LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS

PROVISION FOR THE DELIVERY
OF LEGAL SERVICES COMMITTEE

OPEN SESSION

Thursday, July 28, 2005

3:22 p.m.

Hyatt Regency Monterey
1 Old Golf Course Road
Monterey, California

COMMITTEE MEMBERS PRESENT:

David Hall, Chairman
Michael McKay
Maria Luisa Mercado
Frank B. Strickland, ex officio
Ernestine Watlington (by telephone)

OTHER MEMBERS PRESENT:

Lillian BeVier
Herbert S. Garten
Florentino Subia

OTHERS PRESENT:

OTHERS PRESENT:

Helaine Barnett, President and ex officio Board Member
Tom Polgar, Acting Director
David L. Richardson, Treasurer and Comptroller
Judy Garlow, California IOLTA Program
Ronnie Hough, Supervising Attorney, Equal Access Project, California Admin. Office of the Courts
Janice R. Morgan, Legal Aid Services of Oregon
Michelle Besso, Northwest Justice Project, Washington
Jack Londen, California Access to Justice Commission
Martina O'Sullivan, Executive Director for Catholic Charities, Catholic Diocese
Aurora Vasquez, Migrant Farm Worker
Jose Padilla, Executive Director, California Rural Legal Assistance
Emmanuel Benitez, translator
Eric Schlosser, author on share cropping

C O N T E N T S

P R O C E E D I N G S

CHAIRMAN HALL: We would like to call to order the Provisions Committee meeting. We would ask other Board members who plan to join us to come forward, and for our guests to come forward as well.

I'd like to officially call to order the Provisions Committee meeting. Our Committee members are present. I think we have one Committee member, Ernestine Watlington, who is on the phone. Are you there?

MS. WATLINGTON: Yes, I'm listening to you.

APPROVAL OF AGENDA

CHAIRMAN HALL: Okay; good. I'm glad that you can join us.

We'd like to start out by seeking an approval of the agenda.

M O T I O N

MS. MERCADO: So moved.

MR. McKAY: Second.

CHAIRMAN HALL: All in favor?

(Chorus of ayes.)

CHAIRMAN HALL: Thank you.

APPROVAL OF COMMITTEE'S MEETING MINUTES (4/29/05)

CHAIRMAN HALL: There are some minutes of our meeting in April, the April 29th meeting. I'd like to also at this time seek approval of those minutes.

M O T I O N

MS. MERCADO: So moved.

MR. McKAY: Second.

CHAIRMAN HALL: All in favor.

(Chorus of ayes.)

CHAIRMAN HALL: It's approved. Thank you.

PRESENTATIONS ON DELIVERY OF LEGAL SERVICES TO MIGRANTS

CHAIRMAN HALL: The substantive part of our Committee meeting today is a series of presentations. The Provisions Committee, as we have traveled to various parts of the country, have been trying to get greater insights from practitioners and those in the field, one, on the broad issue of quality legal services, and how we define "quality," but more specifically, trying to find out what are some of the specific challenges that various grantees and others who are a part of the access to justice network are facing in regard to providing quality legal services.

Clearly, in this area where we are presently conducting our meeting, the challenge of representing migrant workers is a critical issue and challenge, and therefore, we thought it would be appropriate for the Provisions Committee to focus a lot of its attention on that particular issue.

Therefore, we have a number of representatives who are coming before us to share some information on that topic. We will move directly into those presentations.

We will first hear from Michelle Besso, senior attorney from Farm Worker Unit, Northwest Justice Project, Washington. Would you like to begin?

PRESENTATION BY MS. MICHELLE BESSO

MS. BESSO: Thank you very much. First, I would like to thank you all for taking the time to allow us to share with you something about our work and our clients.

I think most people who work with migrant farm workers are inspired to great passion about our work. We always love to have a chance to share some of that with all of you.

My presentation will be about farm work particularly in Washington, and then you will later hear from someone from Oregon and from California.

What I propose to do is just give you a few facts about agriculture and farm workers in Washington, talk a little bit about a few of our cases, and a few emerging issues, and a few words about mediation in Washington.

I am happy to take questions at any time. If there is an issue that I'm not covering that you would like to hear something about, please interrupt me.

In Washington, the largest crop is apples. More than half the apples in the United States are produced in Washington. We also have a lot of dairy, potatoes, and cherries, grapes, and asparagus.

We don't have strong data about farm worker wages regionally, but nationally, the average wage for a farm worker family is between $12,000 and $14,000 a year. In Washington, according to the Employment Security Department, less than one-third of workers who work in agriculture earned more than $10,000 in agriculture in 2003.

Because of that, you can imagine, most farm workers have to go to other states during off seasons to make other money, work in non-agricultural jobs, or share living expenses with others to support themselves.

Many of the workers that work exclusively in agriculture are migrants. Many of our migrants come from California, from Oregon, and also we do have in Eastern Washington a significant settled out population, which would be people who have settled with their families in our area and live there year round.

That doesn't mean they have year round work. They still work seasonally and have significant times of under employment.

How many farm workers are there in Washington? I put the question marks because the data, again, is not reliable. A recent number was 184,435 migrant seasonal farm workers, and then if you include dependents, it would be 285,000.

