individuals which in essence allows them to stay in the United States? And I assume we are doing that based on the fact that they are in fact subject to this sort of persecution.

Mr. MOAKLEY. In your case, you are talking about a person being able to say a specific organization is out to get him or her. In this case it doesn't work that way. Many of these people are killed by either the left or right as a general situation that exists down there, and they can't specifically say what organization is going to do what to them, at what time. It is not easy to substantiate.

But by looking at the paper, some 40,000 people have been killed by Government forces down there in the last 5 years—and this is not my figure, it is put out by the Tutela Legal down there.

Mr. MAZZOLI. Tutela Legal.

Mr. MOAKLEY. And this is after much substantiation and very hard work in putting the figures together.

If you look at the records, there have only been 3 percentage points of El Salvadorans given asylum because it is so hard to make a case on individual torture, or incarceration, or murder.

But if you are talking about human rights, I mean, let's talk about human rights. In today's paper, Thursday, April 12, a column by Robert McCartney, page A37, and if I may, just take these two paragraphs out:

But the United States help does not enable the Air Force to avoid hitting civilians according to the human rights activists. The Roman Catholic Church's Legal Oversight Office, which monitors the civil war's impact on civilians, said the number of civilians killed during military operations rose from 195 in February to more than 300 in March.

Now, how can a fellow go before the INS and make a case out that he is going to be one of those people that are being killed?

Mr. LUNGREN. Let me just ask you this: I have asked organizations that have come to me to give me an example of where we have deported an individual to El Salvador and where that person has been abused or murdered.

According to Mr. Abrams testimony, the written testimony that we are going to receive a little later, this quotation appears: "What is remarkable is that we have not come across a single case of abuse or murder of a deportee, nor has anyone contacted suggested that he knew of such a case." I have asked every group that has come to me to give me documented cases for the last year and a half, and I have yet to receive one.

Mr. MOAKLEY. Here is a list of 61 people that have been killed that has been documented—right there.

Mr. LUNGREN. May we have that?

Mr. MOAKLEY. You may have it.

Mr. LUNGREN. We will be happy to turn that—

Mr. MOAKLEY. OK.

Mr. LUNGREN [continuing]. Over to the State Department and ask for that information.

Mr. MOAKLEY. OK. I would like to make it part of the record so that you people can look at it and check it out.

Mr. MOAKLEY. This has been done by an organization that is extremely cautious in substantiating—

Mr. LUNGREN. I would be happy to look at it because that is the first time I have gotten any evidence from any group despite the fact that I have been asking for the last year and a half. I frankly don't know what I am going to do on this legislation.

Let me just put it this way. We have been fighting for 6 years on an immigration bill; at least I have since I have been in the Congress. And I know one of the toughest nuts we are going to have to crack when we go to the floor, if in fact we go to the floor—

Mr. MOAKLEY. I agree with you.

Mr. LUNGREN [continuing]. Is going to be legalization. We have got people who, for very sincere reasons, don't believe we ought to have legalization of those people who are here illegally.

Now we are confronted with a situation in which we are being asked to have extended-voluntary departure. I admit there are people being killed in El Salvador, but in my home State of California we have had 30,000 people murdered since we got rid of the death penalty. There have been over 600,000 deaths in the United States, I believe, by murder over the last two decades.

Mr. MOAKLEY. Well, I am sure the cause of their murders is far different from the cause of the people who are in El Salvador, in the midst of a political situation.

Mr. LUNGREN. The standard right now with asylum is persecution and—

Mr. MAZZOLI. The gentleman's time has expired.

Joe, may I refer to that study? Have those people who have been documented killed or was that that name matchup which said that you couldn't find them thereafter?

Mr. MOAKLEY. What happened was, as I understand it—and I stand to be corrected—this was a name matchup, address matchup, and date-of-birth matchup whenever possible. If they just had similar names they couldn't do it.

They have two choices: they have the mother's name and the father's name which makes it a little easier. But also they had many instances—witnesses, and they also had dates of birth, and addresses, I guess.

Mr. MAZZOLI. Do you know, just out of curiosity, or would your staff know, whether this was ever presented to the State Department, do you know?

Mr. MOAKLEY. Five or six of the cases have been sent to the State Department according to—

Mr. MAZZOLI. And do you know who did this study, Joe?

Mr. MOAKLEY. The ACLU did it in concert with one of the church groups down there.

Mr. MAZZOLI. OK, thank you very much.

Gentlemen, if you wouldn't mind my recognizing the gentleman from Michigan, who was here earlier. The gentleman from Michigan is recognized.

Mr. CROCKETT. Thank you, Mr. Chairman.

Congressman, the only quarrel I have with your proposal is that it doesn't go far enough.

Mr. MOAKLEY. I am glad to hear that.

Mr. CROCKETT. I am sympathetic to the plight of the Salvadorans but I am also sympathetic to the plight of several other groups of nationals who find themselves in the same position.

It is my understanding that we really don't have any general policy on extended voluntary departures and, for the most part, it is discretionary with the Attorney General and the Immigration Service.

Mr. MOAKLEY. The gentleman is correct.

Mr. CROCKETT. I am wondering, then, if it wouldn't be better if this committee recommended some general policy on extended voluntary departure and created statutory standards by which it would be granted. In other words, it would be a separate class of relief from asylum. Asylum has an element of permanency to it. Extended voluntary departure would be more or less temporary; the amount of time would be left to the discretion of the Attorney General.

What do you think of that?

Mr. MOAKLEY. I think that is fine, and this could very well be part of your immigration bill. But I think you have probably got enough problems with the present bill without adding any more. That is why I looked at this as an individual situation, of course, the big difference between extended voluntary departure and asylum is asylum gives you permanence and extended voluntary departure is just a temporary thing that ceases to exist once the human-rights violations disappear in the person's country.

In the past, the State Department, in concert with the Attorney General, have done it for Uganda, Ethiopia, Lebanon, Poland, Iran, and many other countries. It just seems to be a mental block when it comes to somebody in Central America.

Mr. CROCKETT. Not just Central America, also the Caribbean.

Mr. MOAKLEY. Yes.

Mr. CROCKETT. I don't see any indication here that the extended departure policy has been extended to anyone from Central America or from the Caribbean, for that matter.

Mr. MOAKLEY. I think they did it the one time—

Mr. CROCKETT. It has been extended, I think, to the people in Chile.

Mr. MOAKLEY [continuing]. In the Nicaraguan situation.

Mr. CROCKETT. Thank you, Mr. Chairman.

Mr. MAZZOLI. Thank you very much. The gentleman from New York.

The gentleman from New York is recognized for 5 minutes.

Mr. FISH. Thank you.

Mr. Chairman, I regret I was not here at the opening of this hearing and I would like to read a statement if I might.

Mr. Chairman, the Congress of the United States has been interested for some time in the need for humanitarian treatment of nationals of El Salvador involved in deportation proceedings.

In its markup last May of the Immigration Reform and Control Act, the Judiciary Committee added a sense-of-Congress statement supporting extended voluntary departure for nationals of El Salvador, "until such date as the Secretary of State determines that the situation in El Salvador has changed sufficiently to permit their safely returning to El Salvador."

The Department of State Authorization Act for fiscal years 1984 and 1985 also addressed the issue of extended voluntary departure status. That legislation expressed the sense of the Congress that nationals of El Salvador who arrived before January 1, 1983, should be granted extended voluntary departure "until the situation in El Salvador has changed sufficiently to permit their safely residing in that country."

Legislation mandating a moratorium on Salvadoran deportations is the next logical step in view of administration reluctance to carry out congressional wishes.

I personally attempted, prior to the introduction of H.R. 4447, to persuade the State Department to undertake a study of: (1) Salvadorans displaced within their own country; (2) Salvadorans who have fled to other countries in the region, and (3) Salvadorans sent back by the United States. Pending completion of these studies, I urged the administration to declare a moratorium on the deportation of Salvadorans.

Now, I took this tack in an effort to have the more expeditious administrative remedies to the situation your measure addresses, Joe. I realized, looking at your bill, that it would be months—and it has been months—before we would have a hearing on it. It calls for a report within 18 months. So I asked the Secretary of State last November to simply initiate these reports himself.

Now, this effort has achieved limited success. The State Department did advise me early in February that it was organizing a program to monitor a limited number of Salvadoran returnees—and we have with us this morning Assistant Secretary Abrams who will give us an update on that matter.

The position of the Department of State on the study of the condition of displaced persons within El Salvador and the condition of Salvadorans who have fled to Honduras, Guatemala, or Mexico is not clear. The Department did state that it could not agree to a moratorium on the deportation of Salvadorans pending completion of the study.

So, against this background we consider the question of whether a legislative statement is needed to accomplish the objectives we seek. During our hearings and markup, the members of the subcommittee will have a chance to address the one significant difference between my recommendation to the administration and the treatment of a moratorium in H.R. 4447.

I recommended a moratorium pending completion of the studies in contrast to a 3-year moratorium in the pending legislation. This bill, I understand, would require an act of Congress, again a cumbersome procedure at best, to end the moratorium earlier. This difference in approach, however, does not detract from the need for a moratorium.

Joe, along with my colleagues, I welcome you here. From the tone of the questions to this point, I hope you realize that we are going to have to make a record of the danger to individuals in order that they qualify for extended voluntary departure. We will need good evidence of the violence and persecution that is likely to free persons who return.

Now, I guess my first question is what your view might be of my initiative to try to get an administrative response to the goals that

you seek in your legislation? And specifically, would you agree with me, I am sure, that a moratorium would mean a faster result on the writing of these reports by the administration?

Mr. MOAKLEY. I would love a moratorium, in fact, I wrote on April 27, 1983, to George Shultz and the Attorney General William French Smith just asking for extended voluntary departure at this time. Legislation, of course, is the last resort. I mean, I would love to see them do it on a voluntary basis.

Mr. FISH. But would you go this far: If the administration initiated the moratorium and they got out one of the three studies underway—and this would get them busy, you know, on the other two—would you then leave it up to them to terminate the moratorium if their studies tell them—not the Congress—that there is no well-founded fear of persecution?

Mr. MOAKLEY. There have been reports out of the administration, that I have disagreed with. And as long as we, the Congress, could take a look at the information contained and agree with their findings, I wouldn't mind.

Mr. FISH. There is one other alternative here that will be discussed by other witnesses, but one of the problems here, of course, is the displaced population. And when we do return somebody, one of the problems is that they do become part of the displaced population. That is why it is so difficult to check on their whereabouts. And you get these people who have to leave and are in neighboring countries.

What do you think of our making it possible if somebody does leave the country—and this is provided for in our basic immigration law anyway, as far as the country of reception to which a person will go—for them to have an option of going back, or going to a camp in a neighboring country run by the United Nations High Commissioner for Refugees?

Mr. MOAKLEY. I just think it would be a black eye on this country, which professes to be so concerned with human rights, that when somebody comes to this country because they feel their human rights are being violated in their own country, that then we have to find another country to send them to.

I mean, every time we talk about foreign bills or foreign budgets, we always put a human rights amendment in it to make sure that country is observing human rights. And now we find that a country may be violating the human rights of its people, we say, well, OK, but they should take care of it there, and we don't want to be bothered with it in our own country.

I just think that we should show by example what we mean by human rights. And this is a great way to do it.

Mr. FISH. Joe, you realize that all of these people that are returned have extensive investigations and the determinations are made on an individual basis that they are economic migrants and that they would not fear persecution in the event they are returned.

I mean, I agree with you if it is a straight case of human rights, but that is the issue.

Mr. MOAKLEY. I think what we have to do is look at the conditions in that country. Are the conditions in that country so that

they could be returned safely and without any violations of human rights, without any fear of incarceration, torture, murder?

I think that is what we have to look at; not if X, Y, Z is going to be murdered when he goes back there. What are the conditions of the country? Does it afford a safe return if he is returned there?

And as far as people coming to this country for economic reasons, before they came here—I showed where we have lawyers working as stockboys, principals of schools working opening clams in this country, which you can't say is upward mobilization in any form. So I just think that economic reasons aren't the reasons that most of these people are here.

Mr. MAZZOLI. The gentleman's time has expired.

The gentleman from Massachusetts.

Mr. FRANK. Thank you, Mr. Chairman, I won't take too long. I notice that several of our colleagues are also here.

I want to just congratulate my colleague, Mr. Moakley, for taking this initiative. It is a very courageous one. I am in general agreement with him. I think there will have to be some work in the markup. There are obviously not a lot of votes in helping in situations like this, so I want to thank the gentleman.

One thing occurred to me as we were talking which is the Attorney General might be at this point particularly sympathetic to the notion of someone remaining on extended-voluntary-departure status since, as I understand it, he is now, himself, in extended voluntary-departure status pending the confirmation of his successor. [Laughter.]

So perhaps we will get a little more understanding.

Mr. MOAKLEY. At least when he leaves here, Mr. Frank, he is going back to a safer haven. [Laughter.]

Mr. FRANK. Yes, I think that is probably true.

I just want to ask one point for the gentleman, because one thing I think ought to be taken into account is what are the conditions in the United States? It does seem to me that no harm is done. I understand that is not conclusive, there are a lot of people who would like to come here. And we ought to remember that that is a fact to be proud of, that America remains the kind of place where so many people want to come.

Given the number of people that are here, where they are, the willingness that they have to do the kind of jobs the gentleman is talking about; it does seem to me that we are talking about people who do no harm by their presence here.

Is there any allegation by anybody that these are people who while here have been criminals or recipients of public assistance? Are these people who, by their presence here, are in any way exacerbating any domestic problems?

Mr. MOAKLEY. Most of the people that have been brought to my attention, Congressman, are people who are taking those jobs that just go unfilled, the dishwashers, the lowest forms of employment; living in organizations set up by churches and other charitable organizations; and they are not availing themselves of any public money.

Mr. FRANK. I thank the gentleman. I yield back to the gentleman.

Mr. MAZZOLI. The gentleman from Florida is recognized for 5 minutes.

Mr. SMITH. Thank you, Mr. Chairman.

I want to congratulate my colleague, Mr. Moakley. This is obviously a bill which reflects a grave concern that many of us have about the problems as they relate to the people from El Salvador and as Judge Crockett indicated, from other areas.

Of course, my area has one of those places where there are large numbers of Salvadorans besides the Washington area, which contains that many. The problem as my colleague knows, obviously, is that there aren't that many other places around the United States where the people are all that concerned about the problems. And that makes it difficult to get going a coalition of a large number of members who are sympathetic.

I have some concerns like Mr. Fish in terms of the problems as they relate to the economic refugee rather than the political refugee. But I do think that you are right in the sense that there is so much to be understood about the goings on in the countries whence they came. Even if they were at one time economic refugees, there is a problem when they go back. Because many of the people, and I think this is important and I would like to hear from you on this, many of the people who in fact have come here to the United States have then started to do things when they were in the United States—send money back to their relatives, try to get their relatives to come here—things which the governments in those countries tend to view on a negative basis.

Have you found any of that to be the case where once they come here even for economic status, all of a sudden they become marked in one way or another, or they go on a questionable list, or maybe, as some of us, did they go on a list like the USIA says, well, we are not too suspect of them but we are not going to let them go around telling our story to the rest of the world?

What is your experience?

Mr. MOAKLEY. Most of the people I have been exposed to are people who just want to go back. They are just here temporarily they don't assimilate, they stay to themselves, they are just waiting until the peace returns to their country, when they feel it is safe to go back; and they want to return to that farm or that job, their homes, their families.

I haven't met anybody that wants to stay here permanently. Many of them really aren't crazy about being in Boston, you know, in December.

Mr. MAZZOLI. I can understand that, Joe.

Mr. MOAKLEY. Yes.

Mr. MAZZOLI. Or even in July, take any month, I can understand that.

Mr. SMITH. What about the fact that if they were to be refused EVD and sent on their way at an earlier date before the problems in the country are resolved? Do all of them feel that they have at that point some fear for their safety?

Mr. MOAKLEY. Most of them do. See, what they do now, they have mandatory voting. You have a voting card, you have a number on that card. When you go to the poll they put that

number on the ballot and they stamp your card as being voted. That identification card has to be with you at all times.

If you start walking the street and you haven't voted, you are in big trouble. That is a crime and who knows what would happen to you. That shows that you have been away from your town, your community. And why were you away from your community, and where were you? So there are all kinds of questions that arise. And that is another way that these people are put in jeopardy.

Mr. SMITH. Last year at the Conference Committee on the State Department authorization bill, on which I sat, we passed a sense of the Congress resolution. Frankly, I was one of those that helped in that; Congressman Frank was a help in getting it started at the committee conference, which was to at least let the administration know that we were concerned about it.

Would you have any information as to how sympathetic they were after the law was adopted and the sense of Congress was there?

Mr. MOAKLEY. All I can tell you, the chairman has written to the administration, and he is still awaiting response. The response that I received from the Attorney General and the Secretary of State, they felt there was no need for extended voluntary departure at this time.

Mr. SMITH. How many people would you say right now, today, fall into the category of those who would in fact qualify if EVD became a reality, and what are the breakdowns in terms of geographical area, do you know?

Mr. MOAKLEY. As far as Salvadorans, depending upon which figure you want to use, they range from 200,000, which I think the State Department uses, to 500,000, which church groups all over the country have made their own kind of census to see how many people are in this country. So, anywhere from 300,000 to 500,000 people would be affected under this proposal.

Mr. SMITH. Now, all of them at this time, or most of them, have no actual legal right to be here?

Mr. MOAKLEY. Exactly.

Mr. SMITH. Most of them are here legally or illegally?

Mr. MOAKLEY. Illegally. And that is the reason for the extended voluntary departure.

Mr. SMITH. Arrived here legally or illegally?

Mr. MOAKLEY. I think both, but probably the greater number illegally.

Mr. SMITH. Do you have any of the numbers in terms of concentration of population as to where they center the most?

Mr. MOAKLEY. It is a very difficult figure to get since they don't come in and register with their local INS agent, you know, nobody knows where they are for any degree of certainty. So these figures that we put out are very hard to substantiate in many cases.

Mr. SMITH. There are communities springing up, however?

Mr. MOAKLEY. I think they are spread pretty well all over. There are some areas in the Midwest; very conservative churches that are providing sanctuary for these people, and very much in favor of this type of legislation.

Mr. MAZZOLI. I am sorry, the gentleman's time has expired.

Mr. SMITH. Thank you.

Mr. MAZZOLI. Let me yield myself another couple of minutes, Joe, and just ask a couple of wrap-up questions.

First, to be sure that the record is right, the people who would qualify for EVD under your bill would have to be tested against the exclusions. You would not take in right wing death squad members or former members of anything; is that correct?

Mr. MOAKLEY. Yes, that is right.

Mr. MAZZOLI. So you are not by the wave of a wand here, perhaps keeping people in the country who ought not to be here?

Mr. MOAKLEY. No.

Mr. MAZZOLI. All right.

Second question: There is some objection to the fact that in the last section of your bill you talk about prohibiting detention of any Salvadoran, not just deportation, but detention, on the idea of being that there is a lot of activity that the INS must engage in, for example, at the border when the Salvadorans are coming in, which could require their detention. And they would be put in a class very different than any other people coming in from Nicaragua or anywhere else.

Mr. MOAKLEY. I understand that presents a problem.

Mr. MAZZOLI. All right.

Another thing would be, Joe, you mentioned about the doctor who is shucking oysters, or something, opening clams; once that person's status is legal, of course, I don't expect that doctor to shuck clams, he then can get cars here, then can—

Mr. MOAKLEY. Probably shuck people.

Mr. MAZZOLI. Shuck people, maybe, there you go, but for a good fee.

The question is, because we wrestle with this with the immigration bill, Joe, and that is some people who are in the country illegally take jobs from U.S. citizens.

Mr. MOAKLEY. My bill allows them to apply but doesn't guarantee that they can get jobs.

Mr. MAZZOLI. I understand, I understand.

Mr. MOAKLEY. I don't think that hospitals are going to open up—

Mr. MAZZOLI. But what I am saying is do you think there ought to be something like we tried to do in our bill to set up job certifications so to say that if a Salvadoran were to apply for a job, but an American wants it and it is certified that the American wants it, do you think that the Salvadoran should be given preference in that sense?

Mr. MOAKLEY. No, I am not looking for any preference, believe me. If there are two people applying for a job, and one is an American citizen, give it to the American citizen. I have no problem with that. I just don't want them to go back and—

Mr. MAZZOLI. Sure, sure, I appreciate that.

Mr. MOAKLEY [continuing]. End up in some prison, be tortured or killed, that's all.

Mr. FRANK. If the gentleman would yield, that means we won't see many Salvadorans in the mailroom, I take it, from the gentleman? [Laughter.]

Mr. MAZZOLI. Whatever you said, I agree with, Barney. I couldn't understand it, but whatever you said I agree with.

Mr. FRANK. That doesn't exclude the elevators.

Mr. MAZZOLI. Joe, let me ask you about this, too, you know, enforcement, because if you go down to the border, the INS has a lot of people trying to gain entry into the country—many of them are Mexican and many of them are other than Mexican, and many of those are Salvadorans.

Do you think that the law ought to be enforced at the border if the person identifies himself or herself as a Salvadoran, should they be let in?

Mr. MOAKLEY. Since they are coming in illegally, I don't see why they should be let in. I am just dealing with the people that are in the country at the present time.

Mr. MAZZOLI. So you would have no objection to stern enforcement at the border against the very people who might, if they got to Boston, it would be OK?

Mr. MOAKLEY. No.

Mr. MAZZOLI. I thank my friend. If there are no other questions, I thank you very much.

Mr. MOAKLEY. I don't want anybody to perceive this as an opening up of all our borders to everybody from El Salvador. That is not the purpose of it, just the people who are already here from El Salvador. I just don't want to deport them back to an area that violates their human rights and could be fatal.

Mr. MAZZOLI. I think that the testimony from the panel suggests and salutes you for your sensitivity, Joe, and we thank you very much, and we appreciate you coming.

Mr. MOAKLEY. I thank the committee.

Mr. MAZZOLI. I would like to then call forward three of our colleagues, Congressman Jerry Patterson, Congressman Sam Gejdenson, and Congressman Mike Lowry. If the gentlemen would come forward, please.

Let me welcome all of you gentlemen, you are cosponsors of Joe's bill, each of you has been strong in this regard. I might say for all three of you, your statements are a part of the record.

TESTIMONY OF HON. JERRY M. PATTERSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA; HON. MIKE LOWRY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WASHINGTON; AND HON. SAM GEJDENSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CONNECTICUT

Mr. PATTERSON. Thank you, Mr. Chairman, and members of the subcommittee.

I want to commend you for taking this matter up and certainly our colleague, Joe Moakley, for taking up an issue that is not very popular, does not bring one many votes from one's home district. As a matter of fact, I, perhaps, would not be here if it were not for a very strong belief in God and my church, in my country, and its practice for human rights; and the fact that about 5 weeks ago I personally visited El Salvador. Because of that I felt that I must be here today.

I have submitted my testimony and I will comment from it, perhaps. In addition to that, Mr. Chairman, since I submitted the testimony I have received a copy of the Lawyers Committee for Inter-

national Human Rights, America's Watch, dated April 1984. It is basically hot off the press. It is on El Salvador's other victims, the war, and the displaced. I would like to offer that to the subcommittee as evidence in the record, if I may.

Mr. MAZZOLI. Certainly, without objection, we will receive it. Thank you very much.

Mr. PATTERSON. Thank you.

Mr. PATTERSON. Mr. Chairman, at the outset, I also wish to make it clear that I do not advocate that the United States permanently resettle displaced persons from troubled nations in our hemisphere or throughout the world, for that matter.

I am here to explain how I believe we can avert future emergency. This is possible if we act now to confirm significant human rights progress and offer humanitarian protection through international relief programs.

Over the past few years, I joined a number of Members of the House in urging the administration to lay the groundwork for peace in Central America. We requested justice be sought in cases where American clergy and journalists have been slain or have disappeared in El Salvador.

Finally, we have asked the administration to recognize the conditions of turmoil and civil war which have caused hundreds of thousands of Salvadorans to seek refuge in neighboring countries and in the United States.

The administration seems to be sending mixed signals about what it perceives a human rights situation in El Salvador to be. The inconsistency is evident when, for example, during his December 1983 trip to El Salvador, Vice President Bush strongly lectured senior Salvadoran officials about the need to eliminate death squad terrorism.

The President himself has also said: "We cannot believe in human rights and ignore the activities of death squads in some Central American countries."—a clear reference to El Salvador.

As a cosponsor of H.R. 4447, I give my strongest support and urge your strong support of the bill.

From February 15 to 20 of this year, I was in El Salvador. As chairman of the International Development Institutions and Finance Subcommittee of the Banking Committee, I traveled with a group of private citizens throughout the country.

In this 5-day period, I met with President Magana, U.S. Ambassador Pickering, government and military officials, American military advisers, central bank officials, and businessmen. And after having done all that in the usual red carpet embassy tour, I took several days, unescorted, and, as a matter of fact, in so doing was required to sign a release for responsibility on my life. The Embassy didn't particularly like the fact that I went without their protection, but it was a way to get out in the country and observe and see other people.

During that time I met with the Catholic University human rights documentation section, Tutela Legal, the Mothers of the Disappeared, political prisoners at the women's prison at Ilopango, and at the men's prison at Mariona, and U.S. AID refugee program representatives.

I met also, out in the countryside, many displaced Salvadorans, who fear for their lives and the lives of their families. I met with people who have personally experienced torture and mutilation, and I saw some of that mutilation.

In all, the most disturbing evidence of human rights violations in the country of El Salvador is obvious through the Salvadorans themselves. Surviving amidst unabated civil unrest, many Salvadoran people have simply lost hope.

The direction of U.S. policy in Central America and in El Salvador is crucial. The administration's current approach, I believe, will yield no positive results. Changes must come in our ability to confirm progress toward human rights, protection of individuals, economic development, political stability, and peace.

In keeping with our national interest to establish a strong policy in El Salvador, I think that we need to thoughtfully link the issues, the efforts, and the results of U.S. decisions affecting Central America, and Congress has an important role to play in that process.

The fiscal year 1984 Authorization Act included language urging extended voluntary departure be granted for Salvadorans. Unfortunately, the congressional intent has not been followed by the administration.

Letters from the administration in July 1983 cite several reasons for denying extended voluntary departure to Salvadorans in the United States. First, the administration says that violence is not sufficient to warrant Salvadorans coming to the United States and that Salvadorans are economic refugees rather than persons fleeing terror.

I can personally tell you from my experience that was not the case. And you need only look in the testimony of Mr. Kissinger, the President, and the Vice President to see a conflict of administration policy.

Mr. Kissinger's report says, and I quote:

* * * the war effort suffers most of all from the terrible violence engulfing El Salvador's civilian population. Since 1979, more than 30,000 noncombatants have been killed. Government security forces and the rightwing death squads associated with them are guilty of many thousands of murders. These enemies of nonviolent change, above all, threaten hopes for social and democratic reform.

Another explanation that the administration gives is that Salvadorans can seek safe harbor in neighboring Central American countries. No mention is made of the fact that these other countries have already absorbed tens of thousands of Salvadorans, Guatemalans, and others, and unless they receive further humanitarian assistance through the U.N. High Commissioner, they are incapable of providing further protection.

In July 1983, the UNHCR reported that of 244,000 displaced Salvadorans in Mexico and Central American countries, only 35,141 were receiving international assistance.

The administration expresses concern that extended voluntary departure will send a signal which will promote extensive illegal migration to the United States. The fact of the matter is that in fleeing intolerable conditions in their homeland, many Salvadorans have already entered illegally.

I believe it is in our best interest to grant security to Salvadorans through temporary legal protection against deportation, rather than allowing their continued illegal presence in the United States.

I come before your subcommittee today to urge your support for H.R. 4447 and thank you for your patience.

Mr. MAZZOLI. Thank you very much, Jerry.

Mike, please.

[The statement of Mr. Patterson follows:]

COMMITTEE ON
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PUBLIC LANDS

SELECT COMMITTEE
ON CHILDREN, YOUTH
AND FAMILIES



Congress of the United States
House of Representatives

JERRY M. PATTERSON
38TH DISTRICT OF CALIFORNIA

April 12, 1984

Subcommittee on Immigration, Refugees and International Law

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Chairman Mazzoli, and Members of the Subcommittee, it is a pleasure to be invited here today for what I hope is the first of many hearings on the status of the displaced persons of El Salvador.

At the outset, I would like to make it clear that I do not advocate that the United States permanently resettle displaced persons from troubled nations in our hemisphere and throughout the world. Representing a district which knows the consequences of a refugee crisis, I am here only to explain how I believe we can avert future emergency. This is possible if we act now to confirm significant human rights progress and offer humanitarian protection through international relief programs.

Over the past few years, I have joined a number of our House colleagues in urging the Administration to lay the groundwork for peace in Central America. We have requested justice be sought in the cases of American clergy and journalists who have been slain or have disappeared in El Salvador. Finally, we have asked the Administration to recognize the conditions of turmoil and civil war which have caused hundreds of thousands of Salvadorans to seek refuge in neighboring countries and in the United States.

Unless the Administration has reconsidered its position, it might appear that it is sending mixed signals about what it perceives the human rights situation in El Salvador to be. Inconsistency is evident when, for example, during his December 1983 trip to El Salvador, Vice-President Bush strongly lectured senior Salvadoran officials about the need to eliminate "death squad" terrorism. The President has also said: "We cannot believe in human rights and ignore the activities of death squads in some Central American countries", a clear reference to El Salvador.

The State Department Country Report issued in January, 1984, also attests to the Administration's mixed signals on the human rights situation in El Salvador. From this report, I quote: "Abuse of human rights remains a central problem, despite efforts of the government to end violence from right-wing death squads, some of which have links to the security forces, and from its own security forces, as well as from the guerrilla left. The level of political violence remains high, but noncombatant deaths have declined steadily since a peak in 1980. The number of disappearances in 1983 remained at about the same level as in 1982. Elements within the Government security forces are still believed to use torture as arbitrary punishment or to extract information from suspected leftists. Individuals can be and are arrested without warrants, detained for investigation, sometimes for long periods before charges are brought, and if charged with such crimes as sedition and treason, rarely brought to trial."

"All human rights conditions in El Salvador are strongly affected by on-going civil strife. As is common during civil strife, the achievement of a public order that would protect each person's rights has been disrupted by military operations, partisan hatreds, acts of revenge, the satisfaction of personal grudges, pervasive fear, and a prevailing uncertainty dominated by violence..."

As a cosponsor of H.R. 4447, I would like to discuss why I believe this legislation deserves the strongest support of the Congress and the Administration.

From February 15th to 20th, I was in El Salvador. As Chairman of the International Development Institutions and Finance Subcommittee of the House Banking Committee, I travelled with a group of private citizens throughout the country. In this five-day period, I met with President Magana, U.S. Ambassador Pickering, government and military officials, American military advisors, central bank officials, businessmen, political prisoners, agricultural cooperative workers and private citizens. The U.S. Embassy actually demanded that I sign a release relieving the Embassy of responsibility for my safety during major portions of my trip.

My purpose for going to El Salvador involved the current and future commitments of U.S. economic assistance. This trip permitted me to gather information about the effects of our development efforts and to establish evidence about human rights in El Salvador. I came away believing that the United States can do more to maintain a better balance between economic support and development projects in El Salvador. I saw a policy that was all

carrot and no stick, with poor accountability for U.S. funds and poor records on Salvadoran actions. In my view, granting the Administration's request for a 182% increase in assistance to El Salvador should not be permitted without some commitment to humanitarian objectives. I believe that the Presidential report and Congressional review required by H.R. 4447 will begin this process.

Clearly some new procedure of documenting the real situation in the country is necessary as the Administration has subverted Congressional intent behind the certification of human rights requirement. The Department of State, in country after country, has strained credibility by certifying that progress in human rights is being made despite hundreds of murders and disappearances, while torture and abuse by military units continues with unabated horror. My experience leads me to conclude that these certifications were wholly without merit.

The Administration's incorrect view of the human rights situation prevailing in El Salvador leads it to deny EVD status to Salvadorans. Yet, the level of violence is borne out in human terms by the numbers of displaced Salvadorans. Figures indicate that over 468,000 are registered with the Salvadoran government as displaced persons, and tens of thousands more who have fled to Nicaragua, Honduras, Costa Rica and Mexico are without assistance. The inability of these countries to provide needed levels of assistance is well known, and international aid agencies can provide only basic sustenance. With compelling statistics like these, it is easy to understand why hundreds of thousands have also fled to the United States and very understandably do not wish to return until violence in their homeland subsides.

During my trip to El Salvador, I met with the Catholic University human rights documentation section, Tutela Legal, the Mothers of the Disappeared, political prisoners at the women's prison at Ilopango and at the men's prison at Mariona, and U.S. AID refugee program representatives. I met many displaced Salvadorans, who fear for their lives and the lives of their families. I met with people who have experienced torture and mutilation, the disappearance and murder of their loved ones. In all, the most disturbing evidence of human rights violations in the country of El Salvador is obvious through the Salvadorans themselves. Surviving amidst unabated civil unrest, the Salvadoran people appear to have lost hope.

The direction of U.S. policy in Central America is crucial to the people of El Salvador. The Administration's current approach will yield no positive results. Changes must come in our ability to confirm progress toward human rights protection, economic development, political stability, and peace. It is in keeping with our national interest to establish a strong policy

framework toward El Salvador, and the whole of Central America, which thoughtfully links the issues, the efforts, and the results of U.S. decisions affecting Central America. Congress has an important role to play in this process.

As a cosponsor of H.R. 4447, I favor fact-finding and analysis of the conditions of persons who have been returned by the United States to El Salvador and of refugee protection efforts in general. I believe it is all too possible that deportation prior to accountability and assurance of safety, could mean an early death sentence to returned Salvadorans. I understand there are a number of documented cases to illustrate the truth of this point, but little or no official accounts of the whereabouts of over 20,000 Salvadorans returned by the U.S. since 1980.

The FY84 State Department Authorization Act includes language urging EVD be granted for Salvadorans. Unfortunately, Congressional intent has not been followed.

Letters from the Administration in July, 1983, cite several reasons for denying EVD to Salvadorans in the U.S. First, the Administration says that violence is not sufficient to warrant Salvadorans coming to the U.S. and that Salvadorans are economic refugees, rather than persons fleeing terror. This explanation is presented in spite of Mr. Kissinger's Commission findings that "...the war effort suffers most of all from the terrible violence engulfing El Salvador's civilian population. Since 1979 more than 30,000 non-combatants have been killed. Government security forces and the right-wing death squads associated with them are guilty of many thousands of murders. These enemies of non-violent change above all threaten hopes for social and democratic reform."