In 2003, the unemployment rate for agriculture in general was 8.6 percent.

Again, a much larger problem than the

unemployment rate is the under employment rate, which is that people can't find enough work to stay employed for significant parts of the year.

I included this map just to bring home the significant divisions in Washington. There is the wet western region of the state, where Seattle dominates, but there are farms in western Washington, but they tend to be small and there you have dairies, poultry, and berries.

Also, we find in the berries, in particular, a lot of migrants. Recently, most of those migrants are indigenous. They are from Southern Mexico, Oaxaca, and don't speak Spanish as a first language. They speak indigenous languages, which is a new challenge for us in Washington.

We are looking to our partners in Oregon and California to teach us something about how to serve them. That is a new barrier that we are facing.

East of the Cascades, it is dry but because of irrigation, we have very extensive agriculture. We have fruits and vegetables, potatoes, and wheat.

Over 82 percent of our farm workers in

Washington State are in Eastern Washington. It's hard to see from this map, but the real dark green, which is the highest percentage, over 23 percent of our farm workers, is Yakima County, where our office is.

That whole swatch of Central Washington with the green is where the farm workers in our state are concentrated. That is where the tree fruit is concentrated, asparagus, cherries, which are very labor intensive.

Just a few more facts about farm workers in Washington. They are concentrated in a few states, California, Texas, North Carolina, Florida, Washington. Most Washington farm workers do have to work for more than one employer in the year.

Studies have been done showing in general, farm workers tend to be Hispanic, male, young, and have little education.

We do have a significant number of women working in the settled out population in Eastern Washington, often in packing sheds.

Most migrant workers are from Mexico. Very few speak English proficiently, and most have very low

levels of formal education.

Most of my clients don't have more than a third grade education. Literacy is very limited.

Our Farm Worker Unit at Northwest Justice Project. What kind of work do we do? We are concentrated in two offices, one in Wanatchee, one in Yakima. We provide statewide representation, which includes community education, a lot of outreach to farm workers, and we concentrate on employment, education, home ownership preservation.

That has become increasingly an issue as we have more of a settled out population and people try to buy homes, and unfortunately, they are often taken advantage of, and face some significant and specific problems based on their immigrant status, low education, and limited resources.

We also do a lot of work on access to services for limited English proficient persons, and access to public benefits, issues that are specific to farm workers.

I wanted to concentrate, just to give you a sense of the impact on workers of some of these

employment matters that we deal with.

In May 1997, about 40 workers came to our program. They had not been paid for about six weeks and they were still working. The employer just kept saying that he would pay them. You know, keep working, I'll pay you next week, I'll pay you next week. They kept working, hoping they would get paid.

We were able to file crop liens for them, which meant that the packing shed ended up paying their wages out of the crop proceeds. Meanwhile, these workers had gone months without wages.

Again, 2001 to 2003, the same employer continued to hire new groups of workers without paying their wages. NJP worked with the government agency and the fruit buyers. The workers did get paid their minimum wage that year.

Finally, the employer filed bankruptcy, and NJP continued to represent workers in that process, to ensure that they received their wages from 2002. An agreement was reached with the bank, which had been the major creditor, to pay the workers most of their unpaid wages.

One thing I did want to point out is this case was made much more cumbersome because we could not do class actions. In fact, the judge in the case at one point asked point blank, why didn't you bring this as a class action, why are we dealing with 40 individual claims. It was clearly not the most efficient way to work this case.

What was the impact on the workers of this delay in getting paid? Several of the workers ended up paying huge fees for bounced checks because they were paid paychecks that were no good. Because they have very little money in their bank account, immediately, they were overdrawn and ended up with those fees.

They all had to borrow money just to buy food, pay rent, purchase gas, pay for rides. They were extremely over extended.

These stories are not exaggerated. These really were our client stories.

One of the workers borrowed $100 from an aunt to buy a blood glucose machine. Well, he took the check to a check cashing place and because he had bounced a check there from these paychecks, they took

the $100 in order to pay his fees.

Another worker, the wife suffered a miscarriage. She suffered from depression, and part of the issue was that she was suffering from malnutrition, because they really had not had enough food.

Farm workers do not have health insurance. As soon as someone does have health problems, they are immediately in debt for medical bills.

Another worker had to carry his sick child on foot two miles to the clinic because he had been forced to sell his car in the meantime, while he was waiting to get paid the wages.

I wanted to just quickly mention something about the H2A program, which is the program under which agricultural employers can bring workers on temporary visa's into the United States.

In Washington, up until 2004, we had almost no experience with this program. We have a significant farm worker population in Washington. Other than a handful of sheep herders, we had not had any H2A workers.

In 2004, a California based labor contractor

did file applications that were approved for over 200 workers in Washington. They ended up bringing workers from Thailand. When the State Department of Health went to check on the approved housing once the workers were there, they found the workers weren't there. They checked up on it. It turned out that instead of the licensed housing that had been approved, this contractor had instead housed the workers in over crowded conditions in unlicensed motels, mobile homes.

I am just going to show some pictures. This mobile home, it looks very nice from the outside. The only problem was it was meant for a family of six, and instead, there were over 30 workers in there. Whereas, there is supposed to be 50 square feet of floor space for each occupant, four feet between each bed. Instead, the bunk beds were just crowded in there. There were only two working burners for over 31 workers who were there. There were no laundry facilities.