Another explanation is that Salvadorans can seek safe harbor in neighboring Central American countries. No mention is made to the fact that these refuge countries have already absorbed tens of thousands of Salvadorans, Guatemalans, and others, and are, without further humanitarian assistance through the U.N. High Commissioner, incapable of providing further protection. In July, 1983, the UNHCR reported that of 244,000 displaced Salvadorans in Mexico and Central American countries, only 35,141 were receiving international assistance.

The Administration expresses concern that EVD will send a signal which will promote extensive illegal migration to the U.S. The fact of the matter is that in fleeing intolerable conditions in their homeland, many Salvadorans have already entered illegally. I believe it is in our best interest to grant security to Salvadorans through temporary legal protection against deportation, rather than allowing their continued illegal presence in the U.S.

I come before the Subcommittee today to urge your support for H.R. 4447 as a reasoned approach toward reviewing the humanitarian conditions in El Salvador. I urge the Administration to apply apolitical standards in determining whether "extended voluntary departure status" is warranted, as in the cases of Ethiopians, Nicaraguans, Poles, Afghans, Ugandans and Lebanese.

Incidentally, I encourage the efforts of First Asylum Commissioner, Diana Zanetti, to accelerate the adjudication of asylum claims. As desirable a goal as this is, I do not believe it will present a permanent solution to the problems inherent in the asylum process. Asylum requires a case by case review of the applicants' well founded fear of persecution, results in year-long evaluations, and causes tremendous backlogs. I do not believe it should be a substitute for granting temporary legal protection to certain groups in the United States. By virtue of its case by case determinations, asylum does not resolve the circumstances imposed on displaced persons fearing generalized violence and persecution.

I thank the Subcommittee for your consideration of H.R. 4447. I know you share my interest in promoting peace, security and humanitarian relief for Salvadorans and all Central Americans who have fled to our country for safety.

Mr. LOWRY. Thank you, Mr. Chairman. I want to thank you and the committee for devoting this time to this important subject. I think the attendance and participation by the subcommittee today shows how concerned you are on this.

Mr. MAZZOLI. Mike, if I could in that sense, let me tell how proud I am of our subcommittee. This is true in almost everything we do. This is a very, very hard working panel. I am very proud of the amount of time these people spend on a lot of things with a lot less sort of panoply that this has.

Mr. FRANK. He is just trying to box us in so we can't walk out when he starts. [Laughter.]

Mr. MAZZOLI. That is part of it.

Mr. LOWRY. It is excellent, and great for the subcommittee. Unfortunately, many other subcommittees of the entire Congress don't have as great a participation.

Mr. MAZZOLI. I am very, very proud of it.

Mr. LOWRY. You are to be congratulated.

I am here also in support of H.R. 4447. I would like to point out that Congressman Joel Pritchard, who shares the Seattle area in representation with myself, is also a cosponsor of this bill before us. And that is because in the Seattle area, as in other areas, we have grave concern about this problem. There are a number of churches in the Seattle area that have provided sanctuary, many more on the way to providing sanctuary at this time for Salvadoran refugees because of the problem of the deportation.

I have a lengthy statement that, with your permission, I would like to just submit for the record. I know you would like to hear me read every word of it.

Mr. MAZZOLI. Oh, sure, I might forego that great pleasure once in my life.

Mr. LOWRY. OK, thank you.

I would like to just read two paragraphs to make one point, Mr. Chairman, and confine it to that.

Mr. MAZZOLI. No problem.

Mr. LOWRY. A staff report prepared for the lesser body Subcommittee on Immigration and Refugee Policy, after a field investigation in El Salvador in 1983, September, said the following:

The 300 to 350 Salvadorans who are currently being returned by the U.S. to El Salvador each month are subject to the same violence every resident of the country faces, but there is clear evidence that no governmentally sanctioned program to target or harass returning Salvadorans simply they have been in the U.S.

However, no official agency has conducted a follow-up study on individual Salvadorans returned by the U.S. Private, non-governmental groups cannot, without great difficulty, undertake such an assessment on their own without the cooperation of the United States Immigration and Naturalization Service and the United States Embassy.

A point that the Moakley bill gets to to be able to get us some real information.

It could be argued that the case for H.R. 4447 is weakened by the lack of conclusive evidence that deportees are singled out for attack on their return to El Salvador. I do not believe that that is the case.

H.R. 4447 is not premised on any assumption that the deportees are singled out for harassment. It is premised on the view that there is an extraordinary level of violence in El Salvador to which virtually everyone in the country is exposed. And as a result, our current deportation policy appears to endanger individual lives.

Based on indications such as the Center for Immigration Studies finding, we should suspend the deportations until we find out more complete information about our policy's effect on the lives of individuals.

Thank you very much, Mr. Chairman.

Mr. MAZZOLI. Thank you, Mike.

[The statement of Mr. Lowry follows:]

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INTERNATIONAL DEVELOPMENT
INSTITUTIONS AND FINANCE

MERCHANT MARINE AND FISHERIES
(ON LEAVE)

April 12, 1984

Mr. Chairman, I would like to express my appreciation for this opportunity to testify in support of H.R. 4447. This bill represents an important chance for us to take a positive step toward maintaining our nation's great humanitarian traditions. H.R. 1510, the Simpson-Mazzoli bill, contains language expressing the sense of the Congress that extended voluntary departure should be granted to Salvadoran refugees, and the House amended the fiscal year 1984 State Department Authorization act to include similar language. H.R. 4447 is a thoughtful and moderate effort to follow up on these expressions of concern.

I am particularly grateful for this chance to testify because the issues of extended voluntary departure and "safe haven" for Salvadorans in the United States are very important to the people I represent. H.R. 4447 has been cosponsored by our colleague Joel Pritchard as well as myself, so it has bipartisan support from both members of Congress who represent Seattle.

Many of my constituents, especially religious leaders of many faiths and others in the church community, have expressed to me their deep concern about the need for a change in current U.S. policy. In fact, some of these highly respected community leaders have worked to provide safe haven, or sanctuary, for individual refugees, even though the Immigration and Naturalization Service views sanctuary as a violation of the law. As a member of this body, I take with the utmost seriousness my oath to uphold our nation's laws. I am therefore all the more moved and troubled when decent, honorable people in my community find that their convictions lead them to take steps of this nature. Members of Seattle's legal community are also actively working on behalf of Salvadoran refugees.

Extended voluntary departure status, a temporary permission to remain in the United States, is the most appropriate status for Salvadoran refugees, as it is for other refugees who would face dangerous conditions on return to their native countries. These people face generalized, random, or arbitrary violence rather than individual persecution. Already, extended voluntary departure is provided for nationals of Lebanon, Poland, Afghanistan, Uganda, Ethiopia, and Nicaragua. There can be little doubt that the level of violence in El Salvador is comparable to that in these countries, if not greater.

In contrast, asylum exists to aid individuals who can demonstrate that they face a threat of persecution. Some Salvadoran refugees have been able to meet this test and have been granted asylum. But for many Salvadoran refugees, asylum is not the most appropriate remedy. Extended voluntary departure is.

Granting extended voluntary departure to these refugees will also benefit our country. It will give individual refugees an incentive to make themselves known to the authorities. It will help reduce a logjam in requests for asylum. It will only entitle refugees to seek authorization to work here. It will not enable refugees to apply for permanent resident status after one year in the U.S. From talking to my constituents, I can add that it will also reaffirm for many Americans their faith in our system of government and our strength, wisdom, and compassion.

My second point relates to the pervasive violence in El Salvador. Estimates of fatalities over three years range from 30,000 to 40,000 people. In a nation of about 5,000,000 people, that is somewhere under 1% of the population. It is as if 1.3 million to 1.8 million Americans were to die in civil conflict. As many as one and a quarter million Salvadorans have fled their homes. A tenth of the population are displaced persons in the country; 15% are refugees in other countries. An estimated 300,000 to 500,000 are in the United States.

The violence extends to people in El Salvador who are not Salvadorans. The case of the two murdered American advisors to the Salvadoran land reform program is of particular concern to me because one, Mark Pearlman, was from Seattle. It is worth mentioning briefly because it illustrates how the Salvadoran judicial system functions even in a highly publicized case. On January 3, 1981, Mark Pearlman, his colleague Michael Hammer, and Jose Viera, the director of the land reform program, were murdered in the Sheraton Hotel in San Salvador by two national guardsmen armed with a machine gun. The two guardsmen have implicated others in the murder, but the cases against them have been dismissed or they have been released from custody. One, Captain Eduardo Alfonso Avila, was released on March 22. A U.S. Embassy spokesman has stated that "We are convinced from early interviews in which polygraphic examinations were used that Captain Avila knows a great deal about the murders."

The case of the four American churchwomen is also well known and is also aired in the Salvadoran judicial system. Last week, the Senate agreed without objection to provide \$500,000 to the Government of El Salvador for the protection of jurors and other key participants in the criminal proceedings against those charged with the murders of the churchwomen.

These are the results of two highly publicized cases involving victims who are not Salvadoran nationals. The dangers to Salvadoran nationals are also great. I quote the January 1984 State Department Country Report: "Abuse of human rights remains a central problem, despite efforts of the government to end violence from right-wing death squads, some of which have links to the security forces, and from its own security forces, as well as from the guerrilla left. The level of political violence remains high, but noncombatant deaths have declined steadily since a peak in 1980. The number of disappearances in 1983 remained at about the same level as in 1982. Elements within the government security forces are still believed to use torture as arbitrary punishment or to extract information from suspected leftists. Individuals can and are arrested without warrants, detained for investigation, sometimes for long periods before charges are brought, and, if charged with such crimes as sedition and treason, rarely brought to trial.

"All human rights conditions in El Salvador are strongly affected by the ongoing civil strife. As is common during civil strife, the achievement of a public order that would protect each person's rights has been disrupted by military operations, partisan hatreds, acts of revenge, the satisfaction of personal grudges, pervasive fear, and a prevailing uncertainty dominated by violence. This situation contributed to, and is complicated by, the near-paralysis of the judicial system, which is caused in part by corruption and intimidation and which is most evident when crimes of a political nature are being considered."

Although the context of violence is indisputable, it is difficult to obtain full documentation of the degree of risk that our current policy presents to deported Salvadoran refugees. However, the Center for Immigration Rights has studied a list of 2500 deportees. The preliminary results indicate that 50 appeared on death lists compiled by independent Salvadoran human rights organizations. That is to say, about 2% of the deportees studied were killed. Because the records are not always reliable, the total number of victims in this group could be higher.

It seems to me that there is only one responsible and humane way of reacting to this finding. That is to recognize that 2% is far too high a figure to be acceptable to us, as Americans whose government deported these individuals as a matter of policy. I do not mean to suggest that those 50 individuals were killed because they had been refugees. I do mean to suggest that their chances of dying violent deaths were far greater because we sent them back to El Salvador than if they had been allowed to stay in the United States, temporarily, until conditions in their country improve.

It was reported in one of the Seattle newspapers that a spokesman for the Immigration and Naturalization Service responded to this study with this statement: "Just because those people were returned and may have become innocent victims of some level of random violence in El Salvador does not mean the judgment on their asylum claims was inaccurate."

That is exactly the point. Asylum is appropriate for people who face threats of individual persecution. It may well have not been appropriate for those 50 Salvadorans. Yet they lost their lives in acts of violence. That is why we should grant extended voluntary departure status to those Salvadorans who remain in the United States, rather than processing them on a case-by-case basis for an asylum status designed to help a category of people with different problems.

Simply put, if we have reason to believe that a policy of departing refugees from the United States may lead to death for 2% of them, it seems to me that a study of this policy is not too much to ask, and that while the study is going on, the policy should be suspended. That is what H.R. 4447 would do: It would suspend the deportation of Salvadorans from the U.S. pending a study of the conditions they face.

I would like to stress one point. It relates to an issue that can be defined by quoting a couple of sentences from the Staff Report prepared for the Senate Subcommittee on Immigration and Refugee Policy after a field investigation in El Salvador in September 1983. "The 300 to 350 Salvadorans who are currently being returned by the U.S. to El Salvador each month are subject to the same violence every resident of the country faces, but there is clear evidence that no governmentally sanctioned program to target or harass returning Salvadorans simply because they have been in the U.S. However, no official agency has conducted a follow-up study on individual Salvadorans returned by the U.S. Private, non-governmental groups cannot, without great difficulty, undertake such an assessment on their own, without the cooperation of the United States Immigration and Naturalization Service and the United States Embassy."

It could be argued that the case for H.R. 4447 is weakened by the lack of conclusive evidence that deportees are singled out for attack on their return to El Salvador. But this is a false issue. H.R. 4447 is not premised on any assumption that the deportees are singled out for harassment. It is premised on the view that there is an extraordinary level of violence in El Salvador to which virtually everyone in the country is exposed. As a result, our current deportation policy appears to endanger individual lives. Based on indications such as the Center for Immigration Studies finding, we should suspend the deportations until we find out more complete information about our policy's effect on these individuals.

Finally, I would add that I consider this issue to be distinct from the other Central American issues which I know concern us all very much. I do not think that anybody really questions the high level of violence in El Salvador, though there may be disagreement on how to apportion the responsibility for this violence among security forces, death squads, guerrillas, and other groups of the left and right. Without the unrest and violence, there would be fewer refugees. But the issue here is how we should deal with refugees in our own country. In this regard, the sources of violence are less relevant than their cumulative impact.

For that reason, I hope that we can deal with this legislation separately from our other concerns about Central America. We are talking about people who have escaped from the constant threat of random violence to walk the streets of our great nation. We should not turn our backs on them when we have the chance to offer them temporary shelter from this threat.

Mr. MAZZOLI. Sam?

Mr. GEJDENSON. Thank you very much.

It is difficult to add to statements as eloquent as those made by my two colleagues and Mr. Moakley, the sponsor of the bill. What I would like to do is add to this discussion a personal note.

We are asked to take some risk by Mr. Moakley's bill, the bill that we have all cosponsored. It certainly does represent a risk for this society, but we ought to put that risk in perspective. My father, in World War II, was saved by an old woman who had eight children. The risk that she took was not simply that of risking her own life, but also the lives of her eight children, had they found this one Jew hiding in her attic. That woman took that risk, and for that reason I am able to come here and testify today. She risked not only her own life but the lives of her eight children.

At that same period of time, the United States was reviewing the requests of many Jews to enter this country. Jews fleeing Germany and elsewhere were denied entry to the United States at that time as parolees because it was claimed they were only fleeing for economic reasons, that they were economic refugees.

The magnitude of what was happening in World War II is only reflective, it was not assessable at the time that it was occurring. Likewise, it is difficult to estimate the final civilian casualties in El Salvador, the most densely populated country in this hemisphere.

It is difficult for us as Americans to assess the risk that we are taking as Americans, displacing poor people and others seeking entry level employment. But the risk of the El Salvadorans who make a tremendous effort to reach these borders cannot be estimated by Americans, even those of us who are here only a generation.

I listened as a child to the stories of my parents and many of their friends and tried to understand why they didn't leave earlier, why they didn't flee when what Hitler offered was so obvious. I think I gained a little perspective that maybe some of you don't have. It is difficult, if not almost impossible, to leave family and friends behind; it is almost impossible to leave as a family unit.

As we take a look at history, we need not simply look at the Jews, we can look at Armenians, Iranians, and others, who in recent history have faced annihilation and death and have stayed behind.

Think of the incredible risk for someone to leave his home, his family, and surroundings that he or she is comfortable with, and come to this country as an illegal, facing deportation and return to a country that offers oftentimes death for those who have fled. They are taking an incredible risk.

What this bill asks us, as Americans, to do, is to take a small risk, not to grant them permanent status, but simply to provide them an opportunity, a safe harbor, until the horrors and the battle of El Salvador is over.

We, as Americans, I think, can afford to take that risk, and I suggest and hope that this committee take the leadership to provide the extended voluntary departure status for the Salvadorans. We can't open our doors to the entire world, but when people take

the kind of risks that they do to get here, I think we ought to give them the benefit of the doubt.

Thank you for your time, Mr. Chairman.

[The statement of Mr. Gejdenson follows:]

TESTIMONY OF
REPRESENTATIVE SAM GEJDENSON

April 12, 1984

SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND INTERNATIONAL LAW
H.R. 4447

I SUPPOSE THAT I FEEL PARTICULARLY STRONGLY ABOUT THIS PIECE OF LEGISLATION OFFERED BY REPRESENTATIVE MOAKLEY BECAUSE I MYSELF COME FROM A BACKGROUND NOT WHOLLY DISSIMILAR TO THAT FACED BY THE SALVADORAN REFUGEES NOW IN THIS COUNTRY.

I WAS, AS SOME OF YOU MAY KNOW, BORN IN A DISPLACED PERSONS CAMP IN ESCHWEGE, GERMANY JUST AFTER THE WAR. MY PARENTS FLED THE SOVIET UNION AND SURVIVED THE HOLOCAUST. I WAS VERY YOUNG WHEN MY FAMILY ARRIVED IN THE UNITED STATES AND, IN MANY WAYS, DID NOT PERSONALLY SUFFER THE INHUMANITY THAT TODAY'S SALVADORANS WHO TRAVEL THOUSANDS OF MILES IN PACKING CRATES IN THE BACK OF ENCLOSED TRUCKS DO. AND YET, I FEEL VERY KEENLY THAT SAME NEED FOR SAFE REFUGE.

I HAVE A QUOTE FROM PASTOR NIEMOELLER HANGING IN MY OFFICE THAT READS,

"IN GERMANY THEY CAME FIRST FOR THE COMMUNISTS, AND I DIDN'T SPEAK UP BECAUSE I WASN'T A COMMUNIST. THEN THEY CAME FOR THE JEWS, AND I DIDN'T SPEAK UP BECAUSE I WASN'T A JEW. THEN THEY CAME FOR THE TRADE UNIONIST, AND I WASN'T A TRADE UNIONIST. THEN THEY CAME FOR THE CATHOLICS, AND I DIDN'T SPEAK UP BECAUSE I WAS A PROTESTANT. THEN THEY CAME FOR ME, AND BY THAT TIME NO ONE WAS LEFT TO SPEAK UP."

WE HAVE TO SPEAK UP. EXTENDED VOLUNTARY DEPARTURE - A TEMPORARY STAY OF DEPORTATION - IS THE VERY LEAST THAT WE CAN DO. TO ALLOW THE BELEAGUERED WHO HAVE SEEN FAMILY AND FRIENDS HACKED TO DEATH A BRIEF RESPITE FROM THOSE HORRORS, AND HOPEFULLY TO MAKE IT POSSIBLE FOR THEM TO SURVIVE, IS TO DEMONSTRATE A MINIMUM OF COMPASSION FOR THOSE WHO DID NOT ASK FOR A WAR THAT HAS DESTROYED THEIR COUNTRY AND TAKEN 43,000 LIVES IN FOUR YEARS.

THE GRANTING OF EXTENDED VOLUNTARY DEPARTURE STATUS TO THE SALVADORAN REFUGEES NEED NOT CONFER A POLITICAL JUDGEMENT ON U.S. POLICY IN EL SALVADOR. AS THE AMERICAN CIVIL LIBERTIES UNION HAS POINTED OUT IN THEIR DECEMBER 1983 REPORT, EXTENDED VOLUNTARY DEPARTURE "ENTAILS NO ASSUMPTIONS ABOUT POLITICAL, RELIGIOUS, RACIAL, ETHNIC OR SOCIAL BASIS OF A FEAR OF RETURNING." THE VIOLENCE THE SALVADORANS FLEE IS NOT CATEGORIZED BY THIS MEASURE AS ORIGINATING FROM THE GOVERNMENT, THE DEATH SQUADS, OR THE LEFTIST GUERRILLAS. EXTENDED VOLUNTARY DEPARTURE IS A HUMANITARIAN DECISION, NOT A POLITICAL ONE. IT SIMPLY EXPRESSES THE CONCERN ABOUT DANGER TO LIFE AND LIMB FROM ALL SOURCES. UNFORTUNATELY, BY SO VEHEMENTLY OPPOSING THIS SIMPLE MEASURE, THE ADMINISTRATION IS UNWISELY MAKING THE MOAKLEY BILL A POLITICAL BATTLE WHICH, THE LONGER THEY FIGHT, THE MORE THEY PERCEIVE THEY HAVE TO LOSE. ALTHOUGH MANY HAVE OPPOSED UNCONDITIONAL U.S. SUPPORT FOR THE SALVADORAN GOVERNMENT AND WOULD ASCRIBE RESPONSIBILITY FOR THAT VIOLENCE TO THE U.S.-BACKED GOVERNMENT IN THAT COUNTRY, THAT IS NOT WHAT WE ARE HERE TO TALK ABOUT. TODAY WE ARE SIMPLY INTERESTED

IN TEMPORARILY RELIEVING THE VICTIMS OF THE CONFLICT OF THAT TERROR, REGARDLESS OF WHO IS TO BLAME.

I FEEL VERY STRONGLY THAT EXTENDED VOLUNTARY DEPARTURE SHOULD NOT BE SUBJECT TO PARTISAN WRANGLING OVER UNITED STATES POLICY IN CENTRAL AMERICA.

THIS SUBCOMMITTEE IS PROPERLY CONCERNED WITH IMMIGRATION POLICY, NOT FOREIGN POLICY. YOUR WORK IN FORMING AND OVERSEEING AMERICA'S IMMIGRATION POLICY IS AN EXTREMELY IMPORTANT ONE AND EXTENDED VOLUNTARY DEPARTURE COINCIDES WITH YOUR EFFORTS TO SEE THAT IMMIGRATION POLICY IS EFFECTIVE AND THAT I.N.S. RESOURCES ARE WISELY ALLOCATED. EXTENDED VOLUNTARY DEPARTURE WOULD IN FACT AID YOU IN THIS REGARD BY RELIEVING THE I.N.S. OF THE BURDEN OF DEPORTING THE SALVADORANS AND ALLOWING THEM TO CONCENTRATE THEIR SCARCE ENFORCEMENT RESOURCES ON THE UNDOCUMENTED IMMIGRANTS WHO DO NOT HAVE THE COMPELLING HUMANITARIAN NEEDS THAT THE SALVADORANS DO. I.N.S. IS OVEREXTENDED AS IT IS WITHOUT THE ADDITIONAL BURDEN OF APPREHENDING AND RETURNING SALVADORANS TO MORTAL DANGER. MOREOVER, BY ENCOURAGING THE UNDERGROUND POPULATION OF SALVADORANS IN THE U.S. TO COME FORWARD AND REGISTER WITH I.N.S. AUTHORITIES WITHOUT FEAR OF DEPORTMENT, WE FACILITATE THE I.N.S.'S ABILITY TO DOCUMENT THEIR PRESENCE AND, IN FACT, TO DEPORT THEM AT THE END OF THEIR EXTENDED VOLUNTARY DEPARTURE STAY.

PLEASE DON'T LET THE FATE OF THOUSANDS OF TERRIFIED SALVADORANS WHOSE ONLY CRIME HAS BEEN TO LIVE IN A LAND AT WAR BECOME ENTANGLED IN THE POLITICAL MACHINATIONS OF U.S. FOREIGN POLICY. THESE PEOPLE ARE SIMPLY ASKING US NOT TO SHIP THEM BACK TO A NATION AT WAR IN WHICH

THEY ARE THE CERTAIN VICTIMS UNTIL SUCH TIME AS THE PRESIDENT DETERMINES THAT IT IS SAFE TO DO SO.

IN SUM, WE HAVE AN OPPORTUNITY HERE TO PROVIDE TEMPORARY PEACE OF MIND TO THE REFUGEES WHILE THE LARGER POLITICAL QUESTIONS ABOUT U.S. POLICY ARE ADDRESSED ELSEWHERE.

H. R. 4447 IS IN KEEPING WITH INTERNATIONALLY ACCEPTED STANDARDS EMBODIED IN INTERNATIONAL LAW THAT STATES THAT PEOPLE FLEEING CIVIL STRIFE NOT BE REPATRIATED WITH UNDUE HASTE. EXTENDED VOLUNTARY DEPARTURE HAS BEEN USED 14 TIMES IN THE PAST 16 YEARS, MOST RECENTLY TO PROVIDE HAVEN FOR REFUGEES FROM POLAND, NICARAGUA, IRAN AND AFGHANISTAN. CERTAINLY THE PRESENT SITUATION IN EL SALVADOR MERITS THIS CONSIDERATION. CONGRESS ONCE BEFORE, IN LAST YEAR'S STATE DEPARTMENT AUTHORIZATION, EXPRESSED ITS DESIRE TO SEE EXTENDED VOLUNTARY DEPARTURE AUTHORITIES IMPLEMENTED. I WOULD URGE THE SUBCOMMITTEE TO FOLLOW UP THAT ACTION BY FAVORABLY REPORTING OUT H. R. 4447.

Mr. MAZZOLI. Thank you very much, gentlemen, all three of you, from three different perspectives, very excellent.

Let me just ask a couple of questions and yield myself 5 minutes.

Jerry, you made a couple of points, I think, in your opening paragraph and you wound up by saying that you are not asking for anything permanent, this is a temporary safe harbor, temporary help. And I think Sam and Mike make the same point.

In the real world in which we live, is it going to be really temporary help, are we not in effect providing for these people because after, say, 3 years, if this 3-year factor is built in to the bill, would not equities and contacts and roots be developed so stern—that just like Sam says—that the risk then would be such that you couldn't send them back because their kids would know only English, their investment would be here, they would own a house here, they would have a job here.

Tell me, how can we make this temporary help work?

Mr. PATTERSON. I think we can make it temporary help through human rights policy that is carried on in every country, including El Salvador. For example, if we could make all of our aid, both military and economic, contingent upon the government of the country who receives that aid, practicing human rights, not killing their own people, not terrorizing them, not having death squads, we would do one of two things in El Salvador. Very specifically, the Government would change and in fact then people wouldn't be fleeing El Salvador in the future, and those who are here now who state to me they wish to go back, I believe would.

That is one of the inconsistencies in our foreign policy.

Mr. MAZZOLI. Getting to the root problem—the same as they say about immigration reform—you can't reform until you solve the

root problems; we are trying to do that at the same point as we are solving.

Mr. MAZZOLI. With regard to the time period on the bill, don't you think in 3 years temporary would become permanent given the state of American law and constitutional rights of people who are here and so forth?

Mr. PATTERSON. I don't think so. We have a number of Vietnamese refugees in my district who would go back.

Mr. PATTERSON. If there was an anti-Communist government.

Mr. MAZZOLI. Let me just kind of put this scenario to you. Maybe all three of you can take a shot at it because, Sam, you had experience; Mike, too.

What happens if you have this bill passed, 3 years down the road, by some congressional certification or by some Presidential edict or something, you say it is all over; your home is safe; certified nonviolent; we want you to go back?

They say, hey, just a second, my kids are in school, I bought a house, I got a new little job. I am on this upward trail, you know, I have got something going here. I am on a roll and I don't want to go back home.

Now, tell me, what do you do at that point?

All three of you take a shot.

Mr. PATTERSON. The fact is, if they remain illegal, you won't be able to find them in 3 years. If you pass this bill, they will have to go through certain legal processes and you will be able to find them, so there will be a difference there.

Mr. MAZZOLI. Now, what do you do when you find them, Jerry?

Because I imagine if you have a house, you are on the record; and if you get jobs, you get payroll certificates. But what do you do at that point if the guy says I don't want to go back?

Mr. PATTERSON. I think the condition under which they were legalized is a temporary one which provides for departure, and I think they would have to depart.

Mr. MAZZOLI. Sam?

Mr. GEJDENSON. I think that you have got a couple of things. One is that if the situation stabilizes in El Salvador, you will find that a large portion of people really want to return to their homeland. For people with names like Mazzoli, and whatever Frank used to be, and Smith used to be—I think we know how difficult it is to get situated in a new country, and how there is a real tendency for people to try to return home.

For those that stay here, there will be some problems. But I think as a country, our conscience should rest easier if we send people back to a safe country, one where war has ended, though not necessarily economically prosperous; rather than not giving them safe harbor at this time during this war.

Additionally, I think if we take a look at the demographic projections of the United States over the next 25 to 30 years, we find that we are going to be a country that is going to need a population to fulfill our basic work force. If you take a look—and I could provide for this committee a chart that we just used in testifying before the Democratic Platform Committee, showing basically that we start having a shortage of bodies, never mind about qualified, trained, or anything else—10 or 15 years down the road, if there is an econom-

ic recovery that is sustained over the long haul, forget ups and downs—

Mr. MAZZOLI. Where you need the people.

Mr. GEJDENSON [continuing]. In the immediate, our projections are that we are going to need people.

Mr. MAZZOLI. Are you going to support the temporary worker part of the immigration reform bill when it comes on the floor?

Mr. GEJDENSON. I am sorry to say that I am waiting to get a shot at that on the floor and haven't taken a hard look at it.

Mr. MAZZOLI. I hope you do, because that is exactly the point we make in our bill. We say that at some point America is going to need, you know, a very controlled temporary worker program.

Mr. GEJDENSON. Absolutely.

I don't think this asks us to fool around with the present process, either.

Mr. MAZZOLI. I hope a lot of people listen to what you say, it is very important.

Michael, tell me, how do you think you handle a guy who says I am on a roll, I don't want to go back?

Mr. LOWRY. Mr. Chairman, first, at that point, of course, they would be illegal in this country at expiration of this time, and their purpose for being here would be economic and not political.

So, I think our Government would be correct at that time to say that you are not qualified to be a refugee in this country under the laws of this land, which correctly distinguishes between political and economic refugees or people who are in danger, and economic refugees, and we would be on correct legal footing to then say at that time because the violent situation had stopped, to then go ahead with deportation.

Mr. MAZZOLI. OK, thank you, Mike.

My time is expired.

The gentleman from California.

Mr. LUNGREN. Thank you, Mr. Chairman.

In 1980, when we passed the Refugee Act, one of the concerns we had was the ad hoc basis upon which Congress seemed to respond to refugee crises. At that time, we adopted and expanded a version or determination of what, in fact, the refugee test should be. And we extended it, as has been said, to persecution or well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Because we wanted to replace the ad hoc legislative approach, we broadened that definition and tried to have in place a permanent statutory response to these situations as they would come up.

I just ask you, aren't we being asked to be somewhat inconsistent here and say we ought to make a special case for a particular instance when evidently the worldwide accepted definition of the refugee test is not being met by these individuals on an individual basis?

Mr. GEJDENSON. I would venture to say if we took a look at some 14 instances where the extended voluntary departure status has been given to, it is my understanding, Poles, Afghans, Ethiopians, Iranians, and Nicaraguans, you know, these are all difficult calls. But I certainly could argue with you, if you would like, the instances of safety and danger to the individuals in the countries

that I have mentioned; with the situation the Salvadorans face, it is not the kind of situation that you can put into neat little square boxes. I think that is why the benefit of the wisdom of the Congress on this issue is called for.

Mr. LUNGREN. Let me ask this: Last year we heard testimony in support of a statutory safe haven remedy where we would create this on sort of a regular basis. We didn't accept that, that hasn't been established.

In the absence of a statutory remedy with specific articulated standards, do you think it is appropriate for us to pass legislation for a specific instance in a specific country? In other words, if this is a case that can be made, ought it not to be made in terms of permanent legislation that would affect similar circumstances similarly?

Mr. PATTERSON. Mr. Lungren, the administration has the authority to do this now without statute. They have chosen not to do it. They have done it in other cases. I think what we are suggesting is that we believe they should be directed to do so in El Salvador.

Mr. LUNGREN. Let me ask this question. If, in fact, these people are refugees of a sort—that is, they cannot go back without fear of the consequences—why does it follow that the United States should be the country, the prime country, of safe haven?

In other words, we are being asked in this instance to be the country of first asylum. Most of these people, I assume, have come not by flight, I mean air flight, but have made it by land; they have gone through a number of countries to get here. If, in fact, they had a well-founded fear of persecution in their own country, would not that have been satisfied by going to another country? Or, if, in fact, we did not have available refugee camps, would it not be a better response to have a greater commitment to the U.N. High Commissioner for Refugees and establish a situation, if, in fact, this is temporary, where these folks could live without fear of persecution during that period of time, be closer to their own home country—and, in fact, not develop those ties that the chairman talked about that are inevitably going to develop?

Mr. GEJDENSON. I would say that all of the above. I am not arguing with any of those other options. But what I am saying is take a look at that region of the world. It doesn't take anybody who has spent a great deal of time looking at the economic situation of those other countries trying to be hospitable much to figure out the difficulties. Mexico's population problems and pressures are enormous. They are facing crises in the near future not only because of their debt, but because of other internal problems. They have a real hard time dealing with this.

What you have to consider is that these people have a realistic fear for their lives. We are taking some risks, I said that at the beginning. There is some risk that these people are going to stay. There are certainly advantages to some of the procedures that you mentioned. But the reality of the situation is that we have got a bunch of them here now, and that we have got to deal with that.

Mr. LUNGREN. I understand that, but my question is why is the legislative alternative that they remain in this country—as opposed to us not deporting them to El Salvador but allowing them to go to a place for refugees, a safe harbor area closer in that region

in which we take care of the problem of possible persecution, but we also take care of the problem of—

Mr. GEJDENSON. Have you ever been to a refugee camp?

Mr. LUNGREN. Yes; I have been.

Mr. GEJDENSON. I tell you, it may be easy to make that kind of decision sitting here in this room, but when you see kids who have got infections, not because of anything wrong, but just because there are just so many people living so close together. In the Honduran refugee camp, the Guatemalan refugee camp, the mosquito bites have turned to infections and serious illnesses. You know, there is a limit to what the U.N. High Commissioner can do.

We have got some space here and I think we have got a responsibility to respond.

Mr. MAZZOLI. Sorry, time has expired.

Mike, you had a quick rejoinder here, or something, very briefly.

Mr. LOWRY. Yes, and again, many of the suggestions our colleague is making might have some real merit. We need to get information that we do not have and we are exporting 300 to 400 people a month, and deaths are occurring to those people, not necessarily directly because of it. So we need to start to get the information and perhaps other ideas or remedies like this that Dan suggests makes sense.

Mr. MAZZOLI. Thank you. The gentleman from Massachusetts is recognized for 5 minutes.

Mr. FRANK. Thank you, Mr. Chairman. Just a couple of brief comments, if I might.

As long as the issue was joined with regard to the H2 workers, I think it is possible to agree with the gentleman from Connecticut that the demographics are going to make us at some point later in this century happy to have immigrants, but not to think that guest workers are the way, there is an alternative which is to—

Mr. MAZZOLI. We don't have a guest worker now, we have an H2 program.