For one thing, we had to turn to other programs around the country who had experience with H2A for us to get up to speed. We turned to North Carolina, Georgia, and the legal services programs were

very helpful to us.

We then went on an outreach visit to these Thai workers, to educate them about their rights as H2A workers, and to let them know about local resources. We had to develop materials in Thai to give them with our phone number. We had to find a Thai interpreter. We brought someone from Seattle out because there was no one local who spoke Thai.

What we found, this is from the contractor's website. It is a picture of the workers. They look very happy.

They asked a lot of questions, the Thai workers. They had not been given copies of their work contract. They had paid thousands of dollars, between 10 and $20,000, some of them, in recruitment fees, to come to this country. They had mortgaged homes and farms. They were very concerned that there might not be enough work for them to pay back these loans.

Shortly after that, the Washington contract ended. Some of the workers were sent onto Hawaii. Others were sent back to Thailand with the promise that they would be brought back in a few months.

In March of this year, we began to receive calls from the Thai workers in Hawaii and even one call from Thailand. Our phone number was the only number they had. They really didn't know of resources to reach out to.

Meanwhile, the State of Washington has found a number of violations by the contractor called Global Horizon, and those are under appeal right now, but they included that they were not registered as a farm labor contractor. They hadn't paid all their wages. They had deducted state income tax, although Washington does not have a state income tax. They had also deducted Federal income tax, although there is an exemption from Federal tax -- they are not considered wages, temporary workers' income.

The state has also moved to discontinue their employment services because in part they had not been hiring local workers who had applied for the jobs. They had a pattern of not informing them about where the orientations were or how they could show up for the job.

H2A, I think is here to stay in Washington.

There is a lot of interest in it. There is clearly some problems, at least as it is appearing first in compliance with our state and Federal laws.

Finally, I did want to mention that NJP is involved in a collaborative effort sanctioned by the legislature to develop a dispute resolution system to resolve agricultural labor disputes by mediation. It is funding for two years. It is very limited. I think it will only work in particular cases.

Since February 2005, when we started operations, NJP has referred four workers to mediation. In all, of them, the employer has declined to mediate or has not returned the call from the coordinator.

In the first year statistics for the program, there were eight requests and of these, four were refused. In one case, the worker withdrew the request after getting information about the program. One case was partially settled. There are two cases still pending.

We are hopeful that in some cases this program will be valuable. We did want the Board to know that we do consider alternative dispute resolution in all of

our cases. Whenever we receive a claim, we will contact the employer and try to resolve claims. We do write letters explaining the legal claims, proposing resolution, and we do consider negotiation at all stages of the representation.

We are hopeful that mediation has a place in this, but it works only when both parties are willing to sit down at the table and work towards an agreement.

Thank you very much again. If anyone has any questions, I'd be happy to try to answer them.

MR. STRICKLAND: Mr. Chairman, I have one or two.

CHAIRMAN HALL: Go ahead.

MR. STRICKLAND: First, thank you very much for being with us today and traveling from Washington State to this location.

These are just minor questions that I'm interested in knowing about. The check cashing service that confiscated someone's entire check, assume different circumstances where a worker goes into the check cashing service. What is the fee for cashing a check in one of those places?

MS. BESSO: It tends to vary, $5 to $10 for $100 check. In fact, we have a community education project right now to try to encourage farm workers to try to use mainstream financial services more, because our clients end up spending a lot of money on check cashing and pay day lending.

MR. STRICKLAND: The other instance you talked about in your discussion on mediation or attempts to mediate, there was an instance where an employer had an inability to pay the wages. Was that same employer, if you remember, contending that the wages weren't owed?

MS. BESSO: No.

MR. STRICKLAND: Was there an admission that the wages were owed and there was just no ability to pay?

MS. BESSO: Actually, that case was not a case that NJP represented the worker. It was actually another legal services program that represented the worker. As I understood it, the main issue was that the employer was saying they just didn't have the resources to pay it. That was my understanding.

MR. STRICKLAND: I would presume at the same

time the employer is contending they can't pay, they are probably paying their light bill and other things like that. They are just unable to pay their employees.

MS. BESSO: In this case, I don't know.

MR. STRICKLAND: Well, it sounds like that is probably the case. That's all, Mr. Chairman. Thank you.

CHAIRMAN HALL: Thank you. Other questions?

MR. GARTEN: Are there some criminal aspects to this by an employer giving a check to an employee that is no good? In some states, that involves criminal activity. They can be prosecuted. Have you taken any such steps?

MS. BESSO: Actually, we did try to talk to the prosecutor in this particular case, but in general, the prosecutor is not interested in pursuing it. It is a crime to pay with bad checks, but it's not a high priority for the prosecutor.

MR. GARTEN: The threat of doing it did not turn up any funds for these employees?

MS. BESSO: I apologize. I don't know whether

that was done. I actually think there might be an ethical issue involved, if we did that.

MR. McKAY: On the criminal issue, I was actually attracted to the withdrawal of funds for state income tax that did not exist. I think that is even more offensive on a criminal level. I will say since I'm a little familiar with the political aspects, there are just other reasons why prosecutors aren't interested in pursuing those kinds of cases. I'm happy to hear that you tried.