Mr. FRANK. H2, yes. The alternative is—

Mr. LUNGREN. I will give you the task to work on the guest worker program—

Mr. FRANK. The alternative is that if we need people to work here: We can let them live here and be citizens. It does not seem to me we have to allow temporary help into the country. But I will be prepared and we can discuss that one a little bit later.

The only point I want to make with regard to people going to other countries, as the gentleman from California suggested, and obviously, it is not going to be helpful to people in America to get the sense that we are taking on all of the burdens in the world.

On the other hand, it seems to me there are particular reasons why that would be a problem in other Central American countries. Honduras and El Salvador have recently fought a war. I notice with the removal of the Honduran Chief of Staff friction with the Salvadorans was cited as one of the reasons that was involved. Guatemala has also got problems.

The relations among the different Central American countries are not terrific right now as is, and I don't think it would be in the interest of American foreign policy to be exacerbated in that. And I think the presence of refugees in one of those other countries be-

comes a source of friction, a source of claims that they are being subversive, that they are moving back and forth. I think that is one reason why the more logical explanation that you might expect that they could go there, in this case because of the political frictions and tensions would be there. And it is also the case, of course, we might put the refugees down and then we might decide we are going to have another base there, and trying to keep the refugees out from under the Pentagon and its logistical teams could become somewhat complicating; they are a lot more secure here.

I yield back.

Mr. MAZZOLI. Thank you very much.

The gentleman from Florida is recognized for 5 minutes.

Mr. McCOLLUM. Thank you very much, Mr. Chairman.

I particularly am pleased with the early portions of your legislative—those of you who support this legislation, in terms of being concerned about the humanitarian conditions of the refugees in these camps, as I think probably you all know that I had the pleasure early this year, last year now, I guess it was, of leading an expedition of some 150,000 of medical and medical supplies into the so-called refugee or displaced persons camps in El Salvador.

I would be the first to say to you the conditions there are not good and they need to be improved, they are some of the worst in the world. But it bothers me in listening to the answers that were given to the questions of my friend from California, my colleague, that there is a suggestion that somehow we ought to bring those folks up here because those conditions are so bad, or allow them to be here.

I have recently been, as some of my other colleagues have been, in parts of the world elsewhere besides down there, where refugee camps exist, including Camp Echea and the camps in Thailand. I am aware there are thousands of people over there in a very distressed condition who have legitimate claims to political asylum in fear of persecution if they go back, maybe greater than the ones down here in El Salvador on that point.

There are estimates that there are 15 million, or upward of 15 million Afghan refugees over in Pakistan today, who certainly are in reasonable fear of persecution if they were to claim to come to the United States from the Soviets. We don't particularly want, nor can we take, all those kind of people in our country.

So what bothers me and why I am about to ask this question is: Just how far can we go with this respect? You gentlemen are asking extended voluntary departure but what bothers me is the pull effect that this may have in encouraging a lot more to come up here.

You have indicated your concern about the conditions in those camps back there, they are bad. Just how many people can we afford to take? Are you just talking about the ones that are here or is there an implication that you feel that we ought to be taking in a whole lot more people from El Salvador or from the Honduran camps?

Mr. PATTERSON. Mr. McCollum, when Mr. Moakley was here he responded to the question and I would respond the same way. We are not talking about encouraging people to come here, and we are suggesting that enforcement at the borders be continued and as

stringently as possible. But we are saying once they are here that we should not send them back to either certain or generalized fear of death.

Mr. GEJDENSON. I think we all support what Mr. Lungren was talking about, working on all those other options. But I think he ought to recognize there are some limits to those options.

I think that one of the things the other States have is a responsibility to States like Florida that have been particularly burdened by the geographic location. I think it is going to be a benefit in the long run. If we take a look at history, when every group came in here we were a burden, we were isolated in particular parts of the country, and we turned out to be tremendous assets.

But we are not talking about that at this point. What we are talking about is as a country if we are willing to take the risk of giving these people a chance while we try to end the turmoil in El Salvador.

You know, you think about somebody who grew up in a small village in El Salvador or Guatemala, or wherever, and for that individual to make it the thousands of miles into this country shows more than just a simple desire to make more money per hour. There is some serious danger there—

Mr. McCOLLUM. There is no question there is serious danger to anyone in El Salvador today and I wouldn't blame a soul for wanting to leave down there no matter his political affiliation, because there is violence in that country—

Mr. GEJDENSON. Even war there.

Mr. McCOLLUM [continuing]. But the problem is we can't take all of them in.

Mr. GEJDENSON. No question about it.

Mr. McCOLLUM. And even if we could, are we providing too much of an incentive to do it, and that is a rhetorical question?

Let me ask one specific one before my time runs out. There is a question of technical language that I would like to get to in the bill which prohibits the Attorney General from detaining the Salvadorans.

Mr. GEJDENSON. I think that was addressed earlier. Maybe Chairman Mazzoli might—

Mr. MAZZOLI. I asked the question of Mr. Moakley and he said he is not wedded to that language and maybe it needs some changes.

Mr. McCOLLUM. I think that is an important aspect. I am sorry I was not here for that question.

Mr. MAZZOLI. It was not an extended discussion.

Mr. McCOLLUM. But I am concerned about the stopping question aspects and just what that word really means.

I yield back, I have no other questions.

Mr. MAZZOLI. I thank the gentleman.

The gentleman from Michigan is recognized for 5 minutes.

Mr. CROCKETT. Thank you, Mr. Chairman.

I was greatly moved, deeply moved, in fact, by the personal appeal made by my colleague from Connecticut and his characterization of himself as a refugee. I wondered why in seeking additional company he referred to my colleague Smith from Florida and my colleague Frank from Massachusetts but overlooked me.

Mr. GEJDENSON. I tell you, it was a historical guess that you got here not on your own initiative but by somebody else's suggestion, and wasn't quite sure how to put that as far as those of us who tried to get here and others who were forced to come here.

Mr. CROCKETT. I appreciate that claimed difference but in many respects our refugee status is much greater than that of anyone else because we are refugees in our own country. Sometimes I think there is a tendency to forget that.

I don't think I support the bill in its present form because I think all it does is give statutory authority to preexisting discriminatory policy with respect to extended voluntary departure.

I would be only too happy to support a broadened bill that set forth statutory standards by which extended voluntary departure was to be given, so that it would no longer be a case of leaving it to the Executive to pick out countries and situations that are to be favored.

I see no reason, for example, why extended voluntary departure shouldn't be given to refugees from Haiti, from South Africa, and from the Philippines. But are we to consider individual legislation for each of these countries when we feel that the State Department or the Department of Justice has overlooked them? I think not.

So, I would ask each of you to comment on your reaction to a request that Congress enact legislation clearly establishing a statutory basis for EVD.

Mr. GEJDENSON. I wouldn't argue with the gentleman's statement on its merit without any question. I think you are absolutely right.

I think that what we have here is a situation where this administration and previous administrations have used this category in about 14 instances over the last 16 years. This and other administrations have done so in the case of Uganda and other countries, Afghanistan, Poland, with, I think, the proper balance, recognizing the problems that we have with the immigration issue in this country.

I think that what we have here is a particular problem and a practical problem of the moment. It is a large number, and it is an issue in which we are in direct disagreement with the Administration's assessment of the danger; I think it is something that we can get through this body—and we must as there are people dying every day.

I guess that is why I choose Mr. Moakley's bill for this one specific instance. There are other people dying, there are other people with problems. I guess it is the magnitude of this one that draws me to act now on this and certainly be supportive of the concept that you present: Better language, better opportunities for a broader piece of legislation in the future.

Mr. CROCKETT. Thank you, Mr. Chairman.

Mr. MAZZOLI. I thank the gentleman very much for that line of questioning.

Mr. CROCKETT. One further comment.

Mr. MAZZOLI. Certainly.

Mr. CROCKETT. The next time you speak about refugees, remember that I am a refugee from Florida. [Laughter.]

Mr. GEJDENSON. Thank you, Judge.

Mr. MAZZOLI. We will recognize the gentleman from Florida, Mr. Smith, for 5 minutes.

Mr. SMITH. Thank you, Mr. Chairman.

We don't get too many refugees going away from Florida. [Laughter.]

Mr. GEJDENSON. That may change.

Mr. SMITH. I also want, for the benefit of the gentleman from Connecticut, my former name was Hartpence. [Laughter.]

Mr. SMITH. I am curious—all of you support this bill, and I tend to take a different view than my colleague Judge Crockett, in the sense that there is in fact a very narrow problem with reference to this particular country at this particular time clearly defined, obviously a major conflagration; a country which may be in fact fighting for its really very existence.

As a result, I would want to tend to view this legislation solely on its merits without all of the ramifications that have been discussed here, and that have merit.

But I also have a problem with this legislation. I didn't raise this with Mr. Moakley but I do want to raise it with you as people who support the bill, and I think you are in a way even more appropriate than the original sponsor of the legislation.

This bill is totally open ended. This bill provides no date for cutoff of those who would be eligible nor a cutoff of the date when they would have to go back, when they would be considered to have been in this country.

And picking up from some of my other colleagues, the question is: If we do not put in some kind of inside and outside dates, even as we have in the Mazzoli bill, with reference to the legalization process, is it in fact this is really going to become a magnet of much more pulling power than anything we have done to date in this Congress for over a very long period of time?

I have major concerns and I am curious about what you think about that. There is no cutoff as to when you would have had to been here to qualify or when you are going to have to leave, or, et cetera, and I am just very nervous about that.

Mr. PATTERSON. I think perhaps the expertise of your panel should be applied in terms of putting a date or a condition. The condition might be that the conditions within the country at the time are determined that there is no longer is a need to do it.

You know, in El Salvador now, 20 percent of the population are displaced persons, out of 5 million people you have got tremendous displacement. Many of them, 300,000 to 500,000, are in this country. What we are suggesting is that they should not be sent back there as long as they fear harm will come to them. I can assure you that there are many who have a real fear of the generalized violence in El Salvador.

I suspect that your subcommittee could come up with a date, you know, you could just pull it out of the air—3 years, or some such factor. I am not sure that does anything because it may have to be extended or it may not be needed that long—

Mr. SMITH. What about an inside date?

Mr. PATTERSON. Pardon?

Mr. SMITH. The inside date. Suppose we pass this and all of a sudden we find that people, and they are going to be informed that

there is going to be a chance to come here and have an extended voluntary departure, even if you are illegal you can stay. And even after you come outside the time when people—we passed a law, that is after the date of the enactment of the law, you still can come and stay.

Mr. PATTERSON. I keep going back to the fact that if our country's policy were consistent if we were to take the position that human rights have to be followed by any government we assist, the situation would be different. Massive military aid to the Salvadoran makes no sense at all. And as long as we do that, civil unrest will continue and people will be driven from their homes and from their homeland. This is the real push-pull.

You are talking about it in terms of with drawing people in because we give them EVD. I am—

Mr. SMITH. While the push still exists in El Salvador, let's not give them back.

Mr. PATTERSON. I am saying we are shoving them out by sending money down there which is used by the military to suppress human rights, and it probably costs us a lot less to do it any other way.

OK. I have been advised that the bill sunsets after 3 years if there is no congressional action—

Mr. GEJDENSON. Then you go back to—

Mr. PATTERSON [continuing]. Which may answer your question.

Mr. GEJDENSON [continuing]. The present status.

Mr. MAZZOLI. That is the one date. Now, there is a second date. The gentleman asked for really the inside as well as the outside.

Mr. GEJDENSON. Let me try a crack at that. One is that you have the outside with the statement we have just gotten. What you have is a situation that you have anywhere else—the State Department should reassess the situation; if there is a problem they extend it; if there is not a problem they don't extend it.

On the inside, I don't think it is that big a magnet. It is not as big an obstacle as we here in this room really think. What you have is 300,000 to 400,000 Salvadorans in this country, who came here without any status at all. Why did they come here? Not because of the status; they don't want to be hassled by American Immigration people. They are scared for the lives of themselves and their children and their other family members. That is what got them out of there and made them crawl and swim to get to the borders of this country.

So I think what you do when you provide this particular status is that you take some of the fear out of their lives—and these are people who have had enough fear. I am not sure you are going to make a major difference for the number of people that get here.

If the killings in El Salvador go up, and these people have bounties on their heads, they are still going to leave that country and head for the United States. If the killings, if the death squads slow down, if the turmoil is reduced, then you are going to find less people coming here; because people don't like to leave, most people like to say where they were born.

So I think that the outside date is answered and the inside date, I think that having an inside date make less a difference than we think.

Mr. MAZZOLI. Mike?

Mr. LOWRY. I would think if the panel decided, after studying this inside date was desirable, I, myself, wouldn't find that objectionable. Remember, what we are talking about here is the difference between, they be registered or not registered.

Mr. MAZZOLI. That's right, yes.

Mr. LOWRY. And the inside date would not stop the illegal situation that now goes on. And the real answer is what you are working on in another bill, which is the proper Immigration Service support and status and that, of course, is the only real answer to this kind of question.

Mr. SMITH. I am glad you——

Mr. MAZZOLI. Please, go ahead.

Mr. SMITH. Mr. Chairman, allow me to finish.

I am glad you brought that up because there is one factor that needs to be taken into consideration when we review these kinds of proposals.

There is a major constituency in the United States all over this country that is extremely disturbed by the whole process of immigration, or lack of process of immigration. And while we can pass many laws, we are not going to get the ability to motivate people in this country to welcome, to help, to be sympathetic to ways of immigration if, in fact, people feel that we are just allowing the door to stay open all the time, at all the places, whenever and wherever they want, they come, and they are in.

Let me tell you, there is a major concern, and I hope you don't misread the fact that there is not only within that element some decent, hard-working, average people who are concerned, but a lot of fringe people who cause great problems in this country because of that.

We need to be sensitized to that as well. That is why I think an inside date is extremely important.

Mr. MAZZOLI. The gentleman's time has expired.

We must go on but I would like to mention that what the gentleman brings out has a very important line of inquiry because we do want this thing to be a good bill, but we don't want it to be some kind of a magnet. And while I say we may well be right, it may not be nearly the thing. But if it is the thing—we may have to put on some controls.

And I might say that one of the real problems of going into extended voluntary departure against what the gentleman from California talked about, which is a statutory safe haven, is the fact that there is Ethiopia, which is more than 2 or 3 miles away from the United States; you have Afghanistan, which is more than 2 or 3 miles away; you have Iran, which is more than 2 or 3 miles away—so there is a very big difference where the EVD has been used in many, many cases.

It doesn't constitute clearly any kind of a magnet because they are thousands, tens of thousands of miles away. Here they are a few hundred miles, so it is a problem.

The gentleman from New York is recognized for 5 minutes.

Mr. FISH. Thank you. Mr. Chairman, I just have one question, and if it has been fairly explored by the subcommittee in my absence, why, please tell me.

We have a communication from the Department of State dated April 9, signed by the Assistant Secretary for Legislative and Governmental Affairs, with the Department's comments on H.R. 4447. The letter says that the bill "would create a class of Salvadorans who could enter the United States and, regardless of the merits of an individual's status in El Salvador, enjoy an indefinite safe haven. This is an open invitation to all El Salvadorans to come to the United States and remain."

If you will recall, the Department of State authorization bill that we passed for 2 fiscal years did have a cutoff date of January 1, 1983.

I understand that the bill before us does not have one, and this creates a problem if we are talking about Salvadorans who may come in the next year or 2 years from now. The prime sponsor, Mr. Moakley, commented on this. And I would like the observation of the cosponsors.

Mr. GEJDENSON. I think Mr. Moakley, in addressing that particular issue, said that people who were connected with death squads or otherwise associated, people we didn't want in this country, clearly could be removed from the country. The sunset provision takes care of the outside, and I think there is some reasonable debate to have an inside consideration. So I think that in that sense those two have been covered.

The only thing I would like to close with from my perspective—

Mr. FISH. Well, sorry, I don't think it has been covered.

Am I correct that the legislation before us does not, forgetting the admissibility issue—

Mr. MAZZOLI. The gentleman is correct. It would provide no dates whatsoever. It is a rolling program.

Mr. FISH. What is the comment of the panel on that of our injecting a date and saying the Salvadorans here prior to a certain date are covered?

Mr. GEJDENSON. I think the argument is that what you want to do is you want to know who these people are. The argument against an inside date is that then you develop a second class of people who are here illegally, that you don't know who they are. But you have got to make a roll of the dice on that. You have got to make a guess as to whether this is too strong a magnet. I don't think it is too strong a magnet. I think that it takes an incredible amount to have people flee their own homes and villages. So you are not going to see massive waves of people picking up and leaving El Salvador.

Mr. SMITH. Would the gentleman yield?

Mr. FISH. Yes.

Mr. SMITH. And this is the point that I was trying to make—

Mr. GEJDENSON. It is a long haul—

Mr. SMITH. I urge you to be very careful about this. It is going to take a lot of public support over the next years to continue to enforce a strong immigration policy.

We are trying to put extra money into bills to support that and people don't want to spend the money these days.

If we don't have the kind of date that Mr. Fish is talking about, which I just raised as well, you are going to have a consideration

where you may have no ability to keep other people out, so that you will have a stronger second class who will have no status again, which will be hard to find.

But with a stronger enforcement procedure, which might come from having these kinds of bills show that they are for a limited purpose, then you would be able to keep that second class out.

I mean, we are trying to deal with a problem as it exists now, not to allow a further perpetuation of an additional problem afterwards. And I think Mr. Fish and I both agree on that.

Mr. FISH. Mr. Patterson—

Mr. PATTERSON. If I may, I think we are trying to address a very specific question and we are not trying to overhaul the immigration law with this; we are trying to address what we feel is an inconsistency in the way the administration has been handling EVD's. For example, they have used it in this hemisphere with respect to Nicaragua and Cuba and in Chile. They are not using it in El Salvador.

And they could, the administration could apply a date. In other words, they have the power to do it now, and I think the intent of the bill is just to add this country to your list and use your procedures.

And I suggest that the administration could say that those who enter after a certain date are not entitled to extended voluntary departure. It is not in the bill, that is correct. Or this subcommittee may choose to pick a date if one is necessary.

I personally would not put a date in, but I understand that concern. And I understand why it is raised, that we don't want the pull effect that Mr. McCollum and Mr. Smith raised; in terms of drawing people here in the future.

One way to get at that, I suppose, is to put it in the statute; the other is to let the administration do what they have in other EVD cases.

Mr. MAZZOLI. The gentleman's time is expired.

The gentleman from Texas is recognized for 5 minutes.

Mr. HALL. Thank you, Mr. Chairman.

I didn't hear all of this but I heard enough of it to want to ask one question.

As I understand, any of the gentlemen who are at the desk, the analysis of this H.R. 4447 indicates that the prohibition would restrict the Attorney General from detaining or deporting to El Salvador those Salvadorans who have been found to be deportable under section 241(a)(2) "Entry Without Inspection." Now, that section reads as follows:

"Any alien in the United States, including an alien crewman, shall, upon the order of the Attorney General, be deported, who"—and this is a pertinent section—"entered the United States without inspection, or at any time or place, other than as designated by the Attorney General, or, is in the United States in violation of this act,"—and this to me is the crucial part—"or, in violation of any other law of the United States."

Now, that is 241(a)(2).

If I understand what you ask this committee to do, you are telling the Attorney General that they cannot deport any Salvadoran who has violated not only the way in which he or she may have

entered the United States, but who has violated any other law of the United States, either at the time they came, or after they were admitted to the United States.

Is that your position?

Mr. GEJDENSON. No; I don't think anybody here, nor Mr. Moakley, supports that. I think there is a provision in the bill—if there isn't, there ought to be that anybody who has violated criminal statutes in this country or in El Salvador, ought not be able to take advantage of the extended voluntary departure.

This administration and other administrations have used this process to deal with people whose lives have been in danger from other countries. It is an area that is always difficult to assess who ought to get extended voluntary departure and who ought not to. In this instance we think the Salvadoran refugees are in the same situation as the people from Poland, Afghanistan, Ethiopia, Iran, Nicaragua, who have used this same provision, a provision that the Attorney General normally initiates.

Apparently, on page 4 of the bill, line 4, paragraph 1, section 241, Immigration and Naturalization Act, only show two grounds of exclusion—I think it does say that. If we read the last page of the bill, starting on line 4, ending on line 9.

Mr. HALL. But it is not your position, then—

Mr. GEJDENSON. No.

Mr. HALL [continuing]. That anyone who has violated a law of the United States would be free from exclusion, or free from deportation?

Mr. GEJDENSON. No.

Mr. LOWRY. We would certainly welcome the committee's perfecting any problem that might be contained in this, if it isn't addressed in this legislation.

Mr. HALL. I yield back the balance of my time.

Mr. MAZZOLI. I think it is an important point just to make the record. I asked Mr. Moakley that same question because I don't think it is the intention of the sponsors of the bill, and certainly not the desire of this committee, to report any sort of a bill which would permit the people who are, for instance, members of right-wing death squads, or members who are trying to secret themselves in the United States for fear of being found for the kind of outrageous acts they performed at home.

It isn't also to be able to keep people in the country who while here have become highway robbers and various forms of thieves, or other lawbreakers. This is what I would ask our staff to look at very carefully. It is meant to permit the Immigration Service, if this EVD were to pass, to still deport, and notwithstanding EVD, those people who don't measure up to the general form of the exclusion, which is currently in the Immigration Act.

So I tell that to my friend, we can work on the details.

Mr. SMITH. Mr. Chairman, may I ask a question—

Mr. MAZZOLI. Certainly.

Mr. SMITH. Just as a clarification?

It also provides for 3 years, a period under which no deportations may be made. Now, suppose by May 1985, the problems in El Salvador have been to a large degree cured or ameliorated, et cetera. There is no provision in this bill that would allow the administra-

tion to, on their own, do that, or they would be in violation of this statute if we passed it.

It seems to me, then, that the Congress would have to come back and act, and that is rather a——

Mr. MAZZOLI. That is a very good point.

Mr. SMITH [continuing]. Foolish way of doing this.

Mr. MAZZOLI. I had a question. This mandates 3 years in this country, without regard to possible activities in which someone may have been engaged.

Mr. SMITH. That is right.

Mr. GEJDENSON. We wanted to leave some work for the committee.

Mr. MAZZOLI. It needs more more work, you are right.

Mr. SMITH. I don't know that that is the smartest thing to do.

Mr. MAZZOLI. Thank you very much, gentlemen.

Mr. GEJDENSON. If I could just add one thing to my colleague's general statement from Florida, Mr. Smith, on there has never been a popular immigration to this country. I am not sure how the Indians actually felt about this——

Mr. MAZZOLI. You are not talking about this immigration bill, are you?

Mr. GEJDENSON. No, I understand that. No, no, he was making a general——

Mr. MAZZOLI. This is not an immigration bill.

Mr. GEJDENSON. I understand that. He was talking about a general problem with immigration issues and I just wanted to respond to that.

Mr. MAZZOLI. Well, I appreciate that.

Mr. SMITH. I am taking about enforcement.

Mr. LOWRY. Gentlemen, this is an immigration——

Mr. MAZZOLI. Well, we have an immigration bill but this ain't it right here.

Mr. PATTERSON. Mr. Chairman, if I could. The bill calls for study. I have talked about a lot of other things and not the study. I think that is very important because when questions were asked earlier and it was asked of me, but there was a question asked in terms, I think by Mr. Lungren, that have there been any——

Mr. MAZZOLI. Right.

Mr. PATTERSON [continuing]. Actual cases.

Mr. MAZZOLI. Right, yes.

Mr. PATTERSON. And he didn't know of any. I know of 61, and we can supply——

Mr. MAZZOLI. I looked at those—61, Jerry, let me be quite honest with you. This is a big raft of papers and it is a pretty sketchy. You know and I know that asylum and EVD are two different things.

Mr. MAZZOLI. This name matchup and date matchup, and all that stuff, seem to be possibles, likely, most likely, not so likely. This is not exactly the thing that Joe said, 61 people died. This is not exactly what this study shows.

But what we are saying is we do need data and that is where we are going to get it from.

Mr. PATTERSON. We do need data, we do need a study, and I did a little body count down there.

Mr. MAZZOLI. Good. I appreciate it very much, gentlemen, you have been very helpful to us. Thank you, have a good day.

Mr. PATTERSON. Thank you.

Mr. MAZZOLI. We will now call forth the administration witnesses, Secretary Abrams and I think Ms. Meissner, and any associates that you all care to have up with you or around you. If you both would identify yourself for the reporter and then your statements will be made a part of our record.

Mr. ABRAMS. I am Elliott Abrams.

Ms. MEISSNER. Doris Meissner.

TESTIMONY OF ELLIOTT ABRAMS, ASSISTANT SECRETARY OF STATE FOR HUMAN RIGHTS AND HUMANITARIAN AFFAIRS; DORIS M. MEISSNER, EXECUTIVE ASSOCIATE COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE; AND ALAN NELSON, COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

Mr. MAZZOLI. Mr. Abrams.

Mr. ABRAMS. Mr. Chairman and members of the subcommittee, I am grateful for the opportunity to be here with you today.

I think every American, not just members of the subcommittee, is now well aware that El Salvador is troubled by poverty and violence, and overpopulation, and oppression. And for a number of years, Salvadorans have taken advantage of economic opportunity elsewhere. This is a point which it seems to me was left out of the discussion by the three panelists who have just appeared.

The notion that it is an enormously risky and unheard of thing to do for a Salvadoran to leave his town or village and come to the United States is just simply wrong. There is a long history of Salvadoran migration to the United States as there is of Mexican, Honduran, Dominican, and other migration to the United States.

Prior to the war between El Salvador and Honduras in 1969, a large number of Salvadorans were living in Honduras. Through the seventies, hundreds of thousands of Salvadorans came here to the United States.

The increased violence in El Salvador since 1980 no doubt increased the incentives to leave that country, as have the economic difficulties which the war has only worsened.

This country is, therefore, confronted with a number of significant issues, immigration issues, regarding El Salvador. It is difficult for Salvadorans to get visitors' visas or immigration visas. We face a very large amount of illegal immigration from El Salvador; we face a large number of asylum applications.

So the question is how do we deal with the asylum applications? And for those not entitled to asylum, how do we respond to their desire to live in the United States?

In a sense, the asylum question is an easy one. U.S. law and the convention and protocol relating to the status of refugees set forth the standards by which we judge an asylum application. We apply these standards and a limited number of aliens, irrespective of nationality, can meet them. This is true of applications from El Salvador as well.

Now, we have had a lot of criticism of our asylum policy toward El Salvador but we do not have an asylum policy toward El Salvador or toward any country. We apply the same standards to each.

In the last few months, recommendations for the approval of applications from Salvadorans and Nicaraguans have been running at roughly the same rate, and although, of course, there are variations for both countries, 10 to 15 percent of applications can meet the legal standards.

Now, that does not reflect a policy decision, nor does it reflect, obviously, the state of our bilateral relations with either government. It just reflects the fact that asylum applicants must meet the legal standards in order to be granted asylum.

We are well aware that much criticism could be ended were the number of asylum applications for Salvadorans that are approved higher. But to approve asylum applications for partisan political reasons would ignore the law. We recommend in favor of applications that meet the standards and against those that do not.

The argument is then made that no Salvadorans, even those who do not qualify for asylum, no Salvadorans, should be deported to El Salvador, rather, they should all be allowed to remain here. As you know, the administration does not share that view.

All EVD decisions, extended voluntary departure decisions, require a balancing of judgments about their foreign policy, humanitarian, and immigration policy implications.

In the case of El Salvador, and I think the chairman has brought this out very well, the immigration policy implications of EVD are enormous. This is a country with a history of large-scale illegal immigration to the United States. I don't really see how anyone can doubt that a grant of EVD would increase the amount of illegal immigration from El Salvador to the United States.

An intelligent and industrious Salvadoran weighing a decision to try illegal immigration to the United States knows that one of the risks is deportation, which might occur before he has had a chance to earn back the cost of the journey. If we remove the possibility of deportation, it is simple logic to suggest that the illegal entry becomes a more attractive investment.

Of course, not all Salvadoran migrants to the United States are solely or even primarily economic migrants; some are refugees who may be, and have been, granted asylum, but they don't need EVD to be protected.

So by definition, when we are talking about EVD for the group which is not eligible for asylum, we are discussing generally whether people who emigrate from El Salvador to the United States illegally should be permitted to reside here.

If you say yes to that question, then we do not have an immigration policy with regard to El Salvador. We have abdicated the responsibility to have one.

The chairman also brought out a point that I would like to emphasize, and that is the question of the temporary nature of EVD. My question to the subcommittee would be: Who is kidding whom? If anyone thinks that 5 years down the road, with the equities that have been built up in this country, by hundreds and hundreds and thousands of Salvadorans, we are going to round them up and send them home, he is fooling himself.

The members of the panel that just appeared said that at the end of the 3 years time that is called for in the bill, why, we just inform people that they should go home. And then what? Does anyone really think they are all going to come down to the immigration headquarters here in Washington and get on buses to go home? That is not going to happen.

This is not a temporary measure. It is in the real world something very close to an immigration bill for Salvadorans.

Now, the argument was raised, and I think Mr. Patterson made it most forcefully, that illegal aliens who were sent back to El Salvador, there meet persecution and often death. Obviously, we do not believe these claims or we would not be deporting these people.

Three times in recent years, the U.S. Embassy in El Salvador has made attempts to track deportees and see if they were being persecuted. We concluded that they were not.

Last summer, we asked some officials of Tutela Legal, the Human Rights Office of the Archdiocese of San Salvador, whether they believed there was a pattern of persecution. They replied that they did not.

It is very noteworthy, I think, that these accusations which were lodged by some American activist groups critical of U.S. policy in El Salvador, find no echo, nor did they find their source in complaints from Salvadoran human rights groups, which have never made that claim.

And that, I would argue, stands to reason. El Salvador, as I have said, is a country in which emigration abroad is common, and it is a respected means of self-improvement. It would be very odd to think that this action engaged in by hundreds and thousands of Salvadorans, maybe a quarter of the population, was viewed by anyone as proof of Communist association.

I submit that the notion that the people being deported are easily identifiable when they get back is false, and the notion that they are automatically suspect is equally false.

It is just silly to make the argument that in a country such as El Salvador or Mexico, for that matter, or Honduras or Guatemala, the fact of having gone to the United States to find a better job makes you suspect, there is just no basis for that.

I think the panel also mistook the situation on the Mexican border. It was suggested that we must deal here with people who are in the country but not with people who are outside the country. Well, the fact is that our entire discussion today is about people who are in the country. We don't have this kind of fence at the border where you sort of push people back over the line.

We are talking about people who have already arrived physically in the United States and, therefore, have, immediately, the right to ask for asylum now, and would under this bill have the right to stay in the United States indefinitely.

We are not talking about a situation that can be closed off at the border, even though we might wish that that were the case.

The subcommittee will be interested to learn that in part in response to the great interest expressed by the chairman, by Mr. Fish, by Senator Simpson, and others, we have again, for a fourth time, attempted to study the question of the treatment of deportees.

The embassy in San Salvador was sent the names of nearly 500 deportees, selected at random. Efforts have been underway to contact every one of them in order to see what happened to them after their return.

To date, we have been able to locate or find out about roughly 35 percent of them, using Salvadoran employees so as to draw as little attention as possible to the survey.

Of course, a substantial proportion, perhaps a third, of the addresses Salvadorans had given the Immigration Service turned out to be fictitious, making it impossible to locate the individuals.

Mr. HALL. The rest of them are not dead, are they?

Mr. ABRAMS. No, sir, we have no reason to believe that any of them in this survey are dead. What we found is that a large proportion give the INS fictitious addresses as a matter of practice, because they don't believe in giving government officials of their government, or ours, information which can be used to track them down. If I could just—

Mr. MAZZOLI. Proceed with that because I think you make the point in your statement what happens to them.

Mr. ABRAMS. A substantial proportion, about a third, are in cities separated from San Salvador by zones of conflict and we have not yet sent investigators out there; this is the next step.

In a few cases, individuals were reported by neighbors, I should say or relatives, as having once again returned to the United States illegally.

What is remarkable is that we have not come across a single case of abuse or murder of a deportee. Nor has anyone contacted or suggested that he knew of such a case.

We have not interviewed anybody who said to us, well, I have heard about that individual you are asking about, he was picked up, he disappeared one night, something like that—not a single instance of that.

Now, I don't want to suggest to the subcommittee that we have completed here the definitive scientific study and that no further efforts are needed, indeed, our own efforts are continuing. But, surely, there must come a time when any fairminded observer concludes that this alleged pattern of wide-scale abuse of deportees is just a fiction unsupported by evidence.

I would like to turn to one further point and that is the question why we don't do anything to solve the humanitarian problem of poverty and displaced persons and violence in El Salvador.

That is a startling question when you consider the enormous amount of diplomatic and political effort we aim at bringing democracy and peace to El Salvador, and the extraordinary amount of economic aid which we give and the increased amounts which the administration has urged on Congress.

We propose \$341 million in economic assistance for the next fiscal year. I don't believe that the appropriate response to the problems of poverty or violence in El Salvador is simply to allow any Salvadoran who wishes to, to live here instead, any more than I think this is true for Guatemala, or Haiti, or Nicaragua, or Sri Lanka, or Afghanistan, or Iran, or Uganda, or Ethiopia, or Lebanon, or Vietnam, or Zimbabwe.

My point is that in a very large number of countries, millions of people, in fact, tens of millions, face lives which any American can only view as desperate. How do we respond?

We respond with our willingness to allow hundreds of thousands to emigrate to the United States.

We respond with our asylum and refugee programs, which are the most generous in the world.

We respond with our foreign aid program, now totalling nearly \$9 billion, including the pending supplemental request.

And we respond with various political and diplomatic efforts to resolve disputes and to reduce violence.

It does not seem to me that a sensible response can be to say to all these people, if you can make it to the United States, you can stay.

We can and we must do very many things to address the urgent and the desperate humanitarian needs of tens of millions of people throughout the world, but one thing we really cannot do for them all is to tell them to move to America.

I, therefore, respectfully suggest that the current policy is an appropriate one, combining large amounts of economic assistance, energetic diplomatic efforts, and the grant of asylum to those with a well-founded fear of persecution.

Thank you.

Mr. MAZZOLI. Thank you, Mr. Secretary.

[The statement of Mr. Abrams follows:]

STATEMENT BY
HONORABLE ELLIOTT ABRAMS
ASSISTANT SECRETARY OF STATE
FOR
HUMAN RIGHTS AND HUMANITARIAN AFFAIRS

Mr. Chairman and members of the Subcommittee:

I am grateful for this opportunity to appear before you today. As every member of the Subcommittee knows, and indeed as every American must by now be well aware, El Salvador is a country troubled by poverty, violence, overpopulation, and a history of oppression. For a number of years, Salvadorans have taken advantage of economic opportunity elsewhere. Prior to the war between El Salvador and Honduras in 1969, a large number were living in Honduras. Through the 1970s, hundreds of thousands of Salvadorans came to the US. The increased violence in El Salvador prevalent since 1980 no doubt increased the incentives to leave the country, as have the economic difficulties which the war has only worsened.

The US is thus confronted with a number of significant immigration issues regarding El Salvador. It is difficult for Salvadorans to get visitors' visas to the US and difficult for them to get immigrant visas as well. We face a very significant amount of illegal immigration from El Salvador, and a large quantity of asylum applications. How do we deal with the asylum applications? To those not entitled to asylum, how do we respond to their desire to live in the United States?

The asylum issue is in a sense an easy one. US law, in incorporating the definition of a refugee contained in the Convention and Protocol Relating to the Status of Refugees set forth the standards by which an asylum application must be judged. We apply these standards and a limited number of aliens,

irrespective of their nationality, can meet them. This is also true of asylum applicants from El Salvador. This has occasioned much criticism of the Administration's asylum policy toward El Salvador, but in fact we have no "asylum policy" toward El Salvador or any other country; we apply the same standards to each. In the last few months recommendations for the approval of applications from Salvadorans and Nicaraguans have been running at roughly the same rate, and though of course there are variations for both countries, about 15 percent of applications can meet legal standards. This reflects no policy decision, nor does it reflect the state of our bilateral relations with either government; it simply reflects the fact that asylum applicants must meet the legal standards in order to be granted asylum. We are well aware that much criticism could be ended were the number of Salvadoran asylum applications that are approved higher. But, to approve asylum applications for partisan political reasons would ignore the law. In fact, we recommended in favor of applications that meet the standards and against those that do not.

The argument is then made that all Salvadorans, even those who do not qualify for asylum, should not be deported to El Salvador but rather allowed to remain here. As you know, the Administration does not concur with this view. All EVD decisions require a balancing of judgments about their foreign policy, humanitarian, and immigration policy implications.

In the case of El Salvador, the immigration policy implications of EVD are enormous. Here we have a country with a history of large-scale illegal immigration to the US. Can anyone doubt that a grant of EVD would increase the amount of illegal immigration from El Salvador to the US? An intelligent and industrious Salvadoran weighing a decision to try illegal immigration to the US knows that one of the risks is deportation, which might occur before he has had a chance to earn back the costs of the journey. If we remove that possibility of deportation, it is simple logic to suggest that the illegal entry becomes a more attractive investment.

Of course, not all Salvadoran migrants to the US are solely or primarily economic migrants; some are refugees who may be and have been granted asylum,^{and} they do not need EVD to be protected. So by definition, when we discuss EVD for the group which is not eligible for asylum, what we are discussing is generally whether people who emigrate from El Salvador to the United States illegally should be permitted to reside here. If one says yes to this question then we do not have an immigration policy with regard to El Salvador. We have abdicated the responsibility to have one.

Some groups argue that illegal aliens who are sent back to El Salvador there meet persecution and often death. Obviously, we do not believe these claims or we would not deport these people. Twice in recent years the US Embassy in San Salvador

has made attempts to track deportees and see if they were being persecuted; we concluded that they were not. Last summer we asked some officials of Tutela Legal, which is the human rights office of the Archdiocese of El Salvador, whether they believed there was a pattern of persecution of deportees. They replied that they did not. It is noteworthy that these accusations which are lodged by some American activist groups critical of the US policy in El Salvador, find no echo nor did they find their source in complaints from Salvadoran human rights groups, which have never made this claim. And that stands to reason. El Salvador is a country, as noted above, in which emigration abroad is a common and respected means of self-improvement, and it would be odd to think that this action engaged in by hundreds and thousands of Salvadorans, by perhaps a quarter of the population, was viewed by anyone as proof of communist association. I submit that the notion that the people being deported are easily identifiable when they return to El Salvador is false, and the notion that they are automatically suspect is equally false.

The Subcommittee will be interested to learn that, in part in response to the great interest expressed by Chairman Mazzoli, Senator Simpson and others, we have once

again attempted to study this question of the treatment of deportees. The Embassy in San Salvador was sent the names of nearly 500 deportees, selected at random. Efforts have been underway to contact every one of them in order to see what happened to them after their return. As of now, we have been able to locate or find out about roughly 35 percent of them, using Salvadoran employees so as to draw as little attention as possible to this whole survey. Of course, a substantial proportion of -- perhaps a third -- of the addresses Salvadorans had given the Immigration Service turned out to be fictitious making it hard to find some of them. In other cases, we have not yet sent investigators into zones of greater conflict, although we plan to do so. In a few cases, individuals were reported by neighbors as having once again returned to the United States illegally. What is remarkable is that we have not come across a single case of abuse or murder of a deportee, nor has anyone contacted suggested that he knew of such a case. I would not suggest to this Subcommittee that we have completed here the definitive scientific study and that no further efforts are needed, and indeed our own efforts are continuing. But surely there must come a time when any fair-minded observer concludes that this alleged pattern of wide-scale abuse of deportees is just a fiction unsupported by evidence.

I am sometimes asked why the US does not do anything to solve the humanitarian problem of poverty and displaced persons and violence in El Salvador. This is a startling question, when you consider the enormous amount of American diplomatic and political effort aimed at bringing democracy and peace to El Salvador, and the extraordinary amounts of economic aid which we give and increased amounts which the Administration has urged upon Congress.

Our proposal of 341 million dollars in economic assistance for FY 85 to El Salvador is certainly a valuable response to the humanitarian problem there. I do not believe that the appropriate response to the problems of poverty or violence in El Salvador is to allow any Salvadoran who wishes to, simply to live in America instead -- any more than I think this is true for Guatemala, or Haiti, or Nicaragua, or Sri Lanka, or Afghanistan, or Iran, or Uganda, or Ethiopia, or Lebanon, or Vietnam, or Zimbabwe. My point, of course, is that in a very large number of countries millions of people, and indeed, tens of millions, face lives which any American can only view as desperate. How do we respond? We respond with our willingness to allow hundreds of thousands to immigrate to the United States. We respond with our asylum and refugee programs, which are the most generous in the world. We respond with our foreign aid program, now totaling 8.89 billion dollars including the pending supplemental request. And we respond with various

political and diplomatic efforts to resolve disputes and reduce violence. It does not seem to me that a sensible response can be to say that all these people, if they can make it to the US, can stay. We can and we must do very many things to address the urgent and desperate humanitarian needs of tens of millions of people throughout the world, but one thing we really cannot do for them all is tell them to move to America.

I therefore respectfully suggest that the current policy is an appropriate one, combining large amounts of economic assistance, energetic diplomatic efforts, and the grant of asylum to those with a well-founded fear of persecution.

Mr. MAZZOLI. Thank you, Mr. Secretary.

Ms. MEISSNER, welcome.

Mr. MEISSNER. Thank you, Mr. Chairman.

Commissioner Nelson regrets that he is not able to be here today.

Mr. MAZZOLI. I fully understand.

Ms. MEISSNER. He is en route and may be able to join us for questioning.

Mr. MAZZOLI. I appreciate his even making the effort.

Ms. MEISSNER. I would ask permission to enter testimony into the record and I will summarize.

Mr. MAZZOLI. Both of your statements will be made a part of the record.

Ms. MEISSNER. The bill before us today, H.R. 4447, prohibits the Attorney General from detaining or deporting Salvadorans who are in, or who are entering, the United States, in whatever manner, for a period of 3 years.

The Immigration Service has two fundamental objections to this piece of legislation. First of all, as Elliott Abrams has mentioned, El Salvador is a country of traditionally heavy illegal migration into the United States. That migration has increased steadily over the last decade. So that we believe, even though our estimates, of course, are soft, that there are about 300,000 to 500,000 Salvadorans who are illegally in the United States at this time.

Of our non-Mexican apprehensions, Salvadorans account for about 20 to 25 percent of the people that we apprehend, so they are a significant illegal alien portion of the illegal immigration problem that this country faces.

Extended voluntary departure would definitely function as a magnet to that traditional migration. We cannot help but believe that the general direction of U.S. policy, which we hope the Congress will reaffirm this spring with passage of the Immigration Reform legislation, is to bring about greater control of illegal immigration into the country, and extended voluntary departure for Sal-

vadorans would certainly work in the opposite direction from that fundamental thrust.

Second, this legislation would function to single out El Salvador for separate and special treatment in a way that would be very inconsistent with the Refugee Act of 1980.

It is now 4 years ago this month that the Congress passed the Refugee Act, and the Refugee Act, we believe, does offer a sensible and workable framework for dealing with refugee problems and for the meeting of refugee needs as they appear around the world.

As Elliott mentioned, we do have a substantial portion of Salvadorans in our asylum caseload. Salvadorans apply for asylum. Their asylum applications are adjudicated and that is a vehicle that is available to them to apply for relief.

In addition to that, it has been little noticed but important, that we have had a small overseas admission of refugees from El Salvador. There was an amnesty in El Salvador within the last year and the United States, along with several other countries, has interviewed and admitted political prisoners from within El Salvador as part of the normal administration of the Refugee Act and as provided for in the consultation numbers that the Congress did set for Central American admissions.

Extended voluntary departure, in our view, is, and continues to be, an extraordinary action that the executive branch can take. It is never taken without the agreement between the State Department and the Justice Department to move in that direction. Past extended voluntary departure actions have always been brought about by a formal request from the Secretary of State to the Attorney General and they are based on a combination of factors. The factors are foreign policy factors, humanitarian factors, and the factor of overall immigration impact of that action.

The Justice Department and the Immigration Service have been in constant consultation with the State Department with regard to El Salvador. We have worked closely with the monitoring effort. We continue to watch the situation and be involved in monitoring which will be an ongoing activity that we believe is appropriate.

However, we continue to believe that the immigration and negative immigration implications of an extended voluntary departure for Salvadorans outweighs the other factors that are before us and, therefore, we would recommend against enacting this legislation.

[The statement of Ms. Meissner follows:]



Department of Justice

STATEMENT

OF

DORIS M. MEISSNER
EXECUTIVE ASSOCIATE COMMISSIONER
IMMIGRATION AND NATURALIZATION SERVICE

BEFORE

THE

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND
INTERNATIONAL LAW
HOUSE OF REPRESENTATIVES

CONCERNING

H.R. 4447

ON

APRIL 12, 1984

Mr. Chairman, and Members of the Subcommittee, I am pleased to have the opportunity to comment on H.R. 4447, which you are considering today. The Department of State has already testified as to the circumstances in El Salvador, and I will confine my remarks to sections 2 and 3 of the bill.

This bill would establish extraordinary and unique procedures for handling nationals of El Salvador in the United States without regard to their reasons for and manners of entry into the United States, and contrast to existing law and policy which are intended to treat aliens of all nationalities in a similar fashion. Congress passed the Refugee Act of 1980 to supplant the piecemeal and nation-specific legislation and parole programs under which refugees had been admitted to the United States. The stated objective of the Refugee Act was "to provide a pertinent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States...." It set up a system under which any person--regardless of origin--can apply for and receive individual consideration of the merits of his or her claim to asylum or refugee status.

However, H.P. 4447 proposes to circumvent this system set up by the Refugee Act only three years ago and return to the ad hoc and discriminatory approach of the past. Section 3 of this bill would prohibit the Attorney General from detaining or deporting virtually all nationals of El Salvador who are present in or who enter the United States during the next three years. In essence, it would create a class of virtually every Salvadoran who can manage to enter the United States and regardless of whether the individual has a legitimate claim of persecution, would provide an indefinite safe haven here in the United States. The bill specifically states that Congress may extend this period after considering the Presidential report called for under section 1 of the bill. This raises the prospect of a stream of Salvadorans illicitly entering the United States under the effective sanction of this legislation. In effect, Congress would be encouraging Salvadorans to enter the United States in any manner possible to take advantage of the provisions of this bill.

Problems are not unique to El Salvador, which is why the 96th Congress concluded that the case-by-case approach of the Refugee Act is a fairer system than the nation-specific approach it abandoned. In any case, there is no reason to lack confidence in the Attorney General's decisions on asylum applications. No credible evidence has been presented that any Salvadoran or other national deserving of asylum has been deported from the United States. Denials of asylum can be processed through several levels of administrative courts and are appealable to the federal courts.

Finally, H.R. 4447 provides for an astonishing and apparently absolute prohibition on the detention of all deportable Salvadorans. Because of judicial interpretations of the term "detain", which as you know, can mean anything from "stop and question" to physical custody, the provisions of this section could prevent the Immigration Service from taking an individual into custody in order to verify status or nationality or even persisting in questioning an individual who claimed to be a deportable Salvadoran. In practical terms, this would mean that any person claiming to be from El Salvador would be immune from the operation of the immigration laws. At a time when Congress is pressing for better enforcement this type of provision hampers effective INS operations.

In conclusion, the Department of Justice and the Administration oppose the fundamental premise of H.R. 4447 which would make an exception for Salvadorans to the orderly procedures called for by the Refugee Act to determine whether or not an individual has suffered persecution or would be subject to persecution in his or her homeland. The Attorney General has concluded upon consultation with the Secretary of State that a blanket grant of extended voluntary departure for Salvadorans would not be in the interests of the United States. Attached hereto and made part of this testimony are letters signed by the Attorney General dated July 19, 1983, and by the Secretary of State dated June 23, 1983. The comments and conclusions therein remain in effect currently.

Passage of H.R. 4447 would clearly result in thousands more Salvadorans being added to the floodtide of illegal migrants who are coming to this country outside the legal channels established under the Immigration and Nationality Act. Note that many estimate that up to 1/2 million Salvadorans are already in the United States illegally. Based on available 1982 information, this constitutes approximately 10% of the entire population of El Salvador. The Refugee Act provides a system within which to accommodate refugees from all lands. Salvadoran nationals who fear individual persecution may file for and secure asylum in the United States along with persons from all other countries. The nation-specific approach of H.R. 4447 has been and should continue to be rejected by Congress.

This completes my prepared testimony. I would be glad to respond to any questions you may have.



Office of the Attorney General
Washington, D. C. 20530

July 19, 1983

The Honorable
House of Representatives
Washington, D.C. 20515

Dear Congressman

This is in response to your letter of April 28, 1983, concerning El Salvador and requesting that Salvadoran nationals be provided temporary sanctuary in the United States. The delay in this response has been due to our taking a close look at the situation. I share your concern about the disturbances in areas of El Salvador, and the unfortunate plight of the Salvadoran nationals who have been displaced from their homeland. However, after careful consideration and review, I have concluded that the present circumstances do not warrant a granting of "extended voluntary departure" to El Salvadorans presently in the United States illegally.

As your letter points out, there have been occasions when the Attorney General, in consultation with the Secretary of State, has determined to delay temporarily expulsion of aliens of particular nationalities. Although somewhat of a misnomer, this form of discretionary relief from enforcement of our immigration laws most often has been referred to as "extended voluntary departure." Because of the serious foreign and domestic policy ramifications of withholding the expulsion of illegal aliens on nationality-based classifications, grants of such relief have been rare and limited to those cases where, in the judgment of the senior Executive Branch officials responsible for such policy, the best interests of the United States are served by such extraordinary measures.

It is true, as you further point out, that "extended voluntary departure" has been granted to nationals of Ethiopia, Nicaragua, Poland, and Uganda, at times when such countries were experiencing significant civil disturbances. It is inaccurate, however, to assume that there exists any specific criterion or criteria, such as the occurrence of violence or political instability, by which grants of "extended voluntary departure" are determined. As reflected in our immigration laws, it is an unfortunate reality that our country cannot provide sanctuary to

all foreign nationals whose homelands are experiencing political or economic misfortune. The decisions made as to "extended voluntary departure" are reached on a situation by situation basis and are not readily susceptible to comparison or generalization. Each determination is based on examination of a variety of factors unique to each country's situation.

Because of our shared concern regarding the citizens of El Salvador, I requested new and additional advice of the Secretary of State on this matter. By recent letter, Secretary Shultz has responded that in his judgment our present U.S. efforts to assist the Salvadoran people constitute the most constructive course of action in light of our foreign policy interests, and that the Department of State does not recommend that "extended voluntary departure" be granted to Salvadoran nationals in the United States.

In addition to the counsel provided by Secretary Shultz, I have carefully considered a number of other factors. As you know, it is estimated that there are hundreds of thousands of illegal Salvadoran aliens already in the United States. This is but one facet of the current crisis in which our country is experiencing a floodtide of illegal immigrants. A grant of "extended voluntary departure" to the Salvadorans undoubtedly would encourage the migration of many more such aliens. Because of the present and potential political and economic instability in other countries in close geographic proximity to the United States, any grants of conditional immigration benefits must be considered in light of its potential inducement to further influxes of illegal immigrants. Our recent experiences with the mass migrations of Cuban and Haitian nationals to the United States have underscored the need for proper concern in such matters for the finite capacity of our country's law enforcement and social support systems. It is also clear that, notwithstanding our improving economy, the continuing problems of unemployment and budget deficits can only be exacerbated by any action which would increase substantially the number of people competing for employment and social services.

I have also considered the fact that there are adequate alternatives by which the Salvadoran nationals may seek relief. For example, as you know, our immigration laws provide various specific procedures whereby aliens may lawfully secure the right to enter and remain in the United States, including application for asylum where there is a properly demonstrated claim of fear of individual persecution in the alien's homeland. This is not to suggest that grants of "extended voluntary departure" and asylum are based upon the same considerations and criteria; however, I do view it as significant that the provisions of the Immigration and Nationality Act contain numerous forms of relief for which aliens may apply to remain in the United States. Both the number of Salvadoran aliens and past experience suggest the

possibility that many such aliens may seek to remain in the United States for economic improvement as well as the fact that many such aliens passed through third countries which would afford sanctuary were that the sole objective of the migrants. Thus, I believe it appropriate to address the Salvadorans' request for relief on an individual by individual basis, as is the normal course under our immigration laws.

Finally, as you know, the Department of State has made periodic reports on the conditions in El Salvador and has concluded that, while serious problems remain, the risk to the general citizenry from civil disturbance is not prevalent throughout the country and, in some areas, the risk has diminished.

Although it is my judgment under the present circumstances not to institute a discretionary grant of relief from enforcement of our immigration laws to all Salvadoran nationals now in the United States, I have attempted to convey the serious attention that has been given to the matters raised in your letter. Please be assured that we shall continue to monitor the situation carefully, and will make every effort to ensure the fair and humane administration of our immigration laws and policies with respect to the many Salvadoran and other aliens now in our country.

Sincerely,



William French Smith
Attorney General

THE SECRETARY OF STATE
WASHINGTON

JUN 23 1983 5 53 PM '83

June 23, 1983

Dear Bill:

This is in response to your letter of June 13, 1983 concerning extended voluntary departure (EVD) for Salvadoran nationals in the United States. I, too, have received a letter from 89 members of the House of Representatives recommending that EVD status be granted to Salvadoran nationals in the United States, and I am aware of the sense of the Congress resolution and the pending litigation to which you refer.

The letter from the Congressmen and the litigation you have cited compare the level of civil disturbance and strife in El Salvador to those in other countries at times during which the Department of State recommended that EVD be granted for the nationals of those countries. However, such considerations in this or past cases can not be so readily generalized for comparative purposes. For example, it should be noted that civil strife is not prevalent throughout all regions of El Salvador. In any event, the extent of civil unrest alone does not determine the Department's view toward the granting of EVD to nationals of a particular country. The Department invariably considers a number of factors in deciding whether to recommend the granting of EVD in any particular case, and the granting of EVD may meet different objectives in different cases. Moreover, a recommendation to grant EVD in a particular case is but one of a number of possible responses that the Department may consider useful and appropriate.

The Department shares the humanitarian concerns of the 89 Congressmen and others about the continued civil strife in El Salvador. As you know, the Administration has taken a number of steps to help the Salvadoran people in their efforts to establish a democratic society in which the rights of all are recognized and protected. These include: bilateral and

The Honorable
William French Smith
Attorney General.

regional efforts (in which you personally have participated) to foster legal reform in El Salvador and several other nations in Central America; U.S. support of human rights initiatives, including creation of the Human Rights and Peace Commissions, and the recent amnesty; the medical assistance recently dispatched to El Salvador; and support of agrarian and other economic reforms. Through our efforts and those of others like the International Committee of the Red Cross, progress has been made in the taking and treatment of prisoners and the visitation of those detained, while, over the long term, violence outside of combat has been reduced. The Department believes that such measures, coupled with U.S. assistance and training programs in El Salvador, constitute a concerted political and humanitarian response to the situation in El Salvador, and that our present course of action is the most constructive in light of U.S. foreign policy interests with respect to El Salvador and other countries in the region.

In addition, based on past experience, the Department has concluded that a grant of EVD is, if not a magnet, at least an inducement to members of the beneficiary nationality to seek to enter the United States by any means, since they can avoid deportation. While, as you know, accurate statistics concerning illegal migration generally are not available, it is our best estimate that the 1979 grant of EVD to Nicaraguans was followed by a significant increase in illegal Nicaraguan entry into the United States. This phenomenon is, of course, facilitated by the proximity of Central America to the United States and the relative ease of travel to the U.S. from that area. We have examined this factor in light of our general understanding that for some years now Salvadorans have been migrating illegally to the United States, and in light of this Administration's strong commitment to deter illegal migration to the United States.

Because of the foregoing, the Department of State does not recommend at this time a grant of EVD to Salvadoran nationals in the United States. Please let me know if you require any further information.

Sincerely,



George P. Shultz

Mr. MAZZOLI. Thank you very much, Ms. Meissner.

I yield myself 5 minutes to begin the questions, and just a few, quick questions.

I believe I heard one of the statements earlier today from one of our colleagues to the effect that 3 percent of Salvadorans who apply for asylum are granted it. Then I heard, I think, in terms of 15 percent. Is there some agreed-upon figure to show the percentage of those who are granted asylum?

Mr. ABRAMS?

Mr. ABRAMS. The last, I guess I could say, officially compiled figure is that for fiscal year 1983, which is 3.7 percent. The trouble with using that figure is we are halfway through 1984—those figures are 6 months old, plus the fact that there are delays in INS processing once they have the State Department's recommendation. So those figures are really a year old. Current figures are running at about 10 percent.

Mr. MAZZOLI. At about what?

Mr. ABRAMS. Ten to twelve percent.

Mr. MAZZOLI. Ten to twelve percent current figures.

Let me ask you this: Of course, you all sat here through all of the testimony this morning and you have heard a lot of our colleagues refer to the situation—Ethiopia, the Ugandan situation, Polish, Afghan, Iranian, Nicaraguan, and I even heard someone say Chile and Cuba. And I didn't realize there were ever EVD programs for them.

But to make a long story short, a lot of them refer to the fact, look, you have done it so often, why not do it one more time for a deserving group of people?

Ms. Meissner, let me ask you this, you make a very strong point in your statement that we in 1980 diverted away from the Nation specific, from the ad hoc, and the helter-skelter of paroles and whatever, and we went to a very clear-cut decision in our act based on a 1951 definition of the U.N. protocols and treaties.

So it makes a lot of sense. Why go back to the way we used to be, except, and I would ask you your response, there are so many existing programs for EVD that maybe in effect the law is honored more in the breach than in the observance.

Can you give me some ideas on that?

Ms. MEISSNER. I would say that EVD always remains an option, a discretionary option, for the Attorney General, on the recommendation of the Secretary of State in extraordinary circumstances. But I think, too, that within the executive branch we have the general view that we should be evolving in a direction away from those kinds of special actions.

Several of them do exist presently. Afghanistan is an extended voluntary departure country; Ethiopia for people that came for a certain time: there are various characteristics to these EVD programs.

But you pointed out earlier something that I would reiterate, which is that we have never had an extended voluntary departure for a country that has had the kind of illegal migration tradition into the United States that El Salvador does.

The closest country geographically that has an extended voluntary departure has been Nicaragua, and that EVD lasted for about 15 months, from 1979 to fall of 1980. Nicaragua has never been a country of high illegal migration to the United States. So that the notion of the immigration impact is a critical one for us.

Mr. MAZZOLI. Two questions allied to your bringing that situation of Nicaragua up. One, have you got any kind of results as to what happened when you terminated the program? What happened when you found a guy that was on a roll and he didn't want to go back?

Second, what happened to them, how you handled that, and whether or not during the course of the program it became a magnet of any kind?

Ms. MEISSNER. Well, of course, that is very difficult to know. We do know that when the extended voluntary departure for Nicaragua was lifted that our asylum caseload rose dramatically.

Mr. MAZZOLI. In other words, people that got here just chose another avenue then?

Ms. MEISSNER. Filed for asylum. And that is perfectly proper and appropriate. And when we lift an extended voluntary departure we always advise people that they have an avenue of relief in asylum and they certainly may avail themselves of a case-by-case review. So there is that effect. Nicaragua now represents, apart from the Cubans, which is a whole different situation—Nicaragua and El Salvador, the two major caseloads that we have—

Mr. MAZZOLI. Of your pending asylum cases?

Ms. MEISSNER [continuing]. Of the larger portion of the pending asylum cases. So there has been adequate—

Mr. MAZZOLI. So that you expect naturally that if this program were adopted, that whenever it ended, you would have quite a few thousand people, tens of thousands, maybe 100, just moving from one category over to another, from EVD over into an asylum program.

Ms. MEISSNER. I think that is a very natural and predictable effect.

Mr. MAZZOLI. OK, how about the magnet effect? Did you see anything during the course of the program that would indicate people were coming in?

Ms. MEISSNER. As far as Nicaragua is concerned?

Mr. MAZZOLI. Yes.

Ms. MEISSNER. I can't say that we felt that there was a strong migration effect. But we believe that that is because there was not a strong tradition for that kind of migration.

Mr. MAZZOLI. Now let me ask you about that tradition. Now, you have mentioned it, Mr. Abrams mentioned it—tell me, how do you establish a tradition? Can you go back to a village or to a state or, say, a region in El Salvador to the effect that really the people make it a practice to come out?

I understand certain states of Mexico are traditionally providers of people who wind up in our country. And I understand that is sort of traceable. Is there anything like that that has ever been empirically proven with regard to El Salvador?

Ms. MEISSNER. There are certain parts of El Salvador from which people are more likely to come than other parts. I am not familiar with the names of the states in order to be able to tell you that.

Illegal migration from El Salvador is widespread. It has been happening for a long time. It comes from really all parts of the country, and it is a function of the poverty and lack of overall economic opportunity that people in that country face.

Mr. MAZZOLI. Let me, for the record, welcome Mr. Nelson, after he had a little briefing of what has been going on today, we welcome Alan Nelson, Commissioner of the Immigration Service. And to bring you up to date, Mr. Nelson, your colleague, Ms. Meissner, has delivered the statement and reiterated the position of your agency and of the administration as Mr. Abrams has, and we are now in the questions.

Mr. ABRAMS, may I ask you that question before I yield to my friend from Texas, have you got any data, because you use the term "tradition," and El Salvador is one of the ones of the central American countries that engage heavily in this—do you have any data to back that up?

Mr. ABRAMS. We don't have the kind of detailed studies that have been done for the states of northern Mexico where we actually have data on villages, for generation after generation.

But we do have estimates—one can find estimates going back to the early seventies, and at that time it was thought that there were more than a quarter of a million Salvadorans in the United States. That was the usual estimate which is now, I guess, more or less double. We do have only, I would have to say, impressionistic evidence. But the evidence that our—for example, Embassy people who have been living in the country have, is that America is an enormous presence in El Salvador. It is an enormous cultural presence, every presence—everyone knows about it, and everyone seems to know that it is an option, if your economic option seems to be foreclosed.

I would just make one further point and that is that the population of El Salvador, which is now about 5½ million, is predicted to rise to 9 million by the year 2000. It is a very fast growing population. It is already the most densely populated country in the hemisphere. So pressures for further illegal immigration to the United States will no doubt increase.

Mr. MAZZOLI. Fine, thank you very much. I have many questions but I want to yield to my friends so that they can get theirs in too.

The gentleman from Texas is recognized for 5 minutes.

Mr. HALL. Thank you, Mr. Chairman.

How many—estimated, of course—Salvadorans are in the United States today?

Mr. ABRAMS. I guess the usual estimate is somewhere between 250,000 and 500,000, probably most people tending toward the higher figure.

Mr. HALL. Now, those people have come to the United States within the past 5 years?

Mr. ABRAMS. It varies, and we really don't have a good study. But I would say, let's see, that is 1979—the larger portion of them, yes.

Mr. HALL. Where are they primarily entering the United States?

Ms. MEISSNER. Across the southern border, more on the Texas side—

Mr. HALL. I was going to ask you whether or not it was—

Ms. MEISSNER [continuing]. Than on the California side.

Mr. HALL. Texas or the California side.

Ms. MEISSNER. Although it is both, and it is a traffic that is heavily involved with smuggling.

Mr. HALL. Do you have any evidence that the Salvadorans who come into the United States get involved in the business of crime?

Ms. MEISSNER. Not in any extraordinary fashion that would distinguish them from the general.

Mr. HALL. If this bill would pass, H.R. 4447, and all of these restrictions were placed upon the Attorney General, do you have any estimate as to how many people might enter the United States from El Salvador in the next 18 months to 2 years?

Ms. MEISSNER. No, we don't. We simply believe that it would be considerable. We know that the flow has been steadily increasing over the last 4 or 5 years and we can't help but conclude that with this kind of open ended safe haven situation that the word would get back very, very quickly and that it wouldn't generate migration.

Mr. HALL. Mr. Abrams, you said that the population of El Salvador at this time is about 5½ million people.

Mr. ABRAMS. Yes, sir.

Mr. HALL. And that within a period of time, which I did not get, it will increase to 9 million?

Mr. ABRAMS. By the year 2000.

Mr. HALL. By the year 2000. All right.

Is that based upon people moving to El Salvador?

Mr. ABRAMS. Natural increase.

Mr. HALL. Natural increase.

Mr. ABRAMS. It is a high birth rate.

Mr. HALL. All right.

What kind of survey has been made by you, or those under whom you are responsible, to determine whether or not these Salvadorans who have gone back to that country have met with any undue problems in that country?

Now, I realize that it is difficult to go into the recesses of a country and find out everything about these people, but has a concerted effort been made to try to make this determination?

Mr. ABRAMS. Yes, sir. The most recent study, which is really just now underway—

Mr. MAZZOLI. Would the gentleman suspend for a second?

You said there were four studies and this is the fourth one, there have been three earlier ones?

Mr. ABRAMS. Three earlier ones which were less, how shall I say?—well organized.

Mr. MAZZOLI. All right. So this one, as you will tell my friend from Texas, is more organized, and I think you also said that interviews are being conducted by Salvadorans, not by U.S. personnel.

Mr. ABRAMS. Yes.

Mr. MAZZOLI [continuing]. People?

Mr. ABRAMS. That's right. We thought that you might get a skewed result of you sent U.S. officials out to look into some neigh-

borhood and start looking for Salvadorans, people might get suspicious. We hired Salvadoran Nationals to go out and ask—and they were supplied with the names and addresses as the Salvadorans had given them to the Immigration Service—and had a questionnaire designed to disguise the purpose of asking the questions. That is, we didn't want people to know precisely what it was we were looking for because that might have skewed the result, too. So we asked questions about their treatment in the United States as well as their treatment in El Salvador.

Now, we had 482 names on that list, of which we have found a third of the people at the addresses that they gave when we went to look for them. And another third of the people were not at those addresses. Another third, we have yet to go to those addresses because they are in distant parts of the country.

Mr. HALL. How long has that survey been in progress?

Mr. ABRAMS. The survey has been in progress about—

Ms. MEISSNER. The middle of March.

Mr. ABRAMS [continuing]. The middle of March—a month.

Mr. HALL. And prior to this survey that is in progress now, when was the last survey completed, and how long did it take place?

Mr. ABRAMS. It happened within the last 3 or 4 years. The information is mostly—and I supplied this to the subcommittee—there was testimony in a lawsuit against the Government on the question of asylum for Salvadorans by Mr. Todd Greentree, who had been on the political staff of the U.S. Embassy in El Salvador, and testified about the three prior attempts when a smaller number of names were collected, 50 or 60, on that order, and investigators were sent out to try to find the Salvadorans at the addresses they had given. And once again, they came up with no evidence whatsoever of persecution. So this is round 4 for us and no evidence of persecution has turned up.

Mr. HALL. The survey prior to the one that is in progress now, you were looking for 50 names?

Mr. ABRAMS. Right.

Mr. HALL. And you found no evidence of anyone who had been hurt or bothered in anyway, of that group. How many of the 50 did you contact?

Mr. ABRAMS. I don't have that number with me.

Mr. HALL. Was your percentage any higher or was it lower than the one that you are working on now, when you say you have got about a third to be contacted?

Mr. ABRAMS. My guess would be that it would end up about half in those surveys, too.

Mr. HALL. These surveys are not proving a great deal, are they?

Mr. ABRAMS. I think they are, Congressman.

Mr. HALL. You are not getting in contact with enough people.

Mr. ABRAMS. It would seem to me there is no reason to assume that people who give fictitious addresses are any more likely to be killed than people who don't. What we are finding is that not only do we not find out about a death, we don't even hear anything about it. When we ask the Salvadoran human rights groups which are critical of the government, do you hear about this? We asked the Red Cross, do you hear about this? The answer is always no. There is just no evidence of it. Then we get—

Mr. HALL. Is that just the usual response that you are going to get from somebody that is in a country like El Salvador that they are not going to want to get involved where somebody else has been killed?

That is not the best evidence in the world that it has not happened.

Now, I am in agreement with what you said in your statement here, I don't think we can just open the door, and I don't think we can just tell the world, you just do whatever you want to, come over here because you are not going to be sent back. But I don't believe that the statement that you make about the surveys have really been as much in depth as they should be to convince me that maybe something is not happening to those people when they go back.

I yield back the balance of my time.

Mr. MAZZOLI. The gentleman's time is expired. But it is on a very important area so maybe I could just sort of using the chairman's prerogative explore with the gentleman for another minute or so.

In this connection, earlier in the day I had handed to me by the gentleman from Massachusetts this stack of papers which I think was sort of prefaced by the fact that, you know, this is proof that 60 people have been killed who went back. I don't know if it was or not, but this material here is labeled possibles, most likely victims, less likely victims. It doesn't seem to be a definitive study.

But, first, are you familiar with this at all? Have you ever seen this material?

Mr. ABRAMS. I have not seen that material. I have read press reports about it.

Mr. MAZZOLI. You have. Do you have any few seconds comment about the nature of the way this study was conducted compared to the way you have conducted the earlier ones and whether this material is to be relied upon by this committee as a definitive study?