MS. BESSO: It actually was a political issue.

CHAIRMAN HALL: Other questions from other Board members?

(No response.)

CHAIRMAN HALL: Again, thank you very much for an enlightening presentation.

We will continue to move on. Please feel free to stay in case there are some other questions that people may have later.

Our next presenter is Janice Morgan, Farm Worker Program Director, Legal Aid Services of Oregon. Welcome.

PRESENTATION BY MS. JANICE MORGAN

MS. MORGAN: Thank you. That was a hard act to follow. I apologize that I don't have a multimedia presentation for you. I'm just going to talk at you for the next ten minutes.

CHAIRMAN HALL: We learn in different ways.

MS. MORGAN: I do appreciate the opportunity to talk to you about our clients and our work.

Oregon is estimated to be the sixth largest user of farm labor in the country, approximately 175,000 agricultural workers and their dependents live and work in Oregon each year.

They work in a wide variety of crops and activities, harvesting such crops as berries, tree fruits, vegetables, mint, hazelnuts and hops, working in nurseries and vineyards, processing potatoes and trimming Christmas trees, to name just a few.

Our agricultural industry, which is one of the largest industries in our state, is dependent upon them.

The overwhelming majority of our clients are either lawful permitted residents, that is immigrants

who have been given a visa to live here and work here permanently and legally, or else they are U.S. citizens.

Unlike some other agricultural states, Oregon has had very few employers seek to participate in the H2A program.

Most of our clients are first generation immigrants, mostly from Mexico or occasionally from another Latin American country. A small percentage are second generation, Mexican immigrants, mostly the children of farm workers, and a small percentage are white non-Latino native born Americans.

Among the Mexican immigrants, we are seeing, as Michelle is in Washington, a larger percentage of workers who come from the indigenous populations of Southern Mexico, and often don't speak Spanish at all, or speak it only very little.

Oregon's farm workers have different patterns of work and migration. Some migrate constantly with the crops and have no place they consider a base or a home to which they regularly return. Some consider their homes to be some place outside of Oregon, most

commonly, California. They migrate to Oregon for the harvest season, and then return to their homes for the off season.

Some farm workers live in Oregon year round, but work at numerous short term agricultural jobs during the year, and others have relatively long term employment in less seasonal industries, such as nurseries.

Workers who migrate for employment usually live in migrant labor camps owned by their employers and located near the fields where they work. The residents of these isolated labor camps often lack transportation and have little or no connection to the local community.

I sometimes ask people what image comes to their minds when they hear the words "farm worker." Often, I get the answer of a group of men, sort of a dotting row, a field full of a row of crops. That image is accurate to a certain degree.

Many of our clients are men who travel and work apart from their families during the year, but a surprisingly large percentage of farm workers travel

with their families and work together with their families, including their children. Child labor laws are more lax in agriculture than they are in other industries, and in most cases, children as young as 12 can legally work in the fields.

You will sometimes see an expose in the media about child labor violations in agriculture. Those violations generally mean that children younger than 12 are working in the fields.

Legal problems are common for farm workers. A few years ago, the Oregon State Bar and the Oregon Governor's Office jointly sponsored a study of the civil legal needs of low income Oregonians, including farm workers.

Seventy percent of the farm workers surveyed reported having had a need for legal assistance in the prior year, with farm labor problems such as pay, working conditions, and poor employer provided housing. Sixty-three percent reported problems with discrimination, and 56 percent with other employment issues.

Employment problems, particularly wage

problems, make up the majority of our work. Wage problems include failure to be paid the minimum wage; failure to be paid the promised wage; unlawful deductions from wages, or as Michelle mentioned, the failure to be paid any wages at all.

As in her experience, we routinely represent workers whose employers just don't pay them for the work they do. Sometimes they stall them repeatedly, as Michelle described, or in other instances, the farm owner may tell the worker to seek payment from the field boss, while the field boss says no, wages are the farm owner's responsibility.

We have represented workers who spent months trying to collect their wages and were never able to do so. Some of them don't even know how or where to seek payment when their immediate supervisor refuses to pay them. They work in isolated fields away from any kind of farm office or business establishment, don't know the name of the farm owner, and may only know the first name of their immediate supervisor.

Farm workers in Oregon also experience health and safety problems in their work. Studies have shown

that agriculture is one of the most dangerous industries in the country.

The occupational health risks that farm workers face include musculoskeletal injuries, cumulative trauma injuries, heat related illness, and exposure to pesticides and other toxic chemicals.

In spite of these risks, there are few OSHA standards that apply to field work. One standard that does apply requires employers to provide bathrooms, drinking water, and hand washing facilities. The Federal standard only applies to farms that have 11 or more workers.

Oregon applies it to all farms, but violations of the requirements are a recurring concern for our clients. Even where the facilities are provided, some workers have told us that they are not allowed to stop work long enough to use the facilities.

Our clients also experience different types of discrimination, including age and disability discrimination, sex discrimination, and sexual harassment. Some documented workers and citizens are discriminated against by employers who prefer to hire

undocumented workers.

Farm workers also experience retaliation for attempting to exercise their legal rights. We have represented clients who were fired for expressing concern that their wages were below the minimum wage or for asking for a raise, or for merely speaking with a legal aid employee.

Our clients are very vulnerable to retaliation and they know it. They are often dependent upon their employers, not only for their livelihood, but also for their housing and sometimes their families' housing as well, and for transportation.

Migrants living in labor camps in isolated rural areas have little knowledge or access to the local community, and no support system in it. When they experience problems in their employment, they are in a relatively powerless position to do anything about it.

Our immigrant clients come from countries in which the poor as a practical matter have few legal rights and no means of enforcing the legal rights they do have, especially against relatively more powerful

and wealthy land owners.

They come to the United States with little knowledge of the American laws or American legal system, and no confidence at all that the system will protect them from abuse.

I would estimate that the majority of the workers that we talk to express concern that if they attempt to enforce their legal rights, they will be fired, evicted, not re-hired the following season, black listed by other employers, or otherwise retaliated against.

Some lawful permitted residents believe, incorrectly, that their employers have the power to have their green cards revoked. We can tell them that retaliation is illegal, but understandably, they take little comfort in that.

The conduct that they seek to complain about, unpaid wages or discrimination, is also illegal, but because that conduct happened, it seems obvious that retaliation can and will happen, too. Some retaliation threats are beyond the reach of Oregon law.

Some of our immigrant clients tell us that

even if the legal system of the United States could protect them, nothing can protect their family members who remain in Mexico. Their field bosses come from their home villages in Mexico, and they tell us if they displease the boss, the boss' family members in Mexico can retaliate against their family members in Mexico.

We try to address our clients' problems through a variety of legal ways. Because of the isolation in migrant labor camps where they lack transportation, we visit them in the labor camps. In the State of Oregon, we are fortunate to have a clear statutory right of access to migrant labor camps, to enter and speak to the workers.

In other states, there is no such right, and farm workers can be prevented from receiving visitors or having access to legal services or other services.

Despite our clear legal right to visit workers in the camps, we regularly experience attempts by camp operators to intimidate our staff or to intimidate the workers who speak to us, including calling law enforcement authorities to attempt to remove us.

When our clients do seek our assistance, we do

what every other attorney does for his or her clients. We evaluate their claims and we give them legal advice. In cases where there is an administrative process that is either required or appropriate, we represent them in administrative proceedings. We negotiate resolution of disputes, and we represent our clients in litigation when necessary.

Like Michelle, we try to resolve claims with opposing parties before filing suit. In Oregon, we routinely offer to mediate employment disputes before filing suit, although as with Michelle's experience, we find that those offers are often either ignored or declined.

Also, the state and Federal courts in which we practice all encourage mediation or other forms of alternative dispute resolution. We participate in those.

Our experience, like that of other attorneys in civil practice in Oregon, is that the overwhelming majority of our cases result in an negotiated settlement.

We also do work for clients that doesn't

involve employment disputes. For example, we receive a grant from the IRS to educate clients about their tax rights and responsibilities. We represent clients where necessary in controversies with the IRS.

We also try to resolve clients' problems through creative non-adversarial means when that is appropriate. For example, to address the problem of poor quality housing in migrant labor camps, our staff have been actively involved with non-profit housing development corporations. These non-profit's have built hundreds of units of decent, safe, sanitary, affordable off farm housing for farm workers in Oregon.

I know I'm out of time. You asked us to tell you who our clients are, and I would just like to summarize by saying I think the best one sentence summary is the often quoted line that "Farm workers are the poorest of the working poor, working long hours for low pay in difficult and dangerous working conditions."

I have been working with farm workers now for over 20 years, and I've seen the difficult working conditions and the hard work. On one occasion in particular, I was asked to give a presentation at a

school to a group of migrant parents whose kids were enrolled in a special program for migrant kids at the school.

I arrived a little early. I was walking around the classroom, waiting for the presentation to begin. It was a typical school classroom with children's art work taped up on the walls around the room. The art work was typical children's crayon drawings of stick figure people and lollipop trees and round Jello suns and pikes of sunlight.

I noticed that all of the pictures had captions. At first, I was very confused, because the captions just didn't make sense. The words just didn't go with the pictures. Then I realized this was the typical first week of school assignment to draw what you did on your Summer vacation, and these were the pictures that the migrant kids had drawn about what they did during the Summer.

I still remember three of the captions. One of them said "It's so hard to get up before dawn to go to work." One said "The sun feels so hot beating down on my back all day." One said "I come home from work

so tired at night that I go straight to bed without eating dinner."

Those are words that any of my clients could have spoken about their lives, but seeing them written there by children who still write with crayon brought home to me the reality of our clients' lives in a way that I had never really appreciated before.

I hope that your visit here brings home to you the reality of our clients' lives, and I appreciate your interest in them.

CHAIRMAN HALL: Thank you very much. Any questions from the Board members?

MS. MERCADO: I actually had a question that dovetails to your comment. I was just real curious. When you mentioned that the average wages for farm workers was 12 to $14,000, does that mean one individual person, or does that mean the family members, the children, who many times aren't supposed to be working but are working in the fields and whose time may or may not be included with the head of the household income.