Mr. ABRAMS. The press reports indicated that a name matching had been done—

Mr. MAZZOLI. Yes.

Mr. ABRAMS [continuing]. Which we thought bordered on the ludicrous, given the fact that some of the names involved probably are the names of 100,000 people in El Salvador.

Mr. MAZZOLI. I think that Mr. Moakley said that beyond that they went to identification of birth dates, and identification of mothers' names and fathers' names and things like that to sort of boil it down. But your general opinion is that this is not always perhaps that reliable.

The second question that I would ask in line with the gentleman is bringing up, and that is when you and I talked some several months ago, you mentioned that the Bureau of Refugee Programs was sending 200 names to the ICRC, the International Commission of the Committee of Red Cross, and that they were going to check on the whereabouts of these 200 people, presumably those who have been sent back to El Salvador.

Do you have any idea what happened to that, were there studies?

Mr. ABRAMS. Yes; the ICRC concluded that it was not within their mandate to conduct a study such as this, which was really a

U.S. Government study to determine what happened to our deportees, and they did not do it.

Mr. MAZZOLI. All right, the third and last question, then I am going to yield to my other friends here on the panel. It occurs to me that one thing that is attractive about this study that is underway now is that you are trying to use Nationals to make the interview so that you don't sully the data by the implication of the United States being involved. And you are even trying to tailor the questions so that the interviewee might not be quickly alerted to just exactly the nature of the interview.

Is there any way to use international, if the ICRC is ruled out, I mean, the UNHCR, will they help. Will Caritas help, will any of the international agencies that haven't maybe taken a strong position. Some of these people here have indicated their own feelings and they will be just as unreliable as something that the State Department might do?

So, is there any international help for us to try to get the thing the gentleman from Texas is looking for, and that is a clear statement of are these people hurt when they go back or are they not?

Mr. ABRAMS. We realize that, in our discussions, that a survey conducted by an international organization would have more credibility than one we conducted. But we have not yet found the international organization willing to do it, in part, frankly, they don't want to get caught up in a squabble within Congress or between the administration and Congress, which has implications for United States-El Salvador policy.

The ones we have talked to have, generally speaking, shied away from it. So we decided that we would go ahead and do the best job we could at it.

Mr. MAZZOLI. Try to insulate it by using Nationals.

I thank the gentleman for getting at that line of inquiry.

I yield to my friend from Florida for 5 minutes.

Mr. MCCOLLUM. Thank you, Mr. Chairman.

The point of the authors of this legislation this morning in part seems to be that they really don't care whether or not the refugee political asylum definitions are met with regard to these folks. They seem to distinguish the fact that they are here already, that they are not coming in, and that they are in fact here in large numbers, therefore, they present a unique problem of sorts, and one which we should address on the basis of the danger to them going back there generally in the war. I got that flavor running throughout that.

I am sure that you probably examined the American Civil Liberties Union analysis of the situation of the extended voluntary departure of Salvadorans. In that text they make the statement on page 63, particular danger has never been a consideration in past grants of extended voluntary departure. Indeed, the general conditions in a particular country are precisely the central consideration in such grants, and they go on to say extended voluntary departure is granted to persons whose safety is in jeopardy because of the breakdown of social order. Salvadorans would upon return face extreme danger—this is sufficient.

I think the consensus would have to be if anybody has ever been down there, of course, anybody going back there faces danger. I

don't care which side of the fence you are on, that would be true of many countries around the world.

Is the assessment that is being made by the American Civil Liberties Union with regard to the general versus particular danger and the statement being made that general conditions in a particular country are the criteria? Is that an accurate statement of the history of extended voluntary departure?

Mr. ABRAMS. Say they are among the criteria. There are other criteria for EVD decisions. Let's face the fact that Poles are not being killed. The EVD decision with respect to Poland was not based on the notion that there was large-scale killing going on in Poland, then or now. So, that is one of the questions that one asks in making an extended voluntary departure but it is not the only question one asks.

One then must ask about El Salvador, whether the ACLU's description of the conditions in the country is entirely accurate—I remember on a commercial flight that I took to El Salvador, sitting next to a Salvadoran who was returning from Miami for a vacation. He had been working as a waiter in Miami. And I said, aren't you afraid to go back? He said, you know, there is violence but I am not involved in politics, he said, I am not afraid to go back.

There is also a voluntary return to El Salvador of a certain number of Salvadorans who were illegally here. It is not true that the entire country is caught up in constant killings and bombings. There are areas which are highly conflictive and areas which are less conflictive.

Mr. McCOLLUM. So you would not agree with the statement that if extended voluntary departure is granted to persons whose safety is in jeopardy because of the breakdown of social order, that that is the bottom line reason for granting EVD?

Mr. ABRAMS. No, that is sometimes the reason. There are sometimes other reasons. Nor does everyone whose safety is in danger in the world get EVDs. So I think that is too simplistic a statement by the ACLU.

Mr. McCOLLUM. OK.

In general, what do you think of this ACLU report?

Mr. ABRAMS. I think it overstates the case. I think we are all aware of the humanitarian side of the problem in El Salvador which is enormous. But I think that the conditions in El Salvador are exaggerated in the ACLU report.

Mr. McCOLLUM. I understand that the deportations in the past year, 1983, fiscal year 1983, from the United States were 3,175 and there were voluntary departures that have been verified of 1,627. Now, those figures may be inaccurate but that is what I have been given.

Has this come about, have these departures, both the verification and the deportation, from an extensive effort to round up Salvadorans or is this just incidental? Maybe I should ask this of Mr. Nelson, I suppose.

Is this just incidental to the normal workings of the INS and these folks happen to be rounded up as part of the normal, everyday stuff?

Mr. NELSON. That is correct, Mr. McCollum, the latter. There are no special efforts targeted at Salvadorans or any nationality. They are apprehended when we catch up with them just as anybody else.

Mr. MCCOLLUM. Are a lot of these border apprehensions?

Mr. NELSON. Many were, yes.

Mr. MCCOLLUM. With respect to Salvadorans, do you know if any of the Salvadorans have requested to go to countries other than back home who you have been deporting? Have they made a request for not necessarily asylum here, but to go to Honduras or some other country?

Mr. NELSON. I know some have expressed an interest to go to Canada, and some have. In fact, I apologize, Mr. Chairman, for being late, I just returned from a meeting with Canadian Immigration officials in Ottawa and that is the reason for my delay in arrival.

Mr. MAZZOLI. Fine.

Mr. NELSON. So there has been some there. I am not sure, maybe Ms. Meissner knows, or others, as to requests to go to other countries in Central America. I am not aware that this is much of an issue. There might be some individuals, but certainly that is not a large trend.

Mr. MCCOLLUM. If we pass the current Immigration Reform bill with legalization in it with a January 1, 1982, date in it, would most of the Salvadorans present in the country today that would be subject to EVD be eligible for legalization?

Mr. NELSON. I believe they would. As Mr. Abrams answered earlier, the estimates range from 250,000 to 500,000 illegal Salvadorans in the United States. Clearly, most of those, or a good number of those, no one knows exactly the time of arrival—of course, that is difficult to know when they are illegal.

But this has been going on for many, many, many years. The United States has been a place of work for Salvadorans. So a tremendous number of those would have been here the requisite period of time. Of course, that would depend on the legalization dates in the Act.

Mr. MCCOLLUM. Am I correct that your past testimony on occasion when you have been up here for more general testimony is to the effect that the Salvadoran flow across the border, that apprehensions has slowed in the last few months compared to what it was a year ago; or am I incorrect, has it increased?

Mr. NELSON. No, it has increased. I know of some of the figures, maybe the first few months of this fiscal year, they might have been a little lower. But the last 2 to 3 months, calendar year 1984, we are seeing a 60 to 70 percent increase in apprehensions of Salvadorans at the border. So it is clear that more are coming.

If I might, Mr. McCollum, one addition to what Mr. Abrams said—I think appended to our testimony that Ms. Meissner gave were two letters, one from the Secretary of State, the other from the Attorney General—that the one from the Attorney General of July 19, 1983, went to some 80-odd Congressmen, I think quite clearly sets forth the administration policy on extended voluntary departure. And as Mr. Abrams indicates, there are a number of factors, and this being a discretionary program, there is no one single criteria. It is a discretionary program that has been used—

and certainly the immigration impact is one thing that obviously interests the Immigration Service as well as you, is a very significant factor in doing something of a discretionary nature. And with a number of Salvadorans that we know that are here already, and the indication of the past and current flows, that we would expect a very serious immigration impact should there be extended voluntary departure.

And that is clearly one of the reasons why we don't think it is appropriate here in addition to the other factors mentioned.

Mr. MAZZOLI. The gentleman's time is expired.

The gentleman from New York.

Mr. FISH. Thank you, Mr. Chairman.

Mr. Chairman, I am going to have to leave right after my questions and not have a chance for a second round, and I would appreciate it if I might run a few minutes over my time.

Mr. MAZZOLI. That will be fine.

Mr. FISH. I welcome friends from years of involvement in these matters. I am reminded that from the vantage point of this subcommittee that acted so quickly and responsibly at the fall of Saigon on refugee matters, that it has always been a very strong interest of this subcommittee to enlarge the number of countries, third country resettlement countries. Several of us have been in Geneva under the auspices of the U.N. High Commissioner or the Secretary General to urge other countries to take refugees in different parts of the world as generously as we do.

I am reminded also of State Department documents. Just a few years ago, a former ambassador and neighbor of mine returned from a study of 1 month in Southeast Asia. He credited the stability of the ASEAN nations and their receptivity to become countries of first asylum to the guarantee of this Nation and a few others that we would be the country of resettlement, or that France would be the country of resettlement.

I think these are very important things to keep in mind, because what we do is important—but how our actions are perceived is also critically important. And together, our actions and how they are perceived could possibly compromise our moral authority in this area of humanitarian concern.

So my question to you, Elliott, is do you believe there is any basis for a concern that an American precedent of forcibly returning Salvadorans may be used by other countries to forcibly return persons that we consider to be refugees?

Mr. ABRAMS. I would think not. I understand the danger. We believe we are meeting our treaty obligations and the obligations of American law by looking at every case individually to determine which individuals are in fact refugees, and allowing them to stay in the United States.

We also have to acknowledge that we have perhaps a half million Salvadorans living here. No organized effort is under way, nor is anybody in Congress really suggesting one, to round up and deport those people. So if the countries of Central America were going to be following our practice, the fact is that they would be housing a very large number of Salvadorans and making no particular effort to deport them.

Mr. FISH. You don't see that we could find this being used against us in our efforts in refugee work, not just today, but efforts that might occur in the future?

Could I ask you if you could explain any differences that there may be in the approach of the State Department and the approach of the UNHCR to the problem of undocumented Salvadoran nationals in the United States?

Mr. ABRAMS. The UNHCR has used the phrase, I think, of presumptive refugees, if I remember it correctly, to describe people coming from El Salvador. There is no such term in American law, nor would we be in favor of having one. Our refugee and asylum laws call for the inspection of each case on its own merits.

I would think that if it is the U.N. High Commissioner's position that everybody who leaves El Salvador is a refugee, or presumptively a refugee, we would simply disagree on the grounds that we have experienced Salvadoran emigration to this country for years and years before there was any particular political violence in El Salvador, and it just does not stand to reason that everybody coming from El Salvador should be presumed to be a refugee.

Furthermore, we have now had the chance in the past, say, 5 years, to look at thousands and thousands of Salvadoran cases and we have determined by doing so that the vast majority of those who are coming, whose cases we see, are not refugees. That is, we have looked at the cases, we have read the applications, we have interviewed the people—"we" meaning the Department of State and/or the Department of Justice Immigration Service—and they are not refugees.

So I would say that to the extent that that is the position of the UNH—I always get confused with the Human Rights Commission—HCR, that we would disagree with it.

Mr. FISH. Thank you.

Commissioner Nelson, one argument advanced against extended voluntary departure for Salvadorans has consistently been the magnet effect that such policy would have on future flows from El Salvador. At the present time, however, I understand that an extremely small percentage of Salvadorans illegally in this country are being sent back to El Salvador pursuant to orders of deportation.

Isn't our current inability to identify and initiate action against the vast majority of Salvadorans illegally in the United States already a powerful magnet to those still in that country? And in view of the reality of the present situation, which presumably is well-known in El Salvador, isn't a formal policy of extended voluntary departure really likely to make very, very little difference?

Mr. NELSON. I would not think it would make little difference. We do think it would be a very much increased magnet, no question. We have problems with Salvadorans having come to the United States, other illegal aliens having come to the United States. One of the things we have been trying to do administratively, in trying to do together with the Congress legislatively, is to improve our procedures and our laws so that we can better deal with the problems. And to grant extended voluntary departure under the circumstances would clearly greatly enlarge the magnet.

Now, we apprehended in fiscal year 1983 close to 17,000 Salvadorans and actually sent back, either by deportation or voluntary return, somewhat nearly 5,000. So that is a substantial number. Had we had EVD, the 5,000 would not have gone back, clearly, and that is a significant number. And many, many more would come when they know that they would have a free ride in getting here, once they got here.

Mr. FISH. Could I interrupt a second?

Mr. NELSON. Sure.

Mr. FISH. You might have heard this earlier in a question by the committee, but should we establish an entry cutoff date for eligibility for extended voluntary departure? Wouldn't that eliminate the magnet problem?

Mr. NELSON. No; first of all, we don't think it is merited in terms of the use of that program as a discretionary program of the Executive for all of the reasons stated, so we strongly believe there should not be such a program. So putting a cutoff date is really not something we need to deal with, because we just don't think it is appropriate.

Mr. FISH. Thank you.

Thank you, Mr. Chairman.

Mr. MAZZOLI. Thank you.

The time of the gentleman has expired.

Mr. FISH. Thank you, I appreciate it.

Mr. MAZZOLI. It went a little long but it was very nice.

Let me, while the gentleman from California is getting up, let me yield myself 5 minutes to ask a few more questions in this area.

The gentleman from New York has hit on a point that we talked about earlier and that is that many people on the panel before you came in, Mr. Nelson, and your colleagues were here, expressed some concern about an open-ended program that keeps rolling on.

Could you, if this thing were properly structured, live with some sort of a measure which would have a cutoff date—in effect, as Mr. Smith said, an inside date and an outside date?

Does anybody care to take a shot at that?

Mr. NELSON. I would say, Mr. Chairman, the answer would be no. The administration feels strongly that it is not appropriate, that it should not be granted; and to talk about dates is really not a very relevant consideration.

Mr. MAZZOLI. OK, thank you.

Let me ask this question of the INS people. Would, if the final section of the bill, this fourth section which deals with detention, prohibiting, detaining any of the people. Would that hamper your law enforcement efforts at the border or anywhere else in the country, interior or elsewhere, by the fact that you could not detain people even for the purpose, I assume—if I read your statement correctly—even for the purpose of interrogating them, or just getting information from them?

Ms. MEISSNER. Certainly it would hamper our operation. We detain people presently primarily for the purpose of assuring their presence at hearings. And if they cannot make bond, do not have any community ties, then they are detained.

Now, under an EVD, there would be no hearings going forward so some of the reason for detention would dissolve. Nonetheless—

Mr. MAZZOLI. But where there is a need for detention you couldn't detain them?

Ms. MEISSNER. Nonetheless, where there is a need for detention, clearly under the language—

Mr. MAZZOLI. For example, those Salvadorans coming across the border—and all of the panel ahead of us said no, no, they wanted the law enforced, you know, part of this thing was to enforce the law.

But, in any event, it is going to be hard to enforce the law at the border if you can't detain the people and say, hey, look, I am a Salvadoran, I want to come in.

Ms. MEISSNER. As a practical matter—

Mr. MAZZOLI. Isn't that correct?

Ms. MEISSNER. As a practical matter that is virtually impossible.

Mr. MAZZOLI. Ms. Meissner, you, I think, talked in terms of the smuggling, or maybe perhaps Mr. Abrams—but there seems to be a lot of smuggling activity with those Salvadorans. Now, just to clear the record, are they the smugglers or the smugglee?

Ms. MEISSNER. Both.

Mr. MAZZOLI. Both? In both ways?

Ms. MEISSNER. Both. Ultimately, obviously, they are more the victim than the book trader, but certainly Salvadorans are involved in the smuggling trade as well.

Mr. MAZZOLI. So,—

Mr. ABRAMS. Mr. Chairman?

Mr. MAZZOLI. Yes, please.

Mr. ABRAMS. I would just like to add a point, if I could, which arises somewhat in context with detention but more broadly as well—and that is, if EVD is granted to Salvadorans, this means that there is an enormous advantage in being a Salvadoran over being a Honduran, Guatemalan, Nicaraguan, or anything else. And there is an enormous incentive for people to misstate their nationality. If they are apprehended at the Texas-Mexican border and the INS says we are going to deport you, you are a Honduran. The fellow or woman then says you can't deport me, I am not, I am a Salvadoran.

There will be, I think it is fair to say for those who are interested in venture capital investments, a new industry in false I.D. cards for Salvadorans.

Mr. MAZZOLI. If I understand correctly, they couldn't even detain the person until you check the veracity of the ticket. Isn't that correct?

Ms. MEISSNER. That is correct.

Mr. MAZZOLI. I mean, if that part of the bill stays together, you couldn't detain that person whose real nationality is in some question until the verification could come in. Would not this section, if it remains in the bill, distinguish these EVD from every other.

Ms. MEISSNER. That is correct.

We have never written—we have never put a detention prohibition into any of the EVD kinds of debate. And there is, of course, a broader meaning to detain than simply to put somebody in a facility. It is the whole process of questioning and how—

Mr. MAZZOLI. And I want to bring that out because, you know, when we hear detention, we think of Khrome north, and that is not what detention is.

Ms. MEISSNER. No, we are talking about detention broadly—

Mr. MAZZOLI. Detention is putting a person in a room and holding them for 5 minutes or ask them to sit down while you make a phone call, that is detention of a sort, and they could object to that. I think that lawyers could spring them, and they are in the country before you could do anything about even checking who they are or where they come from, or whatever.

May I ask, Mr. Abrams, a question on this whole thing of smuggling and internationalization of the problem, do we have any cooperation from, for example, the Government of Mexico, in the sense of trying to help us in learning who the smuggling rings are manned by, and staffed by? Do they help us to keep other than Mexicans, for example, away from the border? Do we have any data on that?

Mr. ABRAMS. I would like to refer that, if I could, to the Commissioner.

Mr. MAZZOLI. All right, fine.

Mr. NELSON. Thanks, Elliott.

I guess the answer, Mr. Chairman, is yes and no. There certainly has been cooperation by the Mexican officials in a number of anti-smuggling cases and we have had a very good working relationship with them. We have seen some increases in that.

On the other hand—that is the good news—the bad news is we clearly have indicated a very substantial increase in the number of Salvadorans and other Central Americans coming through. We are concerned about the Mexican officials and what they are doing or not doing in that regard. And that is certainly an area that we expect to have some further discussions. We have met with the people in the State Department, the Mexican desk, had conversations with the Ambassador, Ambassador Gavin, and there will be some upcoming meetings with the Mexican Government, because we want to express our concerns.

Now, obviously, it is a delicate and difficult problem for both of us.

Mr. MAZZOLI. Yes, we are trying to internationalize lots of things.

One last question, then I will yield to my friend from California and maybe come back.

This would be perhaps Mr. Abrams, maybe Ms. Meissner, perhaps it takes legal opinions that will be supplied later, but is there any way that you could think of legally, constitutionally, to limit the opportunities available to those who would be declared to be allowed to stay in the country through extended voluntary departure?

If you were in the room, I asked Mr. Moakley the question about food stamps, welfare programs, about disabling the States from getting reimbursement from the Government from costs, limiting their ability; for example, to get the roots and develop the equities, which then at the end of a 3-year period or a 2-year period means that they would then say, look, I can't go back, I am more American now than I am Salvadoran, and so forth.

Is there anything that can be done to limit the ability of the people to make the contact with this country, and this community, during this temporary period, everybody says it is a temporary bill, that would be legal and constitutional?

Ms. MEISSNER. I would invite everybody to share in, but I think that it is not any different from the situation that we all have debated for years with regard to the illegal alien who is in the country and the situation that we face with that population. Certainly, any legislation could say that people would be ineligible for this, that, or whatever else, and certainly that would be an important policy statement to make if that would, you know, if the Congress would choose to do so.

But as a practical matter, we do know that Salvadorans, along with all other illegal aliens, are able to manage to sink roots, and that time is the greatest enemy of the Government in terms of its ability to effectively enforce departure and an orderly immigration—

Mr. MAZZOLI. And the other side of that, too, is even if you disable the Federal assistance programs, States can start their own programs and say, look, we didn't create the situation, you are the ones that said that these people are allowed to stay illegally, so you ought to reimburse us for the programs that we must start in order to do humane treatment to these people.

I can see that being as a development here too.

Ms. MEISSNER. Sure, and it is generally not so much the problem of the formal programs such as food stamps and welfare. It is, as you mentioned earlier, it is having children in the country—

Mr. MAZZOLI. Hospital and emergency assistance also.

Ms. MEISSNER [continuing]. It is establishing jobs, professional ties, and so on.

Mr. MAZZOLI. Thank you very much.

The gentleman from California.

Mr. LUNGREN. Thank you, Mr. Chairman. I am sorry I missed some of the testimony here. I had another meeting which I had to attend.

I do understand that we visited the question of the 60 individuals that Mr. Moakley submitted to us. What I would like to know, Mr. Abrams, is whether the State Department has specifically gone through those names and could you supply for the committee some written analysis of the names on that list of 60?

Mr. ABRAMS. We don't have the list of 60.

Mr. LUNGREN. I will be happy to give it to you.

Mr. ABRAMS. We will send those names and the information supplied down to the Embassy in El Salvador and ask them to look.

I have to say, though, that we have had contacts with human rights groups on the question of El Salvador. I personally have for years now been asking for names for years, and I would have thought that they could have supplied us the names directly if they were interested in information rather than in just publicity.

I find this an unfortunate procedure for them to have followed.

Mr. LUNGREN. I understand, but my only problem is that I have asked for it for years. This is the first time I have ever gotten it and I feel I have an obligation to follow through on it now that somebody has finally given me a list.

Mr. ABRAMS. We would be happy to do that.

[Supplemental material to be furnished for the committee files.]

Mr. LUNGREN. Second, in appendix III of the publication put out by the the ACLU, "Salvadorans in the United States, the Case for Extended Voluntary Departure," there is an assertion that there are five individuals who were returned from the United States and subsequently killed or disappeared in El Salvador.

Has the Department specifically reviewed those five cases?

Mr. ABRAMS. We have.

Mr. LUNGREN. Can you tell us what your response is to the assertion that they subsequently were killed or disappeared? Disappeared means, I guess, in some way you can't find them, which may or may not prove anything, but the allegation I think basically is that these people have been killed. Can you give me the response that you have to those five individuals?

Mr. ABRAMS. In four of the cases we can confirm that the individuals in question are dead. In the fifth case, we cannot. In the fifth case, the individual's grandmother published an open letter in a Salvadoran newspaper, this is Mrs. Santacruz Elias. His grandmother published an open letter in a newspaper asking about his whereabouts and we investigated and we cannot locate the grandmother. She gave, in this open advertisement an identification number, which does not exist.

We have elicited the ministry of defense to check their military records to investigate whether maybe he was inducted into the military and he was not located there. So that one is one that we just don't know if there is anything there or not.

The other four we can confirm that the individual in question is dead but the reasons vary. In the case, for example, of Mr. Osegueda, a Salvadoran newspaper reported that he was killed with his brother as a result of a robbery, with the accused murderers now being held in prison. That is to say, a robbery rather than persecution.

In another case, the case of Mr. Jose Hernandez, he was deported and was killed in 1982. But the Tutela Legal, the human rights office of the Catholic Church, has been unable to investigate the case because not enough information has been supplied by any human rights group.

They do not list this case as one of human rights violations. We have been in contact with the attorney in Brownsville representing Mr. Hernandez, who brought this case to our attention to provide further information so that we and the Tutela and others could go further investigating this case, and she has not provided any more information.

In two other cases, Mr. Chirino Amaya and Garcia Ortiz, we find that in both cases they were killed. They were killed in the presence of another person who had never visited the United States, but there is no evidence really either way about the death. That is, I think you would have to call these cases of unexplained death, possible persecution, possibly not.

So I guess that would be two out of five that look more possible as deaths relating to persecution, but not confirmed.

Mr. LUNGREN. Could you give me written responses on all five of those, please?

Mr. ABRAMS. Yes.

[The information follows:]

MAY 1 1984

ASSISTANT SECRETARY OF STATE
WASHINGTON

April 30, 1984

The Honorable Romano L. Mazzoli
Chairman
Subcommittee on Immigration, Refugees,
and International Law
Committee on the Judiciary
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

During my testimony before your Subcommittee on April 12, I agreed to provide further information on the five cases which the ACLU has charged constitute instances of killings or disappearances of persons deported from the United States despite their claims of a well-founded fear of persecution.

As I stated during the hearing, we are continuing our survey in El Salvador, and are now sending representatives to outlying cities in an effort to check on deportees. Needless to say, we will supply you with the detailed results as soon as they are available.

The information on the cases is attached. Please let me know if we can provide further information or be of assistance in any way.

Sincerely,



Elliott Abrams
Bureau of Human Rights and
Humanitarian Affairs

Enclosure: As stated.

cc: Congressman Dan Lungren

Santana Chirino Amaya was deported in June, 1981. He was killed, in an unexplained murder in September, 1981. Another man was killed at the same time, though the other person had never visited the United States.

Walter Garcia Ortiz was inducted into the Salvadoran military, but was released with the help of his family. He then came to the United States in order to avoid further military service. He was deported in 1980. In November of 1981, Garcia was killed, along with another youth, while at his grandfather's house. The other youth had never visited the United States. No evidence linking the killing to the U.S. visit has been brought to date.

Jose Hernandez was a member of the Salvadoran military, who was wounded and sent home to recuperate. Fearing that left-wing death squads were looking for him, he left for the United States. He was deported in October, 1982. In November, 1982 he was killed in an unexplained murder. Tutela Legal, the human rights organization of the Catholic Church in El Salvador, refuses to list this case of one of human rights violation, without more specific evidence.

Octavio Osegueda was deported in July, 1983. He was killed, along with his brother in July, 1983. The local paper has reported the killings as a result of a robbery, with three suspects being held in the Mariona Prison. The brother had never visited the United States.

Jose Humberto Santacruz Elias was deported in January 1981. His grandmother published an open letter in "El Diario de Hoy" which requested information on Santacruz's whereabouts. The U.S. Embassy investigated and cannot locate the grandmother, as her I.D. published in the open letter does not exist. The Embassy also enlisted the Ministry of Defense to check military records to investigate possible induction into the military. An extensive search did not locate any record on Santacruz.

Mr. LUNGREN. The Immigration and Nationality Act permits an alien facing deportation to designate the country to which he will be sent. He will then be sent there if that country is willing to accept him into its territory unless the Attorney General, in his discretion, concludes that deportation to such country would be prejudicial to the interests of the United States.

Mr. Commissioner, do any Salvadorans deported from the United States successfully attempt to go to countries other than El Salvador?

Mr. NELSON. That was asked earlier, Mr. Lungren, and I do not have that information. Certainly, if many do, or any do, it is very few. As I said earlier, some have gone to Canada, although not necessarily on a deportation arrangement but possibly some. But we do not have evidence unless Ms. Meissner or anybody else—that many would have availed themselves of this.

Mr. LUNGREN. I am not sure whether this has been asked before but I would like to have a response to it. Have worked with the—

Mr. NELSON. We can check our records. To the extent we have it, and I would presume it would—

Mr. LUNGREN. OK.

Mr. NELSON [continuing]. It might be difficult to—I am sure there are not many, if any, that are so requested.

Ms. MEISSNER. That is correct.

Mr. LUNGREN. Have we had any contact with the United Nations High Commissioner for Refugees about the possibility of either expanding the camps that we have or some new type of camps or territory in that region of the world to encourage the deportation of the individuals to those areas as opposed to deporting them necessarily to El Salvador itself?

Mr. ABRAMS. We have not. I might say, I find that an awfully interesting suggestion, that is, offering an individual if he really is scared to return to El Salvador, the opportunity to go to protection by the UNHCR in Costa Rica or Honduras where there are about 20,000 Salvadorans in each country. We have not yet done that.

Mr. LUNGREN. Does the administration have a position for or against, or have you thought it out at all?

Mr. ABRAMS. I guess if it is fair to say we haven't thought it out but the people I have talked to thus far share with me the view that it is a very promising suggestion which you are now, I guess, the second or third member of the subcommittee has made, and we do intend to follow it up.

Mr. LUNGREN. I don't know where the entire truth lies in all of this. I think it is very difficult for all of us sitting here to try and specifically make the determinations that by law you are required to make and we are required to review. But it seems to me if there is a question about being economic immigrants—illegal immigrants to this country—or refugees, one way of handling that is to respond to their allegation that they are suffering from possibilities of persecution, although it may not be defined or refined as it is required under our determination, by giving them that opportunity; whereas, if they are truly economic immigrants, they may not want to do that and be willing to go to their own country, and do what they can to come back here or go somewhere else, or be in their own country for their own economic satisfaction and advancement.

So I would hope that we would look at that seriously and I would hope that it would be something that the administration looks at seriously in the very near future.

Thank you, Mr. Chairman.

Mr. MAZZOLI. Thank you very much. I have a few more questions and we will send a few more downtown.

Let me ask you this? Perhaps while both of you are in the room, I think it was our friend from perhaps Michigan brought up the question of should the Congress write into the law extended voluntary departure to various criteria that would be applied, because if I understand it correctly, it is now discretionary?

Staff tells me that different times and places the following factors have been considered: the extent of the civil strife in the sending country; the degree of the breakdown of services and public order in that country; the level of political instability there; the dangers faced by returnees as opposed to the risks confronting those who have never left their country. And to some extent the impact as we talked today on the magnet effect, the potential magnet effect, of extended voluntary departure.

Do you think there would be something wrong with our writing into the law some of these things which have developed over the years and say specifically they have to be consulted and specifically they have to be reported on by the Attorney General and the Secretary of State of making or not making the decision of whether these people should be accorded extended voluntary departure?

Mr. ABRAMS. I would start by saying that I think there is an important consideration left out on that list and that is foreign policy.

Mr. MAZZOLI. Excuse me?

Mr. ABRAMS. Foreign policy.

Mr. MAZZOLI. Foreign policy.

Mr. ABRAMS. I would not hesitate to say that one of the considerations and the question of EVD for Poles is the issue of how other NATO are reacting toward the political situation in Poland, and our effort to maintain a common attitude toward the Government of Poland on a variety of political and economic and immigration questions with the other NATO countries.

I guess my feeling would be that though one can look at the standards in very general terms, you get down to the question of information and judgments and that it seems to me the whole question would not be very substantially advanced by reciting what we all agree, really, are the criteria.

I would be a little bit concerned, I guess, more about, as you know, this is a preoccupation, at the moment, of the executive branch, of further limiting such discretion as we have.

Mr. MAZZOLI. This is not your province. Mr. Nelson, maybe?

Mr. NELSON. I will stick my head out—

Mr. MAZZOLI. Take a shot at it.

Mr. NELSON. [continuing] Also, Mr. Chairman. Since it is two points—one, of course, it is a discretionary program, and I think when you try to write statutory language getting into that area, it often might create more problems, and also solidifies it, really, as a program. And that really leads to my next point, is that I think this administration has generally recognized that probably ex-

tended voluntary departure overall is not a good idea as a concept and should be very much limited.

I am not saying it won't be used in the future, but certainly our position has generally been that it should be greatly restricted and very likely will be a declined use program.

I think that fits into what I believe is probably your and the committee's feeling in immigration laws generally. We have had special admission programs for this group or that group and we have all seen the chaos that that has developed. And getting the immigration law back on a firmer footing, we think is a good philosophy and we think, therefore, the EVD is better not to legislate on it at all. And I think, again, we ought to be looking at it continually in a very restrictive way.

Mr. MAZZOLI. You were not here, Mr. Nelson, but your colleagues were and, of course, they got the distinct strain as we all did from sitting on the panel that some of our friends who support the bill here, who sponsored it, suggest that there is kind of unevenness, you know, this gets back to the reason they switched in 1980 from the country specific where it gave an administration an option to help friends and hurt enemies to a situation post-1980 in which anyone, from whatever country, is entitled to make the claim of asylum, and using the very same definition applied to that person the decision is made. It is not country specific, it isn't biased, it is objective.

Here if you were to have some criteria—several criterion, I guess some series of criteria—to discuss and to be discussed when the decision is made. Would this not help to alleviate this feeling and this, some call it poison, that is in the minds of some, that the State Department just uses this mechanism to reward friends and to hurt enemies, and to advance foreign policy standards as the preeminent reason rather than the strife that exists in the country, the lack of opportunity, the danger?

Mr. ABRAMS. I am disinclined to believe that because even if you set the standards, it would be up to us to apply them. And if one of the standards was a question of a magnet effect, then we would still be extremely reluctant to use EVD for countries of traditional large-scale illegal migration, such as the countries in Central America and the Caribbean.

So the result in the end would be the same and there would be the same objection. I think you are never going to find the kind of evenness that the panel is looking for. What they really ask, I thought, the panel of Congressmen, was for you to ask the question: Would these Salvadorans be better off in the United States? If they would be better off in the United States, they should be allowed to say.

If that is the question we are going to ask, then we don't have an immigration policy at all, because everybody would be better off, maybe not Canadians, or something, but, you know, basically everybody in the world would be better off in the United States.

You have got to ask another question, which is, is it in our interest to admit them all? And once we start judging who to admit and who not to, I think it is inevitable that we are going to have disagreements as to whether the policy is correctly conducted, whether it is fair for people far away in Afghanistan to be treated differ-

ently from the people from El Salvador who have a long history of illegal migration.

So I tend to doubt that putting that in the statute would, in fact, lead to a situation of sweetness and light.

Mr. MAZZOLI. Is there any advantage of having a system comparable to our system on refugees in which there is a consultation between the administration and the various committees, but the ultimate decision is the administration's, that it is the President's decision to make?

This would be on questions of EVD—because, you know, in the case of Ethiopia, Uganda, Poland, Afghanistan, Iran, and Nicaragua, and some day Chile, Cuba—this was done by the then administrations or the current administration.

Do you think there is any advantage in order to overcome of what appears to be maybe some unevenness or there is a consultation on the questions of where EVD would be granted in a blanket way, now there can be individual determinations. And INS, I am sure, makes an effort to ferret out those cases and then with the help of the State Department, individually people are given a grant of delay of deportation.

But where a blanket situation would come in, should that be capable or qualified for a congressional consultation similar to that of the Refugee Act?

Mr. NELSON. That is a good constitutional question, Mr. Chairman. I think, again, from the executive branch point of view, we would think not. First of all, again, as to the earlier testimony, we reiterate we don't think extended voluntary departure is a concept that ought to be expanded and we would be expected to utilize it now, if at all. And that clearly it should remain, if used in this discretionary category—and I think as Mr. Abrams indicated, there are so many factors and imponderables that it would be tough to structure it, and I think that would also make it tough in a consultation, a formal consultation basis.

I could say this, I would think it is fair and as it has probably been in many of these kind of areas, and informal kind of consultation; and certainly, although sometimes after-the-fact consultations such as a hearing like this. I would have no problem, although—

Mr. MAZZOLI. Yes.

Mr. NELSON [continuing]. Others might, if we are seriously considering it for some country of very likely having informal consultations.

Mr. MAZZOLI. It occurs to me that there might be some merit in that. I mean, I know that it was a suggestion I make so, therefore, I am being immodest in saying that it has some merit to it. But it does appear to me that consultation might be useful in a blanket case; individually, that is a different story. But we are only talking really about blanket here, this is the real problem. There may be some possibility that Congress would have an opportunity to give you some ideas of how this thing rides and give you some feeling, because you see how the panel and the people who appeared before, some feel very strongly that this is an absolute need to show America's continuing humanitarian response to travail and woe in the world. So, in any event, it might be something that is useful.

Let me ask just a couple of other questions. Do you think, Mr. Nelson, you already said that the administration could not live without a cutoff date—or earlier, is what Mr. Smith calls the inside date.

Do you think that if you had some sort of a process for accelerated handling of the asylum cases, you have like a cutoff date for the purpose of extended voluntary departure to kind of cope with this crowd, and you try to keep it temporary and hope that there might be some legal constitutional way to limit the ability to put down the roots; but then have a very targeted program to quickly handle the asylum, because you heard what they said, people advocating the bill—that it takes years to handle asylum cases and this forces the churches to respond to their moral imperative to set up havens and to break the law temporarily, at least, in providing sanctuary.

Is there some way, if you had a cutoff date, to make this whole thing a little more manageable, get rid of section 4, do a lot of trimming up in the bill, and then try to target for a quick handling on the question of asylum so that the people don't just languish?

Mr. NELSON. You know, Mr. Chairman, since we very seriously feel extended voluntary departure on a blanket basis is not a wise policy and would not believe it appropriate, we can't really say that a cutoff date is something to consider; we just think the whole concept is just not meritorious and, therefore, should not be considered, so a cutoff date really is something we can't comment on.

The part of your question, though, I think, of course, is the key, and that is the asylum processing. Of course, we are hopeful that that you will move quickly so that we can address that issue.

If I can take a second, the meeting in Canada that we just held was very informative in many areas, and including the asylum problems there. They face the exact same problems we do. They have a backlog of 10,000 asylum cases in Canada, which, considering the size of their population, is a bigger percentage impact than ours. They said that the person who arrives in Canada and claims asylum can almost automatically assume he has 3 to 4 years with all of their legal processing such as ours. And the practical result is once a person is in Canada or the United States makes an asylum claim, whether absolutely without merit or not, they can drag it on so long. So in many ways, you have a de factor extended voluntary departure and I think this has been very unfortunate because all of these things do break down our system of law, and respect for them, serves as a magnet, and so forth.

So we need to definitely move in all directions to improve that process so that people do get their fair hearing. And I don't think there can be any question in Canada or the United States that there is so much due process in this procedure that there really is no argument on that. We really need to have due process for the Government and the citizens also to be sure these cases are processed promptly.

Mr. MAZZOLI. One last question and then I will yield to my friend from California for any wrap-up questions he might have.

Mr. ABRAMS, when will this study be finished. Do you have some idea of the timing of it to give us some handle on that?

Mr. ABRAMS. I would think that we should be able to wrap it up in another 6 or 8 weeks. We have just got to identify the funding source and send people out to other cities in El Salvador.

Mr. MAZZOLI. As you know, that is going to be a key element as just what happens to those who are sent back home.

My time is up. The gentleman?

Mr. LUNGREN. No questions.

Mr. MAZZOLI. There are many questions, as you know, there might be some of them we have already answered, but if not we will send them on downtown and maybe you could help us with them in writing. But certainly your testimony has been very useful.

I thank you very much, Mr. Nelson. I know how weary you have to be from just getting off the plane, but we thank you for coming over. Have a nice day.

The subcommittee stands adjourned.

[Whereupon, at 12:10 p.m., the subcommittee adjourned.]

A P P E N D I X

HON. RICHARD L. OTTINGER; TESTIMONY BEFORE THE HOUSE JUDICIARY SUBCOMMITTEE ON IMMIGRATION, REFUGEES AND INTERNATIONAL LAW

Mr. Chairman, I am pleased to be able to testify today about H.R. 4447, of which I am an original co-sponsor, and the very pressing problems facing Salvadoran refugees seeking safety from the life-threatening conditions in their homeland.

Compelling evidence exists for the necessity of this legislation to stay the deportation of Salvadoran nationals. Citizens in El Salvador are the first to be victims of violence. Forty thousand civilians have been murdered in the last four years of Salvador's civil war. Countless others remain "disappeared," assumed to have been victims of the death squads. In the first six months of this year, approximately 325 people "disappeared" and close to 3,000 were executed.

Despite the overwhelming evidence of the dangers in El Salvador, the Reagan administration has maintained a policy of deporting Salvadoran nationals who have sought refuge in the United States. Roughly 10,000 Salvadorans faced deportation proceedings in 1981. In the first three months of 1983, almost 1,500 Salvadorans sought asylum here, and only thirty, or 2%, received it. This figure is in stark contrast to our response to refugees from Czechoslovakia and Afghanistan: 71% and 92%, respectively, of their refugees have been granted asylum here. District directors of INS have testified that they are following orders on Salvadorans "set for us at the top." In several cases, documented by international rights groups, Salvadorans have been deported and subsequently "disappeared" or were found murdered. Preliminary results from a study now being conducted indicate that one of every 50 Salvadorans forcibly deported from the United States in the last two years may have been killed.

Furthermore, it has been shown that other Central American countries do not constitute viable alternatives for displaced Salvadorans. International agency workers in refugee settlements in Honduras, Mexico and Guatemala state that none of those countries provide safe haven for Salvadorans. Refugees are harassed, exploited, and often killed in military raids of camps. Mexico does not even recognize Guatemalans and Salvadorans as refugees, requiring them to enter on 90-day visitors' visas.

The evidence showing jeopardy to citizens of El Salvador who seek asylum demands a humanitarian response from the United States. As Secretary of State George Shultz declared before the Foreign Affairs Committee in February, "when people are dying, common decency compels us to respond."

H.R. 4447 would not grant asylum or any permanent residence to Salvadorans within the United States. These people do not ask for a new home here; they need temporary protection. This bill grants that protection by delaying deportation until such time as the Congress, based on reports from the Administration, determines that conditions in El Salvador would allow the safe return of its citizens. This legislation reflects only a concern about significant danger to innocent individuals, danger that the administration has admitted might be tied to the right-wing leadership and particularly to Roberto D'Aubuisson, the most likely candidate to win El Salvador's coming presidential election.

Allowing Salvadorans to stay temporarily would be completely consistent with past U.S. policy regarding refugees from civil conflict. The Immigration and Naturalization Service can extend voluntary departure to those who are "temporarily unable to return to [their] country on account of civil war or catastrophic circumstances." This status has been extended to refugees from Lebanon, Poland, Afghanistan, Uganda, Ethiopia, and Chile. What's more, the United Nations Convention on the Status of Refugees, to which the United States is a signatory, requires admission to any person who has fled his country due to "a well-founded fear of being persecuted

for reasons of race, religion, nationality, membership of a particular social group or political opinion."

A good example of the situation requiring this legislation is that of a man from my district who fled El Salvador in 1981. His is a compelling and disturbing story, one that I know is similar to many others. His name is Jose Dominguez.

Dr. Dominguez was a professor of philosophy at the University of El Salvador until April of 1981. He had a position of authority on the University's administration and collected a good salary. His political affiliation, however, made him and his family the targets of harassment and death threats. In 1981, Dr. Dominguez made the extremely difficult choice to leave El Salvador, choosing to protect his own life and those of his family rather than stay in his highly visible position.

Dr. Dominguez applied for political asylum. His asylum claim was denied, despite the threats to his life facing him on his return. For two weeks in 1981, Dr. Dominguez received numerous threatening letters and a barrage of phone calls warning him that unless he stopped his criticism of the government's human rights record and economic programs in his lectures at the university, he would be killed. Several of his colleagues at the university who had spoken against the government had already been murdered.

He is still waiting for a chance to plead his case at a deportation hearing. Dr. Dominguez has stated repeatedly that he "did not consider putting in an application for immigration because [he] had no reason to do that;" he has always intended someday to return to El Salvador. In the meantime, Dr. Dominguez has found work as a sexton at St. Matthews Lutheran Church in White Plains. This is not the life he worked for, nor is it commensurate with his education and previous level of prestige in El Salvador. It is, however, a life free of daily fear. The only threat he now lives with is that he will be sent back to face the death squads once again.

Without adequate attempts to verify the conditions in El Salvador, it is unreasonable that the United States should systematically send people like Jose Dominguez home to die. Elliot Abrams, assistant Secretary of State for human rights, has been quoted as saying that the embassy made only half-hearted attempts to discover the fates of deported Salvadorans. "It is a question," said Abrams in the Washington Monthly, "of how much time [we] should spend on something we think is ridiculous."

Salvadorans facing deportation are asked to "substantiate" their claim of life-threatening situation. "What kind of substantiation would be required of me?" Dr. Dominguez has asked. "I cannot bring you a letter from the death squad taking responsibility for my persecution. To prove [to the United States] that my life was in serious danger, I would have to go back to my country and be killed."

Our legislation mandates the study that would document the danger to civilians living under the threats of the death squads in El Salvador. While that study is being conducted and considered, we would allow those Salvadorans already in the United States to remain. We do not suggest blanket amnesty, nor permanent political asylum. In humanitarian terms, this is the least we can do for the people like Dr. Dominguez who have sacrificed everything in order to save their lives.

I believe the Administration policy with respect to refugees from both El Salvador and Haiti is unconstitutional, violates international law and repudiates the fundamental humanitarian tenets of this nation. I strongly urge the adoption of this measure and that the subcommittee also address the matter of Haitian refugees as a top priority.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 10, 1984.

HON. ROMANO MAZZOLI,
Chairman, Subcommittee on Immigration, Refugees, and International Law, Washington, D.C.

DEAR MR. CHAIRMAN: My staff informs me that time will not allow my testimony at your hearing on the Salvadoran Refugee bill (H.R. 4447) Thursday morning. While I can appreciate the time pressures you are facing in connection with the Immigration Reform Act, I do want you to be aware of my keen interest in the objectives of H.R. 4447.

There are an estimated 5,000 Salvadoran refugees in the State of Washington, many of whom live in my district in Seattle. As you know, there are credible reports that refugees forcibly repatriated to El Salvador have been imprisoned or killed. Under these circumstances, it is understandable that many Salvadoran refugees are reluctant to return until their safety can be assured. It is equally understandable why normally law-abiding citizens with humanitarian instincts have taken an inter-

est in the plight of the refugees. In many cases, refugees have been taken into the homes and churches of these citizens in order to hide them from the Immigration Service. It is most unfortunate when such well-meaning actions result in violation of the law, thus putting our citizens at odds with their government.

H.R. 4447 would correct this regrettable anomaly by granting "extended voluntary departure" status to Salvadoran refugees. This would permit them to remain in this country until conditions permit their return to El Salvador. In the name of common sense, the well-being of the refugees, and the good citizens of my district—and other parts of the U.S.—I urge passage of this legislation.

Sincerely,

JOEL PRITCHARD,
Member of Congress.

ADDITIONAL INFORMATION SUPPLIED BY HON. JOSEPH MOAKLEY

INTERPRETER RELEASES

An information service on immigration, naturalization and related matters

*Poko*Maurice A. Roberts, Editor
Carolyn Walker, Asst. EditorAmerican Council
For Nationalities Service
20 West 40th St., New York, N.Y. 10018

Vol. 59, No. 5

January 30, 1982

RECENT SIGNIFICANT DEVELOPMENTS

1. INS Implements Instructions on Deportation to Poland
2. INS Supplies Answers to Refugee and Asylum Questions
3. District Court Enjoins INS Investigatory Practices
4. District Court Orders Open Deportation Hearings at El Centro
5. President Redesignates Authority on Assistance to Cuban/Haitian Entrants
 6. Rules for Proof ofSSI Eligibility Published
7. INS Disavows Attorney Fee Liability Under Equal Access to Justice Act
 8. Recent Publication
9. Immigration Seminars Announced

1. INS Implements Instructions on Deportation to Poland

In an Interpreter Releases Bulletin dated December 29, 1981, p. 697a, we quoted the INS wire of December 23, 1981, concerning enforced departure to Poland. On January 21, 1982, the INS Central Office wired the following implementing instructions to its field offices (File CO 243.10-P):

EFFECTIVE IMMEDIATELY, THE FOLLOWING POLICY SHALL BE IMPLEMENTED RELATIVE TO POLISH NATIONALS AMENABLE TO DEPORTATION OR EXCLUSION PROCEEDINGS, WHO WERE IN THE UNITED STATES AS OF DECEMBER 23, 1981. SERVICE ACTION SHALL NOT BE TAKEN TO ENFORCE DEPARTURE TO POLAND, PRIOR TO MARCH 31, 1982, OF POLISH NATIONALS WHO ARE RESIDENTS OR FORMER RESIDENTS OF POLAND AND WHO INDICATE AN UNWILLINGNESS TO RETURN TO POLAND AT THE PRESENT TIME UNDER THE UNSTABLE CONDITIONS CURRENTLY EXISTING THERE. EXTENSIONS OF TEMPORARY STAY MAY BE GRANTED TO THOSE NON-IMMIGRANTS WHO QUALIFY FOR SUCH EXTENSIONS. IF AN APPLICATION IS DENIED, THE POLISH NATIONAL'S DEPARTURE SHALL NOT BE ENFORCED PRIOR TO MARCH 31, 1982. POLISH NATIONALS WHO ARE LOCATED AS DEPORTABLE ALIENS WILL BE PERMITTED TO REMAIN UNTIL MARCH 31, 1982. DEPORTATION HEARINGS WILL BE POSTPONED UNTIL AFTER MARCH 31, 1982, FOR THOSE POLISH NATIONALS FOR WHOM OSC'S HAVE BEEN ISSUED AND HEARINGS HAVE NOT COMMENCED. THOSE HEARINGS FOR POLISH NATIONALS WHICH HAVE COMMENCED SHALL GO FORWARD; HOWEVER, DEPARTURE SHALL NOT BE ENFORCED PRIOR TO MARCH 31, 1982. IN THOSE CASES WHERE A FINAL ORDER OF DEPORTATION HAS BEEN ENTERED, DEPARTURE SHALL NOT BE ENFORCED PRIOR TO MARCH 31, 1982.

THE FOREGOING PROVISIONS SHALL NOT APPLY TO THOSE POLISH NATIONALS WHO HAVE NOT EVIDENCED AN UNWILLINGNESS TO RETURN TO POLAND; TO POLISH NATIONALS WHO WERE RESIDENTS OF A THIRD COUNTRY; OR HAVE BEEN CONVICTED OF CRIMINAL ACTS IN THE UNITED STATES. IN SUCH CASES, WHERE A DISTRICT DIRECTOR PROPOSES TO ENFORCE THE DEPARTURE OF A POLISH NATIONAL TO POLAND, PRIOR TO MARCH 31,

VOL. 60, No. 1
 JAN 7, 1983

APPENDIX I

Department of State
 Washington
 December 18, 1982

Poles

Dear Mr. Attorney General:

As you are aware, since last December it has been Administration policy not to enforce the departure of Polish Nationals to Poland. In view of the policy of the United States toward the Government of Poland, reiterated by the President on December 10, the Department of State believes the "non-enforcement of departure" policy for Polish nationals should be maintained for a further six months, to June 30, 1983. In a letter of November 22 to Secretary Shultz, Senator Charles Percy stated his support for such an extension. I understand that Senator Percy has also written to you on this subject.

There have been signs that the Polish martial law authorities may eventually permit the Polish people to enjoy some of the human rights denied them since last December. However, the Polish Government's announcement of December 13 indicated that when martial law is officially suspended on December 31, other "emergency measures" will be put in place that will continue official deprivation of certain human rights and facilitate rapid reposition of martial law should the Polish people seek to exercise their rights fully.

As you know, concern for human rights forms a significant component of overall U.S. foreign policy. In particular, with respect to the situation in Poland, the U.S. and its Allies have taken a number of concerted steps to convey to the Polish authorities the seriousness with which we view their continued denial of rights to the Polish people and our insistence that these rights be restored. SINCE the declaration of martial law last December, Polish nationals in the United States and in Western Europe have not been deported to Poland. It is estimated that some 200,000 Poles have been permitted to remain in Western European countries. It may be at least another six months before the United States and other Western countries will be able to ascertain whether the Polish Government is truly prepared to allow the Polish people the exercise of their human rights.

For these reasons the Department requests that the present policy of not enforcing the departure of Polish nationals from the United States, which is scheduled to lapse on December 31, be extended for a six month period. I would be grateful if this request could receive your early attention.

Sincerely,

Kenneth W. Dam
 Acting Secretary

IR Vol. 59, No. 15
April 17, 1982

nonimmigrant classification from F-1 to H-1 retroactively authorized the alien's intervening employment by the H-1 employer, for purposes of INA §245(c). The INS thereafter cautioned its field offices that the Tan decision was based on its own unique facts and set no precedent. See Interpreter Releases, Vol. 58, No. 32, August 14, 1981, pp. 419-420; Vol. 58, No. 40, October 17, 1981, pp. 525-526.

Although requested to reconsider its position, the INS Central Office has adhered to its prior view. In a wire to all field offices dated March 29, 1982, file CO 245-P and 248-P, Associate Commissioner Andrew J. Carmichael, Jr. stated:

THIS REAFFIRMS SERVICE POLICY STATED IN CO TELEX OF 8/5/81 RE INS POSITION ON MATTER OF TAN (BIA 6-24-80). IT REMAINS SERVICE POLICY THAT EMPLOYMENT UNDERTAKEN PRIOR TO DECISION ON AN APPLICATION FOR CHANGE OF NON-IMMIGRANT STATUS UNDER SECTION 248 IS UNAUTHORIZED AND WOULD FALL UNDER THE "UNAUTHORIZED EMPLOYMENT" PROVISION OF SECTION 245(C). SERVICE OFFICES ARE REMINDED THAT 8 CFR 248.1 DOES NOT ALLOW A DISTRICT DIRECTOR IN ADJUDICATING A CHANGE OF NONIMMIGRANT STATUS APPLICATION TO EXCUSE ANY FAILURE TO MAINTAIN STATUS OTHER THAN OVERSTAY. EMPLOYMENT AUTHORIZATION FOR THE BENEFICIARY OF AN H OR L PETITION WHO IS IN THE UNITED STATES TAKES EFFECT ONLY ON THE DATE AN I-506 APPLICATION IS APPROVED. REPEAT, EMPLOYMENT UNDERTAKEN PRIOR TO ACQUISITION OF THE APPROPRIATE NONIMMIGRANT CLASSIFICATION IS UNAUTHORIZED AND THE SERVICE HAS NO ALTERNATIVE BUT TO APPLY THE STATUTORY PROVISIONS OF SEC. 245(C) IN A SUBSEQUENT APPLICATION FOR PERMANENT RESIDENCE.

3. INS Defers Enforced Departure of Polish Nationals to June 30, 1982

In an Interpreter Releases Bulletin dated December 29, 1981, p. 697a, we noted that the INS had notified its field offices not to enforce the departure of Polish nationals to the U.S. until the situation in Poland is clarified. Implementing instructions were later issued on January 21, 1982, precluding enforced departure before March 31, 1982. See Interpreter Releases, Vol. 59, No. 5, January 30, 1982, pp. 85-86. The deadline has now been extended to June 30, 1982. A Department of Justice press release dated March 26, 1982 states:

The Immigration and Naturalization Service (INS) announced today that it has extended until June 30 its policy of deferring enforced departure of Polish nationals from the United States.

Commissioner Alan C. Nelson said the action was based on a request from the Department of State that took into account current conditions in Poland.

"We have extended the policy for a three-month period, at which time we will request a further appraisal of the situation from the Department of State," Nelson said.

Under this policy, INS will not take action to enforce departure to Poland of Polish nationals who indicate an unwillingness to return there. However, these provisions do not apply to Polish nationals willing to return to Poland; to Polish nationals who were residents of a third country; or to those who have been convicted of criminal acts in the United States.

INS field offices were initially directed on December 23 not to enforce departure to Poland because martial law was declared in that country. The policy was due to expire on March 31, 1982.

Nicaraguan

Maurice A. Roberts Editor

American Council
For Nationalities Service
20 West 40th St. New York, N.Y. 10018
September 12, 1979

Vol. 56, No. 36

RECENT SIGNIFICANT DEVELOPMENTS

Enforced Departure of Reluctant Nicaraguans Stayed Regardless of Arrival Date
Court Restores Haitian Refugees' Employment Authorization
Proposed Rule Would Require N-1 Nurses to Pass CGFNS Exam
Extensions Authorized for Out-of-Status N-1 Nurses
INS Designates Pilots as Immigration Officers
Regulations Amended on Transmissions and Fees from Abroad
Details on New Immigration Seminars

Enforced Departure of Reluctant Nicaraguans Stayed Regardless of Arrival Date

In a wire to all field offices dated August 29, 1979, the INS has clarified its prior instructions dated July 3, 1979 concerning the enforced departure of Nicaraguan nationals. The July 3 instructions, with certain exceptions, stayed until December 31, 1979 the enforced departure of Nicaraguans unwilling to return to Nicaragua "who are in the United States as of June 27, 1979." (Underlining in original)* This immediately raised the question as to what should be done with respect to such Nicaraguans who arrived here after June 27, 1979. That question is now answered in the wire of August 29, 1979, which makes the stay applicable to reluctant Nicaraguans irrespective of the date of arrival in the United States. The text of the August 29 wire is as follows:

BEJEC CO 243.109-P OF JULY 3, 1979 RE DEFERRED DEPARTURE FOR NICARAGUAN NATIONALS. THE DEPARTMENT OF STATE HAS RECOMMENDED AGAINST THE FORCIBLE RETURN TO NICARAGUA OF ANY NICARAGUAN NATIONALS FOR THE REMAINDER OF THE CALENDAR YEAR, IRRESPECTIVE OF THE DATE OF ARRIVAL IN THE UNITED STATES, DUE TO THE UNSETTLED CONDITIONS IN NICARAGUA. ACCORDINGLY, THE INSTRUCTIONS IN CO 243.109-P OF 7/3/79 WILL APPLY TO ALL NICARAGUAN NATIONALS IN THE UNITED STATES RATHER THAN ONLY THOSE HERE AS OF JUNE 27, 1979. HOWEVER, AS STATED IN CO 243.109-P OF 7/3/79 THE POLICY AGAINST FORCIBLE RETURN SHALL NOT APPLY TO THOSE NICARAGUAN NATIONALS WHO HAVE NOT EVIDENCED AN UNWILLINGNESS TO RETURN TO NICARAGUA; TO NICARAGUANS WHO WERE RESIDENTS OF A THIRD COUNTRY, OR HAVE BEEN CONVICTED OF CRIMINAL ACTS IN THE UNITED STATES. AS PREVIOUSLY STATED, EMPLOYMENT AUTHORIZATION SHOULD BE CONDITIONED SOLELY UPON ESTABLISHMENT OF APPROPRIATE NEED BY INDIVIDUAL ALIENS OF THIS CLASS.

* For the text of the July 3, 1979 instructions, see Interpreter Release Bulletin dated July 5, 1979, pp. 325a-325b.

INTERPRETER RELEASES

revised
An Information Service on Immigration, Naturalization and Related Matters

American Council for Nationalities Service
20 West 40th Street, New York, N.Y. 10018

BULLETIN

Maurice A. Roberts
Editor

July 5, 1979

Enforced Departure of Reluctant Nicaraguans Stayed to December 31, 1979

In a wire to all field offices dated July 3, 1979 (file CO 243.109-P), the INS has issued instructions that the enforced departure of Nicaraguans in the U.S. on June 27, 1979 and who indicate an unwillingness to return to Nicaragua shall be stayed until December 31, 1979. An exception is made for those who were residents of a third country or have been convicted of criminal acts in the U.S. Work permission is authorized for those who establish appropriate need. The text of the instructions follows:

EFFECTIVE IMMEDIATELY, THE FOLLOWING POLICY SHALL BE IMPLEMENTED RELATIVE TO NICARAGUAN NATIONALS AMENABLE TO DEPORTATION OR EXCLUSION PROCEEDINGS, WHO ARE IN THE UNITED STATES AS OF JUNE 27, 1979. SERVICE ACTION SHALL NOT BE TAKEN TO ENFORCE DEPARTURE TO NICARAGUA, PRIOR TO DECEMBER 31, 1979, OF NICARAGUAN NATIONALS WHO ARE RESIDENTS OR FORMER RESIDENTS OF NICARAGUA AND WHO INDICATE AN UNWILLINGNESS TO RETURN TO THAT COUNTRY AT THE PRESENT TIME UNDER THE UNSTABLE CONDITIONS CURRENTLY EXISTING THERE. EXTENSIONS OF TEMPORARY STAY MAY BE GRANTED TO THOSE NON-IMMIGRANTS WHO QUALIFY FOR SUCH EXTENSIONS. IF AN APPLICATION IS DENIED, THE NICARAGUAN NATIONAL'S DEPARTURE SHALL NOT BE ENFORCED PRIOR TO DECEMBER 31, 1979. NICARAGUAN NATIONALS WHO ARE LOCATED AS DEPORTABLE ALIENS WILL BE GRANTED VOLUNTARY DEPARTURE UNTIL DECEMBER 31, 1979. DEPORTATION HEARINGS WILL BE POSTPONED UNTIL AFTER DECEMBER 31, 1979. FOR THOSE NICARAGUANS FOR WHOM OSC'S HAVE BEEN ISSUED AND HEARINGS HAVE NOT COMMENCED, THOSE HEARINGS FOR NICARAGUAN NATIONALS WHICH HAVE COMMENCED SHALL GO FORWARD; HOWEVER, DEPARTURE SHALL NOT BE ENFORCED PRIOR TO DECEMBER 31, 1979. IN THOSE CASES WHERE A FINAL ORDER OF DEPORTATION HAS BEEN ENTERED, DEPARTURE SHALL NOT BE ENFORCED PRIOR TO DECEMBER 31, 1979.

THE FOREGOING PROVISIONS SHALL NOT APPLY TO THOSE NICARAGUAN NATIONALS WHO HAVE NOT EVIDENCED AN UNWILLINGNESS TO RETURN TO NICARAGUA; TO NICARAGUANS WHO WERE RESIDENTS OF A THIRD COUNTRY; OR HAVE BEEN CONVICTED OF CRIMINAL ACTS IN THE UNITED STATES. IN SUCH CASES, WHERE

WASHINGTON, DC 20536

PRIORITY

UNCLASSIFIED

Afghan

FILE: CO 243.56-P

3 DEC 1980

HUGH J. BRIEN, DETENTION AND DEPORTATION 633-3335

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DOOM (HOND) (DOEM). RE: RETURNED DEPARTURE FOR ~~SAFARI~~
 NATIONALS. AS RECOMMENDED BY THE DEPARTMENT OF STATE AND
 CONCURRED IN BY INS, NO AFGHAN NATIONALS CURRENTLY IN THE UNITED
 STATES EXCEPT THOSE WHO HAVE ENGAGED IN SERIOUS CRIMINAL
 ACTIVITIES, SHOULD BE FORCED TO RETURN TO AFGHANISTAN. THOSE
 PERSONS WHO APPLY FOR ASYLUM AND CAN ESTABLISH A WELL-FOUNDED FEAR
 OF PERSECUTION SHOULD BE ACCORDED ASYLUM. THOSE ALIENS WHO DO NOT
 APPLY FOR ASYLUM BUT RESIST RETURNING TO AFGHANISTAN BECAUSE OF
THE TERROR PREVAILING IN THAT COUNTRY RATHER THAN BECAUSE OF A
FEAR OF PERSECUTION, SHOULD BE GRANTED EXTENDED VOLUNTARY
DEPARTURE AND WORK AUTHORIZATION IN INCREMENTS OF ONE YEAR. A
 COPY OF THE DEPARTMENT OF STATE POLICY MEMO WILL FOLLOW. DENED ALL
 LEGIONS. RETIL ALL DISTRICTS (X FOREIGN), ALL FOD'S (X FOREIGN).

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11/28

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IMMIGRATION & NATURALIZATION
SERVICE
WASHINGTON, D.C. 20536

PRIORITY

UNCLASSIFIED

FILE: CD 242.1-P

12/4/78

DEC 1978

HUGH J. BRICK, DETENTION & DEPORTATION

376-8457

X

ALL REGIONS

REJEX CD 242.1-P of 7-1-76. THERE STILL IS NO BLANKET POLICY TO GRANT EXTENDED VOLUNTARY DEPARTURE TO NATIONALS OF LEBANON IN THE UNITED STATES WHO HAVE OVERSTAYED. HOWEVER, THE CIVIL STRIFE IN THAT COUNTRY CONTINUES AND THIS IS TO REAFFIRM THAT OFFICERS SHOULD, ON A CASE BY CASE BASIS, VIEW SYMPATHETICALLY REQUESTS FOR EXTENDED VOLUNTARY DEPARTURE WHERE SUCH REQUESTS ARE BASED UPON COMPELLING HUMANITARIAN NEED.

CDDP

CC: Official file
CD 243 99
Division log

CDDP:JSTurnage:sdf 12-4-78

UNCLASSIFIED

INTERPRETER RELEASE
 Vol 59; no 42
 Oct. 29, 1982

Ethiopians

A new provision not previously contained in the interim rules is the amendment to 8 CFR 223.2, effective October 7, 1982, which permits the holder of an expired reentry permit to retain it if it contains valid visas, entry stamps, or documents necessary for entry into another country.

2. Change in Policy on Ethiopians Explained

In Interpreter Releases, Vol. 59, No. 26, July 9, 1982, p. 445, we noted that there had been a change of position on the part of the State Department with respect to extended voluntary departure for Ethiopians. In Vol. 59, No. 27, July 14, 1982, pp. 456-457, we published the relating INS instructions wired to its field offices on July 12, 1982. One of our readers has sent us copies of relevant correspondence between the Departments of State and Justice which help to explain the factors underlying the change in position. We reprint pertinent excerpts.

In a letter to the Attorney General dated June 29, 1982, Deputy Secretary of State Walter J. Stoessel, Jr. states:

This letter concerns the status of Ethiopians presently in the U.S. In recent days the State Department has been monitoring the situation in Ethiopia as it might possibly affect the fate of persons forcibly returned there from the U.S. There have been conflicting statements about returnees by Ethiopian officials which persuade us that a policy of caution is advisable with respect to those who arrived prior to December 31, 1979.

After careful consideration of this matter, we have come to the conclusion that Ethiopians present in the U.S. on December 31, 1979, should not be forcibly deported to Ethiopia. This date reflects the fact that by late 1979 the Government of Ethiopia had instituted a series of exit controls which made it likely that those who received passports and legally left Ethiopia after December 31, 1979 were not under suspicion by the government. Those individuals arriving after December 31, 1979, will, of course, be entitled to apply for asylum, and these cases will always be carefully reviewed. We have discussed this with Commissioner Nelson and members of your immediate staff who agree with this change in policy.

I would, therefore, appreciate it if you would instruct INS to implement this policy.

On August 16, 1982, the Attorney General responded:

Thank you for your letter of June 29, 1982, concerning the status of Ethiopian nationals presently in the United States.

As you know, in view of your statements regarding the uncertain fate of Ethiopian nationals returned to Ethiopia who arrived in the United States prior to 1980, Commissioner Nelson of the Immigration and Naturalization Service has notified his Regional Commissioners that action should not be taken to enforce departure to Ethiopia of Ethiopian nationals who indicate an unwillingness to return there at present. Those Ethiopian nationals arriving after June 30, 1980 will be processed on a case-by-case basis under current procedures.

INTERPRETER RELEASES

An information service on immigration, naturalization and related matters

Ethiopian

MAJOR & ROBERTS EDITOR

American Council
For Nationalities Service
20 West 40th St., New York, N.Y. 10018

Vol. 59, No. 27

July 14, 1982

RECENT SIGNIFICANT DEVELOPMENTS

1. INS Issues Instructions on Extended Voluntary Departure for Ethiopians
2. INS Publishes Interim Rule on Detention of Applicants for Admission
3. Proposed Rule on Aliens Accompanying Entertainers Published
4. Fee Changes in Visa Numbers for August
5. Correction Notices

1. INS Issues Instructions on Extended Voluntary Departure for Ethiopians

In Interpreter Releases, Vol. 59, No. 26, July 9, 1982, p. 465, we noted that the State Department has reconsidered its position on conditions in Ethiopia. We stated that the State Department wrote the Department of Justice that Ethiopians here since before January 1, 1980 should be allowed to remain. On July 12, 1982, the INS Central Office wired instructions to its field offices which we quote immediately below (reference CO 243.79-P). It should be noted that the January 1, 1980 date has been changed and the instructions refer to Ethiopian nationals who were in the U.S. as of June 30, 1980.

EFFECTIVE IMMEDIATELY, THE DEPARTMENT OF JUSTICE, UPON RECOMMENDATION OF THE DEPARTMENT OF STATE, WILL IMPLEMENT THE FOLLOWING POLICY RELATIVE TO ETHIOPIAN NATIONALS AMENABLE TO DEPORTATION OR EXCLUSION PROCEEDINGS, WHO WERE IN THE UNITED STATES AS OF JUNE 30, 1980.

SERVICE ACTION SHALL NOT BE TAKEN TO ENFORCE DEPARTURE TO ETHIOPIA OF ETHIOPIAN NATIONALS WHO ARE RESIDENTS OR FORMER RESIDENTS OF ETHIOPIA AND WHO INDICATE AN UNWILLINGNESS TO RETURN TO ETHIOPIA AT THE PRESENT TIME UNDER THE CIRCUMSTANCES CURRENTLY PREVAILING THERE. EXTENSIONS OF TEMPORARY STAY MAY BE GRANTED TO THOSE NONIMMIGRANTS WHO QUALIFY FOR SUCH EXTENSIONS. IF AN APPLICATION IS DENIED, THE ETHIOPIAN NATIONAL'S DEPARTURE SHALL NOT BE ENFORCED. ETHIOPIAN NATIONALS WHO ARE LOCATED AS DEPORTABLE ALIENS WILL BE PERMITTED TO REMAIN. VOLUNTARY DEPARTURE MAY BE GRANTED IN INCREMENTS OF ONE YEAR, SUBJECT TO REVOCATION.