When you are looking at the average, and I'm

assuming that average comes from IRS records or some kind of employment records, in effect, you have a mom and dad and possibly two to five children working in the fields, but all of them put together are only making 12 to $14,000, or at least that is my experience in Texas.

I'm just wondering if there is some similarity in Washington State and Oregon State.

MS. BESSO: Actually, the number that I gave comes from the national agricultural workers survey that the Department of Labor does. It was a farm worker household income.

MS. MERCADO: That is what I wanted to verify, so it is household rather than individual.

CHAIRMAN HALL: Other questions?

MR. STRICKLAND: One or two questions, Mr. Chairman. Pardon my lack of familiarity with what wage law applies to a farm worker, but does the typical U.S. minimum wage apply to farm workers?

MS. MORGAN: The Federal minimum wage applies to some farm workers. It doesn't apply on small farms, but it does apply on larger farms.

MR. STRICKLAND: What about overtime?

MS. MORGAN: Overtime generally does not apply in agriculture.

MR. STRICKLAND: People could work 16 hours a day for the same hourly wage under those circumstances?

MS. MORGAN: That is exactly right.

MR. STRICKLAND: In my State of Georgia, I was asked by one of our U.S. senators to meet with some growers. As you might expect, it had to do with complaints by these growers to the senator about solicitation, I guess you would call it, what they thought was solicitation by legal aid lawyers of clients.

Have you ever run into that as an issue in the work you are doing, that you are being accused by a grower -- by the way, when I'm speaking of a grower, I met with these growers, and they were all from very large corporate farming operations. In other words, not family farmers.

Well, they might be family farmers in the sense that this farm has been in their family for years and this is the current chief executive; quite large.

It is hard for me to imagine that in an operation like that, the big corporate farming supervisor would say go see the field boss to get your pay. It just doesn't come together.

Is there ever a problem about solicitation? Maybe not in your circumstance where you have a right to visit, but could you elaborate on that a little bit?

MS. MORGAN: Yes. In the 20 years that I have been representing farm workers, neither I nor the program I have worked for has ever been accused of solicitation.

MR. STRICKLAND: That is not an issue. These farmers that I met with seemed to be complaining about that.

I forgot which one of you used the illustration of the farmer saying go see the field boss to get your pay.

MS. MORGAN: It was mine; yes.

MR. STRICKLAND: Is that a real case? I take it that it is. Would that have been on what I am calling a corporate farm?

MS. MORGAN: No, it's much more likely to

happen on a smaller farm, where as I mentioned, the field is not even particularly associated with a particular business establishment. It happens most often in berry crops in our state, where the workers don't even know who owns the field they are working in and have no association with whoever the land owner is, whoever is growing the crops. Their association is strictly with a middle man who is usually called a farm labor contractor, who is the person who brings them to the field, supervises their work. He's the only person they know to seek pay from, and just doesn't get it.

They may sometimes somehow figure out how to find the name or the location of the owner of the field, the actual farmer, and try to seek pay from that person, and that person sends them back to the labor contractor and around and around.

MR. STRICKLAND: I take it then that you as a lawyer representing a migrant farm worker under those circumstances somehow can determine the right party that owes the wages.

MS. MORGAN: That's right.

MR. STRICKLAND: You are able to do that.

MS. MORGAN: That's right.

MR. STRICKLAND: In terms of the balance between what I'm calling a corporate farm, maybe that is not the right term of art, but it's the only one I can think of at the moment, corporate farm versus individual smaller farms, what is the balance?

MS. MORGAN: I'm not sure what percentage of our farms in Oregon are very large farms and what percentage are very small. We have some of both.

MR. STRICKLAND: Thank you. That's all I have, Mr. Chairman.

CHAIRMAN HALL: Other questions?

MR. GARTEN: I presume there are welfare or social agencies in your state that are involved with the migrant workers, and you must get some referrals from that.

MS. MORGAN: We do get some referrals from some social service agencies. There are a few that are somewhat active in helping migrant farm workers. We also get referrals from churches, for example. Some of them reach out to migrant farm workers, and some other agencies.

CHAIRMAN HALL: One final question, unless there is another Board member that has a question. You indicated you have been doing this work for 20 years. When you sit back and look over those 20 years, are things getting better or are they getting worse? What is contributing to whatever answer you come up with?

MS. MORGAN: I don't think things have changed significantly in the 20 years that I've been doing this. The legal problems that we see are the same legal problems that I was working on 20 years ago. I would say they are about as prevalent as they were 20 years ago.

MR. STRICKLAND: Mr. Chairman, I'm sorry. I thought of something else. On the H2A program, is that a situation -- please understand, and I think all of our Board members, the amount that we know about the H2A program is not much compared to your knowledge of it.

We ask what appear to be dumb questions because we don't know the right question to ask. If a farmer let's say signs up to be a participant in the H2A program and then proceeds not to pay the H2A

worker, is there a procedure to revoke that farmer's participation in the H2A program the following year? Not for you to do it as a lawyer, but to undertake a process that might cause the farmer's participation in the H2A program to be revoked.

MS. BESSO: There is a process. It's an extremely slow process. Actually, the U.S. Department of Labor, in the case that I mentioned with the labor contractor who was the one who on behalf of farmers has done these applications, the U.S. Department of Labor has filed a notice of debarment for a period of three years.