DEPORTATION HEARINGS WILL BE POSTPONED FOR THOSE ETHIOPIAN NATIONALS FOR WHOM OSC'S HAVE BEEN ISSUED AND HEARINGS HAVE NOT COMMENCED. THOSE HEARINGS FOR ETHIOPIAN NATIONALS WHICH HAVE COMMENCED SHALL GO FORWARD: HOWEVER, DEPARTURE SHALL NOT BE ENFORCED. IN THOSE CASES WHERE A FINAL ORDER OF DEPORTATION HAS BEEN ENTERED, DEPARTURE SHALL NOT BE ENFORCED. APPLICATIONS FOR ASYLUM UNDER 8 CFR 108 SHALL BE PROCESSED ROUTINELY.

IR. Vol. 58, 14.37

Sept. 17, 81

Ethiopia

APPENDIX III

Blanket voluntary departure for Ethiopians

26 AUG 1981

OO 243,79-P

Regional Commissioner (PODIP):
Western Region Southern Region
Northern Region Eastern Region

Doris M. Meissner
Acting Commissioner

The attached letter from the Deputy Secretary of State indicates that the automatic grant of voluntary departure to nationals of Ethiopia can no longer be justified. Accordingly, all previous policy statements concerning blanket grant of voluntary departure to nationals of Ethiopia are rescinded.

The attached letter and a copy of this memorandum should be disseminated to all field offices and shall be utilized as guidance in handling requests for voluntary departure on a case-by-case basis.

The Department of State has further advised me that a decision concerning blanket grants of voluntary departure for nationals of Uganda is still pending. I will advise you of Department of State's recommendation in this matter when received.

Attachment

unsettled conditions

THE DEPUTY SECRETARY OF STATE
WASHINGTON

August 8, 1981

Dear Ms. Meissner:

Since Ethiopia's revolution took place in 1974 the Department of State has been recommending to the INS that Ethiopians in the U.S. who can demonstrate a well-founded fear of persecution be granted political asylum, and that because of unsettled conditions in Ethiopia, Ethiopians whose asylum applications were not approved should not be deported to Ethiopia, but should be allowed to remain here temporarily in voluntary departure status and should be permitted to work. This position was reaffirmed to the INS most recently in a July 18, 1980 letter from the Coordinator for Refugee Affairs (attached).

IP vol 58, no. 37

Sept. 17, 81

Ethiopia

APPROPRIATE

Blanket Voluntary Departure for Ethiopians

26 AUG 1981

CO 243.79-7

Regional Commissioner (RCCOF),
Western Region Southern Region
Northern Region Eastern RegionDoris M. Weisser
Acting Commissioner

The attached letter from the Deputy Secretary of State indicates that the automatic grant of voluntary departure to nationals of Ethiopia can no longer be justified. Accordingly, all previous policy statements concerning blanket grant of voluntary departure to nationals of Ethiopia are rescinded.

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The Department of State has further advised me that a decision concerning blanket grants of voluntary departure for nationals of Uganda is still pending. I will advise you of Department of State's recommendation in this matter when received.

Attachment

THE DEPARTMENT OF STATE
WASHINGTON

August 8, 1981

Dear Ms. Weisser:

Since Ethiopia's revolution took place in 1974 the Department of State has been recommending to the INS that Ethiopians in the U.S. who can demonstrate a well-founded fear of persecution be granted political asylum, and that because of unsettled conditions in Ethiopia, Ethiopians whose asylum applications were not approved should not be deported to Ethiopia but should be allowed to remain here temporarily in voluntary departure status and should be permitted to work. This position was reaffirmed to the INS most recently in a July 18, 1980 letter from the Coordinator for Refugee Affairs (attached).

As indicated by the Department's most recent report on human rights conditions in Ethiopia (attached), we continue to believe that there may be Ethiopian asylum applicants in the U.S.--as well as Ethiopian applicants elsewhere in the world--who can demonstrate a well-founded fear of persecution if they were to return home. These applicants should continue to be granted asylum or refugee status, as the case may be.

However, conditions in Ethiopia have stabilized to the point that the automatic grant of voluntary departure status to unsuccessful asylum applicants can no longer be justified. Moreover, no Ethiopian today is allowed to leave Ethiopia without political clearance from the government, and increasing numbers of Ethiopians are taking advantage of automatic voluntary departure to remain and work indefinitely in the United States without having met the criteria either for immigration or for asylum.

Ms. Doris Meissner
Acting Commissioner,
Immigration and Naturalization Service,
425 "I" Street, N. W.,
Washington, D. C.

- 2 -

The Department therefore recommends that the INS continue to grant asylum to Ethiopians in the U.S. who can demonstrate a well-founded fear of persecution, but to cease granting voluntary departure status to asylum applicants whose applications are not accepted--that is, to treat Ethiopian asylum applicants the same as those from almost all other countries in the world. For those Ethiopians who are currently in voluntary departure status, we suggest that such designations be allowed to expire on their own.

We are, of course, still prepared to offer our views with respect to any individual asylum application.

Sincerely,



William P. Clark

Attachments:

1. Palmieri/Crosland Letter dated July 18, 1980
2. Human Rights Report - Ethiopia

STATEMENT OF THE AMERICAN CIVIL LIBERTIES UNION

Mr. Chairman, HR 4447 is a modest device for accomplishing a limited but essential humanitarian purpose. The American Civil Liberties Union urges that the bill be promptly reported with a favorable recommendation.

The American Civil Liberties Union is a nonpartisan organization of over 250,000 members dedicated to defending the Bill of Rights. Its concern with the undocumented Salvadoran population in the United States is threefold. An "underground" population of persons, which is above all else afraid of apprehension and deportation and is consequently docile and exploitable, poses significant obstacles to the rule of law and the rights and liberties which that guarantees. A victim population in our midst does not augur well for the liberties of denizens who transact with or share communities with the undocumented aliens. The ACLU is also concerned about the discriminatory application of legal standards on the basis of extraneous considerations. This, we fear, breeds contempt for the rule of law and violates the humanitarian traditions of our nation. Finally, we remain concerned about the consequences for the right to life of persons who might be deported to El Salvador.

El Salvador is, by all accounts, wracked by a civil war characterized by a startling degree of danger and brutality. The principal victims of this civil war are innocent civilians. Estimates of the numbers of civilians killed in this war range from 30,000 to 40,000. The significance of this figure can only be appreciated if one recalls that the total population of El Salvador numbers fewer than 5 million, and that the geographical size of El Salvador is roughly equivalent to that of the state of Maryland.

One and a quarter million Salvadorans, a quarter of that country's population, have been compelled to flee their homes. 300,000 to 500,000 are in the United States. The vast majority of these have entered without inspection. The figures on the disposition of the asylum applications of Salvadorans suggest that, whether for reasons of discrimination or sheer ineligibility for asylum, most will not qualify for relief from deportation on a case by case basis. Nevertheless, the extreme dangers and hardships faced by these people if they are returned to El Salvador, induce in them an intense fear of deportation. They therefore manifest the same characteristics of docility, exploitability and unwillingness to cooperate with legal authority as the undocumented population in general, but to a greater degree, as would be expected given the particularly extreme nature of the hardship faced by them upon their return.

Without an increase in the enforcement activities of the I.N.S. against Salvadoran nationals in particular, the vast majority of this population will remain in the United States. The return to El Salvador of those who are accidentally caught up in I.N.S. enforcement has not had and will not have a significant effect on the size of this population. However, the in terrorem effect of such selective deportation has extended and will extend to the entire deportable population. This will produce precisely the "underclass" which U.S. immigration policy seeks to avoid.

Furthermore, although a policy of continuing deportations has had a negligible effect on the extent and composition of the undocumented Salvadoran population, it does of course constitute an extreme danger to the lives of those few who are caught up in I.N.S. enforcement and subsequently deported.

It is for this reason that the American Civil Liberties Union believes that a temporary moratorium on the deportation of Salvadorans to El Salvador will in fact significantly advance some of the fundamental purposes of U.S. immigration policy. Such a moratorium would also maintain the reputation of the United States for flexible humanitarian policies.

It has been a customary practise of successive U.S. administrations, under similar circumstances involving other nationalities, to temporarily cease enforcing the departure of otherwise deportable aliens. Such protection is presently enjoyed by nationals of Lebanon, Afghanistan, Ethiopia and Poland. "Extended voluntary departure", as it is known, is a temporary humanitarian device which confers no permanent benefits. It does not vitiate the deportability of particular aliens. It has, in the past, been terminated when conditions in the country at issue permit a safe return.

It is not difficult to surmise the rationale for such a humanitarian practise. The United States clearly has the sovereign power to determine what aliens may remain in the United States. This power carries with it the corollary power to remove persons who do not qualify to remain. However, we are also, as a society, deeply attached to the value of the individual human life. We therefore temporarily decline to deport even concededly deportable persons to circumstances where their deportation is highly likely to result in death or severe injury.

This is consistent with the limited resources available for enforcement of the immigration laws and with the reality that these resources, unequal as they are to the

total task, must be targeted so as to reflect proper national priorities. The Immigration and Naturalization Service has enough work on its hands without the additional burden of apprehending and returning aliens to such mortal danger.

It must be emphasized at the outset that both the fundamental purposes and the operation of a policy of temporary relief from deportation are quite distinct from the purposes and operation of the Refugee Act of 1980. That Act has as its fundamental purpose the determination of who will qualify to reside in the United States on account of a fear of persecution in their countries. Temporary relief from deportation, by contrast, assumes the absence of such eligibility and entails no assumptions about the political, religious, racial, ethnic or social bases of a fear of returning.

Curiously, the administration has seen fit to deny the viability of this approach in the context of a policy towards putatively deportable Salvadorans. The United States is now the only country in North or Central America which has a policy of systematically deporting Salvadorans. This policy has been articulated and vigorously adhered to in the face of an impressive degree of consensus that Salvadorans in the United States merit temporary protection from deportation.

In Public Law 98-164, the current State Department Authorization legislation [Section 1012 (a)], the Congress finds that "ongoing fighting between the military forces of the Government of El Salvador and opposition forces is creating potentially life threatening situations for innocent nationals of El Salvador", and that "currently the United States government is detaining these nationals of El Salvador for the purpose of deporting or otherwise returning them to El Salvador, thereby irreparably harming the foreign policy image of the United States." Earlier expressions of Congressional concern include the passage by the House in late 1981 of HJ Res 126, expressing the sense of the House that the Secretary of State should recommend that Salvadorans be accorded the protection of extended voluntary departure.

The unequivocal language of the State Department Authorization is the capstone of a sustained series of public and Congressional expressions of support for extended voluntary departure.

HR 4447 is necessitated by the continuing refusal of the administration to acknowledge that compelling humanitarian factors militate in favor of such action. Congress must act in order to uphold our fundamental national commitment to the sanctity of human life.

It is axiomatic that the power of Congress over immigration matters is plenary. There can therefore be no doubt that Congress has the power to act in this matter. Indeed, the administration's exercise of its discretion to grant extended voluntary departure to certain nationalities in the United States has clearly been the exercise of powers delegated by Congress in the Immigration and Nationality Act. In approving HR 4447 Congress would indicate its disapproval of the discriminatory exercise of those delegated powers.

We append to this statement a carefully documented report which we request be made a part of the record. This report presents a copious body of information which suggests that conditions in El Salvador are such as to render the return of Salvadorans to that country unconscionable. The report also addresses in detail the arguments advanced by the administration in declining to grant Salvadorans this protection. We believe that this presents a compelling case in favor of a temporary moratorium on the deportation of Salvadorans to El Salvador such as is provided by HR 4447.

There can be no doubt that conditions in El Salvador pose a high degree of danger to civilians. We believe that this conclusion is inevitable regardless of how one ascribes responsibility for the violence in El Salvador. Whether the "death squads" are or are not the only problem, whether they are or are not controlled by the government, whether or not the government has the capacity or willingness to control them, and whether the violence is predominantly perpetrated by leftists, rightists or the government, it is indisputable that civilians are in serious danger in El Salvador regardless of their political sympathies.

We emphasize that the relief accorded by this legislation is temporary in nature. The bill provides expressly for studies to establish whether such relief is indeed necessary. It also provides for Congressional reconsideration of such relief in light of the information which is produced by such studies. This is an extremely modest approach. Without implying a permanent judgment, it calls in substance for immediate action to curtail an injury which is highly likely to occur.

Information is available on the conditions of displaced persons in El Salvador and on the conditions of Salvadorans in other countries. A copious amount of such information is documented in the report appended hereto. However, the nature and significance of such information is subject to serious disagreement between the admin-

istration and those, including Congress, the American Civil Liberties Union, the National Council of Churches, the U.S. Catholic Conference and many others, who have considered it appropriate that Salvadorans be temporarily protected from deportation. The studies of these questions called for by HR 4447 will encourage the administration to synthesize and systematically provide presently available information to Congress. They will also encourage the investigation of relevant factual matters which are unknown or unclear. This will ensure that both Congressional and administrative decisions are informed by a consistent body of information.

HR 4447 also calls for a study of the fates of persons returned to El Salvador. We do not believe that it is germane to the decision at hand whether, under the extremely difficult conditions for investigation in El Salvador, specific instances can be identified of the death or disappearance of persons returned to El Salvador. Certainly, this degree of proof has never formed the basis of past decisions to temporarily suspend the deportation of members of other nationalities. When conditions in a particular country are such as to severely endanger all civilians, it is reasonable to conclude that persons returned to that country will be equally endangered. This is a sufficient basis for temporarily suspending the deportation of persons to that country.

Statements accompanying the grant of extended voluntary departure to other nationalities in the past indicate quite clearly that the relevant consideration in these kinds of situations has been the fear arising from general conditions of war and disorder. In view of the temporary nature of the relief at issue, it is not reasonable to expect information about particular cases, which can only be gathered with the expenditure of considerable time and effort. Indeed, given the premise of civil war and social breakdown which lies behind such relief, it seems inherently unlikely that such information can be gathered.

However, despite these difficulties, cases of this kind have been identified through random monitoring of the public record. These are documented at Appendix III of the report which is appended to this statement. The American Civil Liberties Union is now engaged in as methodologically precise a study as possible of exactly this issue.

Nevertheless, it is clear that a private group such as ours has neither the resources nor the access to sources of information to promptly arrive at reliable conclusions. Since the administration has made an issue of this question, and since the U.S. government is, through the embassy in San Salvador, best suited to such a task, it is only fair that the administration be asked to conduct such a study. It is worth noting that such a study is precisely what is recommended in a September 1983 staff report of the Senate Judiciary Subcommittee on Immigration and Refugee Policy entitled *Refugee Problems in Central America*.

The administration's approach to the necessity for such a study has been inconsistent, as has its approach to the requirements of a reliable study. It is frequently alleged that the Department of State has provided the I.N.S. with information that no individual has been returned to subsequently suffer death or other extreme harm. This conclusion has been arrived at by way of a half hearted investigation of an extremely small number of arbitrarily chosen cases. Clearly the likelihood of finding evidence of something depends on how carefully one is willing to look for it.

While continuing to make an issue of the fate of persons returned to El Salvador, and while continuing to allege that no evidence has been found of danger to returned Salvadorans, the administration seems also to believe that a truly reliable study is infeasible. Assistant Secretary of State Elliot Abrams stated recently in an interview with the *Washington Monthly* (February 1984) that, "Given the pressures on the embassy, all the things it has to do, it's a question of how much time they should spend on something we think is ridiculous."

If the administration is to continue to make an issue of the lack of proof of danger to individual Salvadorans who have been returned, it is fitting that it should reach conclusions on the basis of a sufficient investigation. HR 4447 does no more than to ask that such information be presented to Congress so that it may make an assessment of whether this reason of the administration's for declining to temporarily protect Salvadorans from deportation to El Salvador is either meritorious or relevant.

A careful reading of the administration's conclusions about the danger faced by persons returned from the U.S. to El Salvador indicates that these conclusions relate to a narrower issue than that posed by HR 4447. The Department of State concludes only that there is no evidence that returned individuals have been persecuted specifically because they left the country and then returned. That a person has not been persecuted specifically for the act of leaving El Salvador suggests nothing about whether these persons are, as a group, subject to danger for other reasons.

Indeed, if a study were to indicate that these persons have, as a group, been subject to exceptional dangers of persecution over and above the general danger of violence faced by all civilians in El Salvador, they would then qualify for asylum. That in turn is, as we argue above and below, a quite distinct issue from that of whether all persons who are returned face an intolerable degree of danger. This last is all that is relevant to determining the propriety of the relief provided by HR 4447.

The conditions to which Salvadorans would be returned if they were deported to El Salvador are, as is suggested by the figures on non-combatant deaths, quite appalling. The legal aid office of the Archdiocese of San Salvador, Tutela Legal, reports an increase in willful violence in the last six months of 1983 over the first six months of the same year. Such willful violence is frequently also random and arbitrary, and as such reflects what the Commander of the U.S. military group in El Salvador has called an "ambience" of violence. Salvadorans in the United States who are afraid of such generalized violence are routinely denied asylum by the I.N.S. and by immigration judges on the grounds that their fear of returning is not specifically related to personal political factors.

The pervasive violence which characterizes life in El Salvador today may be appreciated by reference to selected statistics. According to the latest estimates provided by the Department of State in its Country Reports on the World Refugee Situation for Fiscal Year 1984, approximately 10 percent of the total population of El Salvador has been displaced within the country. A further 15 percent has left El Salvador.

Persons who return to El Salvador from the United States have a higher likelihood than average of spending some time as members of the displaced population, since they will at least have to make the difficult and dangerous way back to their home villages or towns. They will generally have to do so without benefit of current identification documents, a factor which frequently gives rise to a suspicion by the Salvadoran security forces of subversive intent.

The information presented in the report which is appended hereto suggests that displaced persons in El Salvador are extremely vulnerable to violence, even when they are fortunate enough to belong to the small group which is able to shelter in facilities run by churches and voluntary agencies. No more than a half of the displaced population of El Salvador is cared for in this manner. The public record is also replete with instances of the harassment and even imprisonment of religious and other humanitarian workers who attempt to care for them. Recent cases in point are the abduction and torture of Lutheran workers Dr. Ibarra, Rev. Gomez and Ramon Grande Garcia, and of Catholic workers Dinora Rodriguez de Coto, Roxana Guadalupe Funes and Marcos Antonio Coto Vega. Public record information also suggests that the nutritional and health conditions of displaced persons in El Salvador are appalling.

Those who are able to accomplish the difficult task of successfully running the gauntlet of civil war to escape to contiguous countries continue to experience hardship and danger in those countries. The Honduran security forces presume their sympathy with the Salvadoran insurgents across the border, and act accordingly. These continue to be reports of abduction by Salvadoran military or paramilitary forces of Salvadorans in Honduras. Some instances have been documented of collusion between Salvadoran forces and Honduran forces. Since the Honduran military guards the refugee camps in which Salvadorans are restricted, this pattern suggests extreme cause for concern.

Its preliminary discussions of the relevant immigration policy considerations indicate that the administration has misconceived the purposes and rationale of the temporary relief provided by HR 4447. The administration has repeatedly pointed to the availability of case by case review of asylum claims. It has suggested that a nationality specific device such as is provided by HR 4447 was rejected by Congress when it adopted the comprehensive approach of the Refugee Act.

As we have noted, the purposes of the Refugee Act and those of a temporary device such as this are quite distinct. The Refugee Act provides for the admission of persons who have a well founded fear of persecution on account of certain specified factors. When Congress passed the Refugee Act it was aware of the simultaneous and parallel existence of the practise of extended voluntary departure. While the legislative history of the Refugee Act indicates that Congress did wish to end the use of the parole power to permanently admit refugees from outside the United States, it indicates no intent to discontinue the practice of temporary suspension of deportation of specific nationalities for exigent humanitarian purposes. This is corroborated by the administration's own continued use, since passage of the Refugee Act, of "extended voluntary departure" to benefit, among others, nationals of Lebanon, Afghanistan, Ethiopia and Poland. Of course, such a practice must by defini-

tion be nationality specific, since it depends upon an assessment of the advisability of returning persons to a particular national situation of civil war.

Furthermore, it is clear that not all Salvadorans will qualify for asylum under the narrower grounds of eligibility for that relief. This does not detract from the very real dangers which will nevertheless await them upon their return to El Salvador. Nor is it desirable that they be encouraged to apply for asylum in order to protect themselves from deportation. The asylum adjudications system is seriously backlogged. It is practical to remove inducements to ineligible persons to use the asylum process to protect themselves from deportation, particularly when the compelling nature of their fear of deportation suggests that they will use any available device.

It should also be noted that asylum, which can lead to permanent residence one year after it is granted, is a less flexible expedient than is the temporary relief from deportation provided by HR 4447. Not only do many Salvadorans not qualify for asylum, but many have no interest in remaining in the United States except for temporary protection. Indeed, the enjoyment of such temporary protection would encourage persons to make themselves known to the authorities, thereby facilitating the enforcement of their departure when conditions in their country improve sufficiently to make that appropriate.

That the administration presently has the authority to grant Salvadorans the temporary relief provided by HR 4447 is indicated by its own use of this authority to benefit deportable aliens of other nationalities. Such authority is derived from Sections 103, 242 and 244 of the Immigration and Nationality Act, as amended. Congress is called upon to act in this instance only because it is clear that the administration has refused to exercise its authority to benefit the Salvadorans. Congressional intervention is necessary to rectify discrimination in the administration of our immigration laws and to ensure that the national honor is not disgraced by the plainly inhumane practice of sending people back to the kind of terror and danger which characterize life in El Salvador today.

We have witnessed in the last few years the spectacle of respectable, law abiding U.S. citizens violating the law because of their perception of duty to a higher moral and humanitarian imperative. The existence of "sanctuary" churches for the benefit of Salvadorans seeking safe haven indicates the extent to which failure to act on compelling humanitarian claims will continue to breed disrespect for the laws. The combined effect of this and of the deleterious consequences of the existence of a large "underclass" of Salvadorans in our midst suggests that HR 4447 offers an opportunity to do well by doing good; to serve the national interest while maintaining our proud humanitarian traditions.

HR 4447 accomplishes its essential humanitarian and pragmatic purposes in the most modest manner. It requires no longer term commitments. It contains a sunset provision. It requires that the already substantial premises upon which it is based be studied and corroborated in a joint effort of the administration and the Congress. The three year period of protection from deportation constitutes a maximum. The administration is at liberty to act sooner than absolutely required in submitting its studies. The Congress may choose to hold hearings earlier than the outside limit of two years which is provided, and it may at that time reconsider the issue in the light of new information. The terms of the legislation would allow for reconsideration as soon as the administration completes its studies and the Congress decides to act again.

The American Civil Liberties Union urges prompt favorable action on HR 4447.

Selected statistics on Salvadorans in the United States, Salvadorans returned to El Salvador

[Compiled from figures released by the U.S. Immigration and Naturalization Service]

Fiscal year 1983:	
Persons returned under final orders of deportation.....	3,175
Persons otherwise required to depart.....	1,627
Total for fiscal year 1983.....	4,802
Fiscal year 1982:	
Persons returned under final orders of deportation.....	2,118
Persons otherwise required to depart.....	3,454
Total for fiscal year 1982.....	5,572

Asylum applications of Salvadorans

Fiscal year 1984 as of January 1984:	
Asylum applications denied	2,951
Asylum applications granted	83
Fiscal year 1983:	
Asylum applications denied	2,914
Asylum applications granted	71

Salvadoran asylum applications pending as of January 1984: 11,965.

[Base estimate of total Salvadoran population in the U.S.: between 300,000 and 500,000.]

PREPARED STATEMENT OF AMNESTY INTERNATIONAL, USA

The United States section of Amnesty International appreciates this opportunity to present written testimony before the Subcommittee on Immigration, Refugees and International Law of the Judiciary Committee of the U.S. House of Representatives on the question of immigration policy towards Salvadoran refugees.

This statement addresses the question of U.S. refugee policy towards Salvadoran nationals and more specifically provides support for the principles embodied in House Resolution 4447 which would allow for the temporary suspension of deportation of Salvadoran refugees from the United States.

Amnesty International is a worldwide human rights movement which works impartially for the release of prisoners of conscience, men and women detained anywhere for their beliefs, color, ethnic origin, sex, religion or language, provided they have neither used nor advocated violence. Amnesty International opposes torture and the death penalty in all cases without reservation and advocates fair and prompt trials for all political prisoners. Amnesty International is independent of all governments, political factions, ideologies, economic interests and religious creeds. It has consultative status with the United Nations (ECOSOC), UNESCO and the Council of Europe, has cooperative relations with the Organization of African Unity (Bureau for the Placement and Education of African Refugees). Amnesty International was the recipient of the 1977 Nobel Prize for Peace.

Since its inception in 1961, Amnesty International has repeatedly expressed concern for the plight of refugees. This concern stems from the provision in its Statute requiring it to assist persons "who might reasonably be expected to become Prisoners of Conscience . . . if they were to return to their own countries." Amnesty International believes that refugee status and asylum should be granted to such persons and that "in no circumstances" should any persons be expelled or extradited to any country "if there are reasonable grounds to fear that they would be executed or summarily killed or tortured and imprisoned for reasons of conscience, or face other cruel, inhuman or degrading treatment or punishment."

It was within this restricted mandate of concern for actual and potential prisoners of conscience that Amnesty International testified in hearings preparatory to passage of the U.S. Refugee Act of 1980.

Amnesty International maintains that the following principles should guide refugee law and asylum practice. First, no one should be returned to a country where he or she faces the risk of persecution. Second, refugees from all different countries are essentially equal; thus, all refugees should be accepted on the basis of humanitarian need and not political expediency. In this regard, each person requesting refugee status, regardless of country of origin, should be given equal opportunity to present his or her own case and a fair hearing of that case. This requires that refugees have access to attorneys and or community groups who can assist them in understanding the legal and social situation and the rights and expectations which are legitimately theirs, and who may assist them in presenting their case in the most favorable manner. And third, that U.S. law with regard to refugees and asylum should be consistent with international standards for the protection of refugees.

Amnesty International has a continuing concern that guidelines and procedures implementing the 1980 legislation do not contradict or undermine these principles. Further, we are concerned that there be no erosion of acceptance of the international definition of refugee as incorporated into the Refugee Act of 1980.

In recent years, Amnesty International has expressed concern regarding recent practices and proposals by the U.S. Government which call into question the continuing acceptance and implementation of these principles.

In addition to monitoring the formulations of U.S. Government policies and the implementation of existing policies that relate to Amnesty International's refugee

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Sept. 17, 81

Ethiopia

APPENDIX III

Blanket voluntary departure for Ethiopians

26 AUG 1981

OO 243.79-P

Regional Commissioner (ROENF):
 Western Region Southern Region
 Northern Region Eastern Region

Doris M. Meissner
 Acting Commissioner

The attached letter from the Deputy Secretary of State indicates that the automatic grant of voluntary departure to nationals of Ethiopia can no longer be justified. Accordingly, all previous policy statements concerning blanket grant of voluntary departure to nationals of Ethiopia are rescinded.

The attached letter and a copy of this memorandum should be disseminated to all field offices and shall be utilized as guidance in handling requests for voluntary departure on a case-by-case basis.

The Department of State has further advised me that a decision concerning blanket grants of voluntary departure for nationals of Uganda is still pending. I will advise you of Department of State's recommendation in this matter when received.

Attachment

 THE DEPUTY SECRETARY OF STATE
 WASHINGTON

August 8, 1981

Dear Ms. Meissner:

Since Ethiopia's revolution took place in 1974 the Department of State has been recommending to the INS that Ethiopians in the U.S. who can demonstrate a well-founded fear of persecution be granted political asylum, and that because of unsettled conditions in Ethiopia, Ethiopians whose asylum applications were not approved should not be deported to Ethiopia, but should be allowed to remain here temporarily in voluntary departure status and should be permitted to work. This position was reaffirmed to the INS most recently in a July 18, 1980 letter from the Coordinator for Refugee Affairs (attached).

As indicated by the Department's most recent report on human rights conditions in Ethiopia (attached), we continue to believe that there may be Ethiopian asylum applicants in the U.S.--as well as Ethiopian applicants elsewhere in the world--who can demonstrate a well-founded fear of persecution if they were to return home. These applicants should continue to be granted asylum or refugee status, as the case may be.

However, conditions in Ethiopia have stabilized to the point that the automatic grant of voluntary departure status to unsuccessful asylum applicants can no longer be justified. Moreover, no Ethiopian today is allowed to leave Ethiopia without political clearance from the government, and increasing numbers of Ethiopians are taking advantage of automatic voluntary departure to remain and work indefinitely in the United States without having met the criteria either for immigration or for asylum.

Ms. Doris Meissner
Acting Commissioner,
Immigration and Naturalization Service,
425 "I" Street, N. W.,
Washington, D. C.

- 2 -

The Department therefore recommends that the INS continue to grant asylum to Ethiopians in the U.S. who can demonstrate a well-founded fear of persecution, but to cease granting voluntary departure status to asylum applicants whose applications are not accepted--that is, to treat Ethiopian asylum applicants the same as those from almost all other countries in the world. For those Ethiopians who are currently in voluntary departure status, we suggest that such designations be allowed to expire on their own.

We are, of course, still prepared to offer our views with respect to any individual asylum application.

Sincerely,



William P. Clark

Attachments:

1. Palmieri/Crosland Letter dated July 18, 1980
2. Human Rights Report - Ethiopia

their home country and elsewhere in the hemisphere. Importantly, pending the outcome of this White House study, the bill temporarily suspends the deportation of Salvadorans currently in the United States, an action which has been advocated by our churches for many months.

There are few aspects of the turmoil and violence in Central America which evoke more concern among churches than what is happening to the people of that region. An estimated twenty percent of the Salvadoran population alone has been displaced in the past few years, both inside and outside the country. Recent reports by churches, human rights groups, and the State Department have indicated that the conditions which the displaced face—both with respect to their physical needs and their safety—are among the most compelling in the world. These conditions must be examined and appropriate responses devised.

It is in this light that our religious commitment to the care of the homeless and the protection of the needy leads us to ask for your support for H.R. 4447 as an imperative first step in dealing with the situation of Salvadorans here and elsewhere in the hemisphere.

Thank you for the consideration of our concerns.

Sincerely,

BISHOP PHILIP R. COUSIN,
*Ninth Episcopal District, African Methodist Episcopal Church,
President, National Council of Churches.*

THE MOST REV. JOHN M. ALLIN,
*Presiding Bishop, The Episcopal Church, USA, Chairman,
The Presiding Bishops Fund for World Relief.*

BISHOP ANTHONY BEVILACQUA,
*Bishop, Diocese of Pittsburgh, Chairman, Ad Hoc Committee on
Migration and Tourism, United States Catholic Conference.*

REV. DR. CHARLES W. BUTLER,
President, Progressive National Baptist Convention.

REV. DR. ROBERT C. CAMPBELL,
General Secretary, American Baptist Churches U.S.A..

REV. DR. JAMES R. CRUMLEY, JR.,
Bishop, Lutheran Church in America.

WALTER FARRELL, S.J.,
President of the Jesuit Conference.

REV. DR. WILLIAM H. KOHN,
President, The Association of Evangelical Lutheran Churches.

REV. DR. EDWIN G. MULDER,
General Secretary, Reformed Church in America.

ROBERT W. NEFF,
General Secretary, Church of the Brethren.

FATHER JAMES P. NOONAN,
Superior General, Maryknoll Fathers and Brothers.

REV. DR. RANDOLPH NUGENT,
General Secretary, United Methodist General Board of Global Ministries.

H.A. PENNER,
Director, U.S. Mennonite Central Committee.

REV. AVERY D. POST,
President, United Church of Christ.

DR. DAVID W. PREUS,
Bishop, American Lutheran Church.

ALBERT VORSPAN,
Vice President, Director of Commission on Social Action.

RABBI DAVID SAPERSTEIN,
*Director and Counsel, Religious Action Center,
Union of American Hebrew Congregations.*

REV. J. RANDOLPH TAYLOR,
Moderator of the 195th General Assembly, Presbyterian Church (U.S.A.).

KENNETH L. TEEGARDEN,
General Minister and President, Christian Church (Disciples of Christ).

REV. DR. PAUL WEE,
General Secretary, Lutheran World Ministries.

STATEMENT OF DALE S. DE HAAN, DIRECTOR, CHURCH WORLD SERVICE IMMIGRATION AND REFUGEE PROGRAM AND INGRID WALTER, DIRECTOR, LUTHERAN IMMIGRATION AND REFUGEE SERVICE

Thank you for this opportunity to express the views of many within the religious communities in the United States on H.R. 4447. The bill would require a White House study on security and humanitarian conditions as they pertain to Salvadorans who might be returned to El Salvador from the United States. The bill temporarily suspends, in the interim, for up to three years, the detention and deportation of Salvadorans here. Church World Service and the Lutheran Immigration and Refugee Service and their 36 member protestant communions are much in favor of passage of this bill.

Together we have a longstanding and profound concern with the situation faced by El Salvadorans fleeing violence and civil warfare in their homeland. We have become increasingly concerned with the plight of Guatemalans, Hondurans and Nicaraguans fleeing rising levels of violence and civil conflict in their countries. Our interest and involvement in this issue stem from the Christian Biblical and humanitarian mandate to aid the hurt and hungry and "to speak up for those who cannot speak for themselves." (Proverbs 31:8)

Since 1946, CWS, LIRS and their member communions have resettled over 430,000 refugees, primarily through the efforts and contributions of our local congregations throughout the country. Our many years of aiding and resettling refugees have given our churches much experience in refugee ministry, out of which has grown a deep commitment to refugees themselves. Our experience here and our relief and development work in many countries around the world have made it possible to understand and even live the experience of oppression and persecution under repressive governments.

As conditions in El Salvador deteriorated in 1979 and 1980, increasing numbers of El Salvadorans began arriving in our communities in this country, especially in the Southwest. Frequently they came to our churches seeking assistance and protection, telling horrifying stories of military battles in their communities, brutal murders of family members or neighbors, or attempts on their own lives. The clergy and laity of our local congregations perceived that these new undocumented were not simply persons seeking jobs or economic betterment. Rather, by their own stories, by their behavior, by what is known of the situation in El Salvador, and by what the common understanding is of the definition of a refugee, our people in local churches recognized and responded to these Salvadorans much as they have to Indochinese, Africans, Afghans, and others who have come in recent decades.

Our congregations have heard the stories told by these people of the killing of parents in front of children, and of decapitated, mutilated bodies a common sight on city streets and country roads. The consequences of military operations and combat in much of the county have been described to us. We have read the newspaper reports and seen the vivid television images of violence and civil warfare. We have read the statistics of violent death in El Salvador, numbers which exceed those of virtually any other situation of conflict in the world today.

As a natural Christian and humanitarian response to the cries and perceived needs of these suffering people, our churches have reached out to provide material, emotional, and spiritual aid. Since early 1980, when the tragic death of seven Salvadorans in the Arizona desert shocked the consciences of many Americans, increasing numbers of church members and entire congregations have become involved in aiding and ministering to Salvadorans, Guatemalans, and other Central American refugees arriving in their communities. Literally thousands of church congregations are today involved in gathering foodstuffs, clothing, and other items and in providing temporary shelter for those seeking refuge.

In response to overwhelming needs, over 30 local service and legal-assistance projects with full-time staffs have been organized through ecumenical church efforts in communities from Los Angeles and Texas to Boston and Seattle. With apprehensions and deportations of Salvadorans numbering in the thousands, most of the projects have concentrated efforts on informing refugees of their right to apply for asylum, assisting them to do so, and securing release of detained refugees. Despite extremely limited resources, projects have helped prevent or delay deportation of many refugees: three of these projects each have assisted over 2,000 Salvadorans to apply for asylum. While saving people from deportation is top a priority, these

projects do not ignore the overwhelming basic survival, medical and mental-health needs of the thousands of refugees in their communities. Salvadorans have arrived with bullets still in their bodies, or other untreated injuries suffered in the warfare or during their escape, and many bear deep emotional traumas. These refugees must live "underground" in fear of apprehension by authorities and have little or no recourse to established services.

Recognizing the magnitude of this refugee tragedy in our own country, national Protestant churches have provided over \$1 million in support funds in the last 18 months to aid these local projects in providing their desperately needed services. We estimate that as many as 300,000 Salvadorans have arrived in the United States since early 1980, most without documents.

Our churches have become increasingly confounded by the unchanging response of the United States government to these people who so clearly seem to be seeking safe haven from warfare and persecution. We are well aware that 300 or 400 Salvadorans continue to be returned each month to El Salvador from the U.S. We have also just learned that Salvadorans now constitute the majority of all detained aliens held in INS detention facilities nationwide.

We firmly believe in the ideals and traditions of this nation as a haven for the persecuted and oppressed. The religious community has always most adamantly upheld the notion of the sanctity of human life. In this context, the continuation of the policy of apprehending and returning Salvadorans to their homeland at this time appears inexplicable. It has become all the more so as reports and documentation have circulated on the fate of several persons returned from the U.S.—individuals who were subsequently killed.

The consternation of the religious community has deepened as a consequence of statements made by officials of the office of the United Nations High Commissioner on Refugees (UNHCR) and by the conclusions of an internal UNHCR study on treatment of Salvadorans in the U.S. The response of the governments of Canada and other countries in the region to these refugees, and the involvement of the government of the United States itself in programs aiding Salvadoran refugees in Central America has severely stretched our credibility regarding our own government's policies.

Officials of the UNHCR have said as far back as mid-1982 that all El Salvadorans who fled their country following the outbreak of civil war in early 1980 were in a "refugee-like situation" and that they should not be involuntarily returned to their homeland. An internal UNHCR mission study of treatment of Salvadorans arriving in the U.S. published in the Congressional Record on February 11, 1982 recommended that:

UNHCR should continue to express its concern to the U.S. government that its apparent failure to grant asylum to any significant number of Salvadorans, coupled with continuing large-scale forcible and voluntary return to El Salvador, would appear to represent a negation of its responsibilities assumed upon its adherence to the (United Nations') Protocol.

Canada has officially recognized that a substantial number of El Salvadorans outside their homeland are refugees eligible for admission under its refugee resettlement program. Well over 2,000 were admitted last year. Canada's policy treats the U.S. as a country of first asylum for Salvadoran and Guatemalan refugees and implicitly recognizes that there are protection problems for Salvadorans in this country. Over 900 Salvadorans, persons judged by the Canadian government to fit the United Nations' definition of refugee, were admitted to Canada for resettlement from the U.S. in 1983. Many of these were facing imminent deportation by U.S. authorities. No other country in this region systematically deports or otherwise involuntarily returns Salvadorans to their homeland at this time. Salvadorans are recognized as refugees and aided by the UNHCR in Mexico, Belize, Honduras, Nicaragua, Costa Rica and Panama. Guatemalans also are recognized as refugees in Mexico, Honduras, Nicaragua, and Costa Rica, and Nicaraguans in Honduras and Costa Rica.

Church World Service and the Lutheran Immigration and Refugee Service and our member denominations are very aware of all of these response because we cooperate with the UNHCR both here and in Central America and are involved in assisting Salvadoran refugees to go to Canada and are likewise actively supporting and participating in the relief efforts for refugees in Central America.

Our agencies are cognizant of the United States government's own statements on the situation in Central America. Indeed, the State Department has explicitly recognized that conditions in El Salvador have displaced or made refugees of huge numbers of people. A recent Bureau of Refugee Programs briefing paper, Current Refugee Situation in Central America begins by stating:

Substantial numbers of refugees and persons displaced by fighting and civil strife in Central America have received refuge in neighboring countries. We estimate the overall number of displaced persons in El Salvador and Guatemala may be as high as 800,000.

The State Department Country Reports on Human Rights Practices for 1983 (published February, 1984) states in its section on El Salvador (page 551):

All human rights conditions in El Salvador are strongly affected by the ongoing civil strife. As is common during civil strife, the achievement of a public order that would protect each person's rights has been disrupted by military operations, partisan hatreds, acts of revenge, the satisfaction of personal grudges, pervasive fear, and a prevailing uncertainly dominated by violence.

The United States government currently provides over 25 percent of the UNHCR budget for assistance to Salvadoran and other Central American refugees in the region.

That most Salvadorans fleeing their homeland can be recognized as refugees even by U.S. policy in nearly every country in the region except the United States itself appears inexplicable in our communities.

To us, it is clear why many Salvadorans fleeing their war torn land come to this country to seek refuge. Conditions, both economic and political, in other countries of first asylum in the region are notably precarious. High unemployment and hostility characterize the conditions faced by Salvadorans in other countries. Those other countries, including Mexico, simply cannot offer available and appropriate safe haven to all who need it. UNHCR estimates that there are already some 300,000 Salvadoran refugees spread throughout the region, 120,000 in Mexico alone. In fact, UNHCR itself currently is only able to provide assistance to about 14 percent of the Salvadoran refugees estimated to be in Mexico and Central America. Some Salvadorans fleeing their homeland make their way here because they have relatives or friends already in this country. And finally, we understand that some Salvadorans come to seek haven here because the United States is the United States, a nation which has long been promoted around the world as a land of freedom from persecution and a place of opportunity to live and work in safety.

While it has been said that the existing political asylum procedure provides the mechanism to identify and protect any persons with a legitimate fear of political persecution if returned, our experience tells us that this is simply not the case. Members of our churches have assisted literally hundreds of Salvadorans in applying for asylum. These are persons whose stories of persecution and whose fears we know to be as real as refugees from anywhere. We see application after application rejected as without merit, while official statistics say less than three percent of Salvadoran applicants have been granted asylum over the last three years.

In the face of this response by our government to the plight of these homeless refugees amongst us, some churches have become increasingly politicized. More and more church congregations have felt that the sanctity of human life is violated by the policy of returning Salvadorans to possible death or persecution in their homeland. Some from among those churches providing "sanctuary" have decided that they must publicly and dramatically protest and challenge current policy by engaging in what appears to be public civil disobedience. Over 100 churches have now publicly announced that they are providing "sanctuary" to undocumented Salvadoran refugees in the face of laws which characterize harboring of undocumented aliens as a felonious act. Some of these sanctuary churches and others have also begun to perceive connections between foreign and military policies with military policies with respect to El Salvador and the arrival of increasing numbers and the official non-recognition of refugees in the United States.

Our national church bodies, along with many Roman Catholic leaders have, been calling for a halt of the deportation of Salvadorans with increasing urgency over the last three years. In June, 1983, member refugee resettlement agencies of the American Council of Voluntary Agencies issued a Statement on Safe Haven for Central American Refugees asking that "extended voluntary departure be granted on a comprehensive basis to Salvadoran and Guatemalan nationals seeking safe haven in the United States." The document, affirmed by fifteen member agencies including the Hebrew Immigrant Aid Society (HIAS); the International Rescue Committee; the Presiding Bishop's Fund for World Relief; The Episcopal Church; World Relief of the National Association of Evangelicals; and the Migration and Refugee Services of the United States Catholic Conference, noted that:

The situations of El Salvador and Guatemala, like so many others in the world, are precisely those which motivate refugee flight. That flight is a natural and predictable response by people to escape crossfire and the danger of pervasive random violence. These are situations from which refugees must be protected.

These concerns have been communicated frequently to the Administration, along with the recommendation that extended voluntary departure status be utilized for Salvadorans. In the absence of any other response, we have concluded that such a legislative remedy as H.R. 4447 is the most appropriate measure that can be taken at this time.

We support this legislation not only because of our deep humanitarian concern for the needy and frightened Salvadorans that we find in our midst, but also because H.R. 4447 so well addresses the plight of the Salvadorans. The bill has three sections: (1) a study of Salvadoran displaced persons and returnees, (2) Congressional review of the study, and (3) a three-year suspension of detention and deportation.

We believe that the study is important as it will put the issue of displaced Salvadorans into its national and regional context. In the study, the President must report on the situation of Salvadoran refugees that are currently in Honduras, Mexico, and Guatemala, and the displaced persons that are within El Salvador. It must review the status of food and medical assistance and the protection of those displaced, and make recommendations on ways to improve the overall situation. The study would also report on the fate of Salvadorans who have been deported from the U.S., focusing on human rights violations that may occur upon their being returned. We do recognize, however, the difficulty of conducting the specific component of the study on the fate of returnees under the current conditions of civil warfare. It is not clear that this study alone could produce either sufficiently reliable or credible data unless the general conditions themselves improve substantially.

There is reason to be concerned about the availability of safe haven in Central America. The recent killings of 12 Salvadoran refugees in Honduras seeking protection in that country, reports of the abduction of refugees from UNHCR camps, and assaults on international refugee protection officials have raised considerable concern among our churches. Some of our churches have actually sent personnel to Central America to act as a protective presence in areas of the region where there are large concentrations of refugees. Thus, there is every reason to believe that much greater measures must be taken before the region can be considered "safe" haven for refugees. Hopefully, the President's study will provide some directions on this matter.

This information is very important to the next stage of the process, Congressional review. The House and Senate Judiciary Committees will review the report upon receipt from the President. With the perspective of the report, the committees should be able to formulate policy recommendations that take into consideration relevant domestic and international factors.

The third section of the bill suspends the detention and deportation of Salvadoran nationals in the U.S. for a three-year period. We feel that this temporary stay of deportation while reviewing the Presidential study is the most appropriate action that can be taken at this time. The decision of whether or not to deport Salvadorans should be based upon the conditions in the country to which they are being returned, and the situation confronting refugees in the region.

This stay of deportation is a temporary suspension. It is not an open-ended invitation for Salvadorans to stay in the U.S. indefinitely. It confers upon those benefiting from the stay no privileges other than protection from deportation while the Congress reviews the merits of their case.

As the situation currently stands, many Salvadorans find their only protection against deportation is to apply for asylum. But to receive asylum, the applicant must establish a well-founded fear of persecution upon his or her return and provide extensive documentation of his/her individual case—documentation which few refugees fleeing their homeland are likely to carry with them. In FY '83, only 71 Salvadoran political asylum cases were granted by INS District Directors, and 2,914 cases were denied. Less than three percent of the cases reviewed were granted. Between October and January of FY '84, 83 cases have been granted, while 2,951 have been denied, still less than three percent. Even an in-house INS study admits that for a Salvadoran to be granted asylum, he or she must present a classic textbook political asylum case. Even though it is said that the asylum procedure should protect Salvadorans who fear persecution if returned, it clearly is not now doing so.

Asylum is not the most appropriate remedy for Salvadorans in the U.S. who are seeking haven from the war. Many of the Salvadorans our churches have aided have told us their only wish is to go home as soon as they can—when it is safe. Our experience has been that many Salvadorans simply are not interested in seeking long-term political asylum here, or any other permanent status. Yet, under the current system, they are forced to apply for asylum if apprehended by the INS because this is the only remedy available to them.

For these reasons it would be much more appropriate for Salvadorans to be granted a provisional stay of deportation. In the past, extended voluntary departure has been used to provide a temporary remedy for certain nationalities who, due to conditions in their homeland, fear immediate return. It usually has been granted by the Attorney General upon the recommendation of the Secretary of State. Although the criteria for granting extended voluntary departure is not well-defined in immigration law, a review of past grants of extended voluntary departure would appear to be based upon civil strife or unsettled conditions in the homeland, as in the cases of Afghanistan, Nicaragua, Lebanon, and Ethiopia or human rights violations, as in the case of Poland.

When considered under this type of criteria, El Salvadorans would clearly be eligible for a stay of deportation. The situation in El Salvador is well-documented, with at least 38,000 civilian non-combatant deaths since the coup in 1979. The human rights situation continues to be horrendous. The House Subcommittee on Western Hemisphere Affairs has called for the restructuring of the judicial system and a breakdown of general civil order continues to plague the country.

One of the most telling comparisons is that of the grant of extended voluntary departure to Polish nationals in the U.S. with the situation of Salvadorans. The Poles are certainly deserving of a stay of deportation, and their stay was recently extended until the end of 1984. However, we are compelled to acknowledge that the conditions of violence faced by the Salvadoran population are more severe even than those endured by the people of Poland.

We do not see H.R. 4447 in any way attempting to circumvent the provisions of the Refugee Act of 1980. The refugee act by definition provides protection to refugees and asylees. As we noted earlier, many Salvadorans are not asking for refugee status, nor are we asking it for them. Yet, we know they still fear return to their homeland with valid reason. This bill is only trying to deal with a group of people who unfortunately fall into a category that is not covered by the Refugee Act, or any other existing U.S. law: those who seek safe haven temporarily.

It is clear that this type of remedy outside of the Refugee Act has been seen as necessary in the past. Extended voluntary departure status has been granted 15 times in the past 24 years. Also, this procedure has been used twice since the passage of the Refugee Act in 1980, and at those times the administrative procedure was not seen as an "end-run" around the Refugee Act.

From our understanding of the plight of the Salvadorans and their inability to find protection under the current provisions of immigration law, we find it important to address the broader issues of temporary safe haven. We hope that H.R. 4447 will be a step toward the consideration of this issue. The situation of the Salvadorans forces us to deal with this matter. A stay of deportation has never been quite so necessary for a group of people whose homeland was in such close proximity to the U.S. But while the plight of the Salvadorans requires an urgent and immediate remedy, we do not wish to see an ad hoc nation-by-nation policy begin that has no clear definition in immigration law. For a coherent and consistent and fair policy to exist, clearly delineated criteria and procedures around providing temporary security to persons fearing return to their homeland must be developed.

In conclusion, we wish to reiterate the fact that Church World Service, Lutheran Immigration and Refugee Service, and our member denominations have become heavily involved in assisting the Salvadoran community in the U.S. because of our history of working with refugees and immigrants. We have had the privilege of working on a personal level with many Salvadorans and have come to the conclusion that what we are facing is truly "a crisis of people." Over the past few years we have expressed dismay at the continued policy of deporting Salvadorans. We come in strong support of H.R. 4447. This bill is a modest, and appropriate response to the plight of the Salvadorans in our midst.

QUESTIONS SUBMITTED BY SUBCOMMITTEE IMMIGRATION AND NATURALIZATION SERVICE

U.S.-SALVADORAN SITUATION

1. *Question.* Does INS have any general profile of Salvadorans in the U.S.?
 - A. From what geographic area of El Salvador do they come?
 - B. What particular class of people are fleeing (peasants, businessmen, draft-age men, elderly)?
 - C. How long have most been in the U.S.?
- Response.* El Salvadorans who have fled to the United States appear to be predominantly (peasants) campesinos who left that country's northern and eastern

provinces. Most had migrated into El Salvador's cities, seeking protection from rural violence. In this sense, they became "urbanized" peasants. Although there are some businessmen in the illegal flow to the U.S. (leaving bankrupted/failed business endeavors), there has not been any large-scale or pronounced migration of El Salvador's management strata. INS has noticed that some young El Salvadorans are trying to escape their draft law. A very recent phenomenon is that entire families have been apprehended, seeking to enter the United States.

As to how long most have been in the United States, we might say of 16,667 deportable Salvadoran aliens located by INS in 1983, the largest portion, 29% were found at entry. These statistics characterize the length of time deportable Salvadoran aliens spent illegally in this country in 1983.

Located at entry	4,872
Within 72 hours.....	4,387
4 to 30 months	1,210
1 to 6 months	1,310
7 months to 1 year	1,006
Over 1 year.....	3,882
Total.....	16,667

2. *Question.* Have illegal entries from El Salvador increased or decreased in the years 1980, 1981, 1982, or 1983?

Response. They have increased each year, with the exception of 1982. The following table shows apprehensions of El Salvadorans since 1977, when a separate count for that nationality was begun.

Fiscal year:	<i>El Salvadorans</i>
1977	7,887
1978	8,938
1979	11,414
1980	11,762
1981	15,903
1982	14,054
1983	16,667

3. *Question.* How many Salvadorans are removed from the U.S. annually?

Response. The following figures reflect total Salvadoran removals for fiscal years 1980-1983 and for the first quarter of fiscal year 1984:

Fiscal year:	
1980	8,868
1981	10,688
1982	5,131
1983	4,802
1984 Oct-Dec	897

These figures are unofficial figures derived from manual counts of transportation itineraries. The official agency statistics include only those Salvadorans removed after being placed under docket control while the figures above include immediate voluntary returns as well.

4. *Question.* How many Salvadorans have been admitted to the U.S. under the FY 84 Refugee Admissions Program for Latin America? What types of persons have been admitted?

Response. 96 Salvadorans were approved for refugee status between October 1983 and March 1984; however, 3 of that group chose not to be resettled in the United States. Of the 175 visa numbers allocated, 93 had been used through March and 82 remained available. All were identified by the UNHCR as amnestied under the El Salvador amnesty program. Our Mexico City office reported in December 1983 that 47 cases involving 90 of these persons had been processed. The following is a breakdown of the cases:

Ages: 17 were between 18 and 25 years of age; 12 were between 26 and 35 years of age; 9 were between 36 and 45 years of age; 9 were between 46 and 55 years of age;

Occupations: 11 were teachers and members of ANDES teacher's union (Assn. Natl. de Educadores, Salvadorans); 11 were students (not otherwise defined); 6 were "obrerros" or workers; 3 were drivers; 2 were masons; 6 were "professionals" (a mixture of all professions); 8 were listed as miscellaneous.

Time in prison: 9 were in prison less than 1 month; 4 were in prison between 1-6 months; 20 were in prison between 7-12 months; 11 were in prison between 1 and 2 years. 3 were in prison more than 2 years.

Principal options of country for resettlement:

1st. 9 Canada—with another 11 who would accept going to Canada.

2nd. 8 Canada.

1st. 4 USA.

2nd. 6 USA.

1st. 1 Australia.

2nd. 1 Australia.

2nd. 1 Belgium.

2nd. 3 Sweden.

1st. 6 Mexico.

16 persons expressed no options.

Political militancy: 11 were teachers and member of ANDES teachers union; 9 were from trade unions; 6 claimed to be labor leaders (not otherwise explained); 2 claimed to be from "other organizations" (not otherwise explained); 19 claimed no militancy.

All of the above was based on verbal claims of each person. No claims were supported by any kind of documentation.

5. *Question.* What is INS policy with respect to the "Sanctuary Movement"?

Response. The Immigration and Nationality Act, section 274 (U.S.C. 1324) makes it a felony to willfully or knowingly conceal, harbor or shield from detection any alien not lawfully admitted to the United States. We feel it is unfortunate that these people have chosen to violate the law when three are legal avenues available for the aliens to pursue, such as filing asylum claims, if they feel they will be persecuted if returned. The Service has a long standing policy that we will not seek illegal aliens in churches. However, we legally could under the color of a warrant if we decided to do so. The Service has additionally stated it does not have a special enforcement program targeted against individuals involved in the sanctuary movement, but would treat any persons so involved who are apprehended during enforcement efforts similarly to any person in violation of immigration law.

6. *Question.* Is INS aware of any "networks" or "Underground Railroad" operations involving the smuggling of El Salvadorans to the U.S.? Do most come illegally through Mexico and other Central American countries or do large numbers come with visas and overstay? What if anything is done in the transit countries to either prevent or facilitate their onward movement? How is our government combatting this problem? Are any church groups or other organizations involved in smuggling activities?

Response. Intelligence information from apprehended aliens and independent investigative efforts indicates that many El Salvadorans are utilizing the services of professional alien smuggling organizations. These organizations do not limit their activities to the movement of El Salvadorans, who form only a portion of their overall smuggling activities.

INS is aware of the "Underground Railroad" whose activities extend at least from the Southern border of the United States to various cities and destination locations within the United States. At this time, however, INS does not have probative evidence of church leadership involvement in alien smuggling, although several church members have been arrested in Texas and Arizona, and one lay worker has been convicted of transporting illegal Salvadorans.

Most of the El Salvadorans who are smuggled into the United States have transited illegally through Guatemala and Mexico. There are those, however, who try to enter with visas and other counterfeit documentation. Through liaison efforts, the INS is working with government authorities in Guatemala, Mexico and other transit nations to prevent the illegal migration of El Salvadorans.

The INS has initiated investigative activities both in Texas and Arizona to establish any criminal involvement by known smuggling organizations and the underground railroad/Church groups.

7. *Question.* In previous testimony, you cite as a reason for not granting EVD for Salvadorans the fact that when such status was granted to Nicaraguans it increased illegal entries. Do you have any statistics or other information to support your conclusions?

Response. In previous testimony (April 12, 1984), INS indicated that Nicaragua has not traditionally been a country of high illegal immigration to the United States. Thus, the impact of the 1979-1980 EVD program for Nicaraguans was minimized and somewhat difficult to define statistically. Salvadorans, on the other hand, have historically been apprehended in much larger numbers. If an EVD policy were to be instituted, significant increases in Salvadoran apprehensions could be anticipated as a result of this magnet effect.

Apprehension statistics for Nicaraguans are captured under the heading of "Other North Americans" which includes the Caribbean countries, Costa Rica, Hon-

duras, and Panama as well as Nicaragua. As indicated below, average monthly apprehension figures of "Other North Americans" did increase during the period of EVD for Nicaraguans; however, we cannot state with certainty that a casual relationship existed or that the increase was due solely to Nicaraguans.

Average monthly apprehensions "other North Americans"

October 1978-June 1979.....	575
July 1979-September 1980 (EVD).....	1,230
Fiscal year 1981.....	1,211
Fiscal year 1982.....	690
Fiscal year 1983.....	513

8. *Question.* There have been reports of Salvadoran exiles in the U.S. "who may be linked to death squad activities in El Salvador" (New York Times, January 27, 1984). What efforts has INS made to identify such exiles?

Response. INS is aware of the New York Times article and the allegations contained therein. However, INS has not initiated any action to identify such exiles.

9. *Question.* What is the situation regarding Salvadorans being apprehended along the U.S./Mexican Border?

Response. Through January 1984, the Border Patrol had apprehended 3,769 El Salvadorans, an increase of 36% over the same period in Fiscal Year 1983. Overall Border Patrol apprehensions were up 11% during this period. The majority of the El Salvadorans are apprehended at McAllen, Texas and Chula Vista, California. These sectors lie at the extreme east and west ends of the border.

A randomly selected sample of 119 El Salvadorans were questioned as part of a general survey of illegal crossers. Those questioned were about evenly divided between rural and urban areas in El Salvador, and the majority had traveled to the border by bus. Asked how often they cross, 85 percent said this was the first time, 85 percent also responded that they intended to stay over a year, or until caught. Twenty-five percent said they were told where to cross by a smuggler, and an additional 35 percent were told by friends or relatives waiting in the U.S.

10. *Question.* What percentage of apprehended Salvadorans claim asylum? What percentage of such claims are granted?

Response. The Service does not maintain such information. However, approximately 4% of the Salvadoran asylum applications completed in FY 84 were approved.

ASSISTANT SECRETARY OF STATE,
Washington, DC, June 1, 1984.

HON. ROMANO L. MAZZOLI,
House of Representatives,
Washington, DC.

DEAR MR. MAZZOLI: As you know, there is a hot controversy about how many Salvadorans are political refugees to the United States and how many are economic migrants. The Administration has taken the position that there is a very large flow of economically motivated migration from El Salvador to the U.S. which helps explain why most Salvadoran applicants in recent years have been denied asylum.

I enclose a very interesting piece of evidence which I wanted to be sure reached you. It is an exit poll taken on the day of the Salvadoran presidential election, May 6, 1984 by the Spanish television network SIN. Please note that question six asks the voter, "If you had the opportunity, would you emigrate to work in the United States?" Seventy percent replied, "Yes."

While this may not be a perfect poll and no doubt the margin for error needs to be investigated, I would nevertheless maintain that this is a most interesting result and one that needs to be kept in mind as we discuss the motivation of Salvadorans who travel to the United States.

Sincerely,

ELLIOTT ABRAMS,
Assistant Secretary for Human Rights
and Humanitarian Affairs.

Enclosure: As stated.

SECRET EXIT POLL, EL SALVADOR PRESIDENTIAL ELECTIONS, MAY 6, 1984

In eight provinces and 17 cities, SIN's secret Exit Poll was conducted throughout the day. A sample count of 3,810 ballots were filled out according to procedures de-

signed for this election, chiefly by the elector himself. The Secret Poll Ballots were placed in boxes and transported to SIN's headquarters in San Salvador.

By 6 p.m. on election day, John Lasseville, SIN's political analyst, and an SIN team, were able to announce the results of this poll: D'Aubisson (ARENA), 46 percent; Duarte (PDC), 54 percent.

What follows is:

(a) An explanation of the statistical material gathered in this poll and how the principal conclusions were drawn.

(b) Some implications from the above material.

(c) The findings of the remainder of the poll which may prove useful to interested parties.

A. Statistical materials:

In reviewing the March 25, 1984 Presidential election one could see the voting differed in turnout and in choices by the various provinces and cities. Based on this, the sample was divided into two sections, the larger, more metropolitan areas and the smaller, more rural provinces.

The larger Departments, comprising 70 percent of the voting age population:

	<i>Voting age Population</i>
San Salvador:	
San Salvador.....	385,000
Apopa.....	40,500
Aguilares.....	16,000
Sonsonate:	
Sonsonate.....	72,500
Izalco.....	25,500
La Libertad:	
Nuevo San Salvador.....	95,500
Colon.....	16,000
San Miguel:	
San Miguel.....	124,000
San Rafael.....	9,500
Santa Ana:	
Santa Ana.....	168,000
Chalchuapa.....	3,300

The second group, three rural Departments, was taken to represent all eight such areas comprising 30 percent of the voting age population national total.

	<i>Voting age population</i>
Usulután:	
Usulután.....	43,000
Santiago.....	10,500
Berlin ¹
Ahuachapán:	
Ahuachapán.....	72,000
Itiquizaya.....	15,500
San Vicente:	
San Vicente.....	84,000
San Sebastian.....	9,500

¹ Although scheduled for Exit Poll, El Salvador security forces did not permit entry.

By using this method, the percentage of vote gained by ARENA and PDC was calculated in two sections; averaging these percentages gave the final, announced percentage: ARENA, 46 percent; PDC, 54 percent.

This, of course, was very reflective of the official results of 46.4 percent for ARENA and 53.6 percent for PDC.

B. Some implications of closer study of results:

1. It appears that the more rural areas of El Salvador reversed the final total results. The Exit Poll shows that in this group, the smaller Departments gave ARENA 55.5 percent to PDC 44.5 percent.

As a matter of fact, the poll as reviewed in the smaller cities (less than 20,000) showed the same tilt toward ARENA.

Santiago (Usulután), ARENA, 55 percent.

San Sebastian (San Vicente), ARENA, 52 percent.

Itiquizaya (Ahuachapán), ARENA, 59 percent.

2. Of great interest in the studies on the March 25 election in relation to May 6, was the question of where would go the voters of PCN. In their hands rested the

outcome of May 6th. Although their candidate refused to endorse either D'Aubisson or Durate, it was generally felt his followers' votes would go to ARENA.

To examine the reality of this shift the voting pattern as seen in the two smaller cities was examined. These had given the edge in March to the third party. San Rafael gave PCN 56.5 percent in March while Aguilares gave PCN 38 percent.

However, ARENA failed to capture the lion's share in May. This inference can be applied to the remainder of the country's PCN followers and may well have been the reason PDC won.

c. The remainder of the Exit Poll:

(2) Sex of respondents: Female and Male.

(3) Age profile.

(4) Educational level was judged to be intrinsically unreliable.

(5) Occupation—again unreliable.

The following are of particular interest:

(6) Emigration to U.S.?

Yes, 70 percent.

(7) Income?

55 percent earn less than \$2,600 yearly.

(8) "Why your choice of candidate"?

More employment, 12 percent.

Peace, 51 percent.

Strong leader, 11 percent.

Ability to negotiate, 11 percent.

Relationship to U.S., 14 percent.

(9) What is the government of Nicaragua?

Democratic, 19 percent.

Totalitarian, 81 percent.

(10) Solution to guerrilla problem?

Erradication, 54 percent.

Participation in election, 44 percent.

Guerrilla government, 2 percent.

(11) El Salvador's friends?

Cuba, 1 percent.

U.S.A., 96 percent.

Mexico, 3 percent.

Nicaragua, 0.3 percent.

U.S.S.R., 0.3 percent.

(12) Type of Aid from U.S.A.?

Economic and Military, 63 percent.

Economic only, 33 percent.

Military only, 3 percent.

No aid at all, 1 percent.

(13) Voters of March?

8 percent did not vote for anyone.

This is the analysis report of the exit polling conducted by SIN during the El Salvador Presidential election (5-6-84). The values are percentages representing the different answers to the poll questions.

Total provinces, 8.

Total cities, 17.

Total exit polling sample, 3,810.

(1) For whom did you vote for president?

Daubuisson (ARENA), 46 percent.

Duarte (PDC), 54 percent.

(2) Your sex is?

Female, 40 percent.

Male, 60 percent.

(3) The group that includes your age is?

18-24, 34 percent.

25-34, 28 percent.

35-49, 24 percent.

50-64, 12 percent.

65 or over, 2 percent.

(4) What was the last grade of school you completed?

Some elementary school, 19 percent.

Elementary school graduate, 11 percent.

Some high school, 15 percent.

High school graduate, 33 percent.

- College graduate, 14 percent.
 None, 8 percent.
- (5) You describe yourself as?
 Housewife, 15 percent.
 Farmer, 7 percent.
 Student, 19 percent.
 Blue collar, 16 percent.
 White collar, 8 percent.
 Self-employed, 11 percent.
 Professional, ERR.
 Unemployed, ERR.
 Retired, 1 percent.
- (6) If you had the opportunity, would you emigrate to work in the United States?
 Yes, 70 percent.
 No, 30 percent.
- (7) Into which group does your annual household income fall?
 Under 400 dollars, 15 percent.
 400 to 1,299 dollars, 20 percent.
 1,300 to 2,599 dollars, 21 percent.
 2,600 to 5,199 dollars, 16 percent.
 5,200 to 10,399 dollars, 14 percent.
 10,400 to 25,999 dollars, 9 percent.
 26,000 dollars and over, 5 percent.
- (8) Which one of the statements below best describes why you voted for the candidate of your choice?
 More employment opportunities, 12 percent.
 Would bring peace, 51 percent.
 Is a strong leader, 11 percent.
 His ability to negotiate, 11 percent.
 His relationship with the U.S., 14 percent.
- (9) How would you describe the Government of Nicaragua?
 Democratic, 19 percent.
 Totalitarian, 81 percent.
- (10) What solution would you prefer to the guerrilla problem?
 Erradication, 54 percent.
 Participation in the elections, 44 percent.
 A guerrilla government, 2 percent.
- (11) Which of the following countries do you consider friendlier toward El Salvador?
 Cuba, 1 percent.
 United States, 96 percent.
 Mexico, 3 percent.
 Nicaragua, 0 percent.
 Soviet Union, 0 percent.
- (12) What type of aid should El Salvador receive from the United States?
 Economic and military, 63 percent.
 Economic only, 33 percent.
 Military only, 3 percent.
 No aid at all, 1 percent.
- (13) In the Presidential election that took place on March 25th, what party did you vote for?
 ARENA, 34 percent.
 P.D.C., 48 percent.
 P.C.N., 5 percent.
 PAISA, 1 percent.
 P.P.S., 1 percent.
 A.D., 3 percent.
 None, 8 percent.

ASSISTANT SECRETARY OF STATE,
 Washington, DC, June 20, 1984.

Hon. ROMANO L. MAZZOLI,
 Chairman, Subcommittee on Immigration, Refugees, and International Law, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In my testimony before the subcommittee on April 12, I reported the Department was completing a survey on the status of deported citizens of

El Salvador. The survey has now been completed and I would like, for the record, to share the results with you. The results are:

Total number in survey	482
Non conflict zones:	
Fictitious or incomplete addresses	215
Personally interviewed, no mistreatment reported	81
Family reports returned to U.S.	79
Welfare established by interview with family/friend	1
Conflict zones:	
Fictitious or incomplete address	34
Attempted to visit, could not for security reasons	57
Personally interviewed, no mistreatment	39
Welfare established by interview with family/friend	10
Family reports returned to U.S.	28

Special notes: One person was interviewed who said he had never been in the U.S. The widow of one person said her husband was killed by insurgents because of previous associations with government security elements. One letter was returned with addressee marked deceased. The embassy was unable to obtain any details or verification of the deaths.

We believe the survey has been conducted in a thorough manner. It represents the first major effort at sampling a specific group of deportees. Three results strike me: first, the high number of fictitious addresses made it impossible to find a very large percentage of the Salvadorans. Second, of those located, not a single one recounted a story of persecution. Third, of those located, more than half appear to have already returned to the U.S.

I will be happy to discuss the results with you, at your convenience.

Sincerely,

ELLIOTT ABRAMS,
Assistant Secretary for Human Rights
and Humanitarian Affairs.