However, they filed that sometime this Winter, and there will actually be a hearing about those charges next June, as I understand it. In the meantime, the contractor continues to be able to submit and get approved further applications.

I believe, and I'm only familiar with my Washington situation, but I believe that the U.S. Department of Labor has been extremely reluctant to use that process in the past.

MR. STRICKLAND: Would it be fair to say that

is a weakness in the system?

MS. BESSO: I believe it is. I think if we are going to have this system, you have to hold the employers and the contractors to follow the law. Otherwise, the protections really are meaningless for the workers.

MR. STRICKLAND: Thank you. That is most informative.

CHAIRMAN HALL: Unless there are any other questions for attorney Morgan, I'd like to thank you for your presentation. Although Michelle was a hard act to follow, I think you followed it very well.

Our next presenter is Jack Londen, speaking on behalf of the California Access to Justice Commission, and an attorney with Morrison & Foerester. Welcome.

PRESENTATION BY MR. JACK LONDEN

MR. LONDEN: Thank you. Thank you for doing this. This is very appropriate use of your time.

For more than 20 years, I have been a partner at a large law firm in San Francisco, Morrison & Foerester. I do litigation work and was a member of SCLAID some years ago. In that capacity, eight

colleagues of mine and I acted as the compilers of the SCLAID study of Federally funded legal aid for migrant farm workers. This was done in 1992 and 1993, some time ago.

Since then, LSC has done at least two major inquiries into migrant farm workers, and I am not claiming to have more recent information than the Corporation has compiled otherwise.

In months of work and study of hundreds of sources, from an outsider's perspective, from the perspective of a lawyer, a trial lawyer with a different kind of practice, I did achieve some perspectives that I think are helpful, and I'd like to share them with you briefly.

One, the legal environment for migrants is a specialized and highly regulated one. Migrants' work and lives are highly more dependent. Why is that so? It is so for a couple of reasons.

The primary reason is that the default legal principles that would apply to other employees in other lines of work and other people, other categories of people, won't work for the benefit of the farm workers

certainly, but also importantly for agricultural entities.

Many, many of the specialized rules that apply to farm workers in almost every area of the law were developed because the default usual rules are too tough on the availability of migrant farm workers to do the work.

There are many examples of this. The one cited, child labor standards, allow children of age 12 to work in the fields. That's an exception in favor of the industry. Work hours are not regulated. Overtime is not available. There are exceptions to this, but as a general rule.

The immigration conditions, example after example. Specialized laws and regulations for farm workers only, in order to make it possible to do business this way.

The other main cause of specialized rules is that there is a need for protective rules. This arises because things come to light, practices come to light, that we won't tolerate. They make us as a society feel guilty to have the abundance of produce that we all

enjoy.

The classic example is the short hoe, in order to not damage the roots of root crops, the growers would give short handled hoes and cause all kinds of health problems and make life more difficult. That was regulated out in the Agricultural Workers Protection Act. There is a Federal regime of specialized labor laws and standards. Many states have their own set of protective provisions and also compromises to allow this industry to work this way.

Without specialized regulations and laws, it would not be possible, that is if the general employment and OSHA standards, which don't apply generally, were applicable to farm workers, we would not be able to employ people at this level, at this wage level and under these conditions, and having growers who produce these crops in the United States would be much less tenable. That is foreign competition at a given market price would be much more prevalent.

We benefit in many ways, but the legal environment that results is a highly specialized one.

A general practitioner would have to go to school again in almost every area to be confident with the questions that arise.

The second perspective is competition in the industry depends on the enforcement of these rules. A law abiding agricultural entity that wants to pay decent wages as required by law and follow these specialized standards can't do it unless there is some enforcement mechanism because this is a highly competitive, very cost sensitive, low profit margin business, and the amounts of money that are at stake from violating these laws can make a difference between being a tenable enterprise and being a failure.

Unless someone enforces these standards, even the well motivated agricultural entity can't make it, if they follow and the others don't.

There is no SEC for this regulatory scheme. There are few government lawyers whose job it is with any percentage of their time to take care of enforcing these laws. It is highly dependent on there being lawyers who represent these workers.

Third insight. There are many complaints by

growers and farmers about the burdens of this specialized regulatory scheme, and also specifically about the availability of government paid lawyers to represent only one side of these disputes.

My work on the study led me to conclude that these are not insincere complaints. These are very understandable complaints, but from the perspective of our nation, if you go a little bit beyond the perspective of the farmer or grower, these complaints although sincerely held, do not justify changing the system.

The situation is this. The remedies that are available under say the Agricultural Workers Protection Act, again, in one of these compromises to make this industry possible, make a somewhat expedited liability scheme possible but a very, very limited remedy.

For a violation, the limit may be in the few hundreds of dollars. What that means is a lawyer representing a grower can find himself in the position of having to tell his client, I am faced with a settlement demand, and it will be cheaper for you to accept it without knowing whether you are liable then I

would have to charge you to investigate the claim.

From the grower's perspective, that must feel like extortion, and we did see complaints like that. But the reason for it is the highly political process that led to the AWPA in which there were compromises between the representatives of agricultural entities and those who wanted to protect workers and make this industry possible, and the very low wages. Very often, the cost, not particularly high as lawyers like me go, but the cost of having to pay for lawyers do not allow a lot of information to growers, and it may appear to them to be unfair.

The reason for that is very little money is at stake on the other side, and the remedies are very limited.

It is understandable that complaints would arise, but that doesn't mean there should be a change.

You asked about challenges. We looked at a number of specifics when we did our study. In general, I would say challenges to providing quality legal services to farm workers involve the need for specialized expertise and experience, not only about

the law, but about the circumstances of the workers and the industry.

Logistical obstacles are severe. I sit on the 30th floor of a hi-rise in San Francisco. I would love to represent a farm worker, but without CRLA, I will never meet one.

Language difficulties. A number of needs for specialization makes staff legal services funded by the public really a very efficient and necessary part of this whole scheme that makes this industry possible, benefitting certainly farm workers, but also growers, and above all, the public.

We looked at a number of specifics. If there are issues about providing legal services and problems that arise, I would be happy to try to respond.

CHAIRMAN HALL: Questions?

MR. STRICKLAND: I guess it's fair to say if the profit margin is as tight as you suggest, it's a pretty good deal if you don't pay your employees.

MR. LONDEN: If your competitor doesn't pay, you may fail. My partner, Bob Raven, used to talk about civil law enforcement, and that's what this is.

CHAIRMAN HALL: Any other questions?

MS. MERCADO: Not a question so much, but I guess a comment. Because the area of representation is so specialized, you made a comment earlier that the general practitioner could not do this kind of work because they would have to go back and re-train themselves in all the Federal statutes and depending on their state, whatever state statutes deal with the protections they do have.

Is your experience with the level of pro bono work in that area of representation of migrants -- how does that compare -- any of you on the panel -- how does that compare to other kinds of cases that are done by your programs?

MR. LONDEN: If I could say, general practitioners could do this, but it wouldn't be very efficient because they have to go back to school and do research.

We looked into a number of cases and found not a statistically valid survey, but some very high levels of professional competence among lawyers handling cases, even small individual cases for farm workers.

MS. MORGAN: We consider it nearly impossible to find pro bono attorneys to assist our clients. The challenges are just too great. There are the language barriers. It's not even just finding somebody who speaks Spanish now. It's finding someone who speaks Mixteco or Triqui, and someone who is willing to represent a client who lives in a migrant labor camp, who has no telephone, who is only going to be here for another month, and then they are going to maybe California or Washington or Mexico to visit their family. The worker doesn't even know where they are going next.

If they go to Mexico for Christmas holiday and something happens in their case and you have to be able to contact them in Mexico. Private attorneys just don't have the capacity to take on that kind of burden. It is too much to ask of a pro bono attorney.

CHAIRMAN HALL: Any other questions from the Board?

MR. SUBIA: A few weeks ago a worker came here to California and the employer didn't want to pay. We have to do something about this. In El Paso, they

sleep right there on the pavement and go to work in the mornings. They are only 35/40 years old. They look like old men.

In the United States, nobody is going to work as a farm worker. They aren't going to do that kind of work. If it wasn't for them, the farm workers -- "immigrigra" means Immigration, and they are scared. They will say, okay, you want me to call immigrigra so they can pick you up.

It is taking advantage of all these people and then not paying them. Work them and work them. They are 25 year old, but they look like old men. They are in the sun all day long, eight to ten hours a day. They are all messed up.

CHAIRMAN HALL: Thank you.

MR. GARTEN: I don't understand why the enforcement of the H2A program that we have heard about today, even though it takes a long time, it would seem to me that -- I'll give you an illustration.

I'm from Maryland. The crab industry didn't have workers this year. We got Senator Mikulski to push through a law that allowed them to bring in a

couple of hundred crab pickers. That was important for the processing plants on the eastern shore of Maryland.

I can assure you that if there were complaints registered and either picked up by Mikulski or any of the Federal agencies, they would come down very hard on these people who have been given the ability to save their businesses by this Federal legislation.

Even if it takes a long time, why not follow through on whatever has to be done to register complaints?

MR. LONDEN: There is a way for pro bono lawyers and general practitioners to serve farm workers by doing that kind of complaint, if that's where you are going. I certainly completely agree with you, those rules should be enforced.

MR. GARTEN: We got the impression in the presentation that it takes so long, that it's not very effective.

MS. BESSO: May I address that just for a minute? I don't feel like -- Georgia has a much longer history in H2A than we have here in Washington.

Part of the issue isn't that -- for the

problems to even come forward, for the Federal agency to even know about them, for example, someone has to have gone out and spoken to the workers to find out there were problems.

First of all, how is the Federal agency even going to know unless someone goes out to talk to the workers that there is a problem.

Also, it really has varied over time. In this particular case that I'm speaking of, there is now a Federal action. The Federal action involves something from 2003. They haven't gotten around yet to addressing the 2004/2005 problems.

The slowness, I talked about if workers don't get paid, the consequences for them, in the short term, because they don't have reserves to wait five years to get paid, because in the meantime, they have no money to buy food, so that is one issue.

The other is just that the idea that it is slow was in this particular case, there are other cases in which the agency has just decided not to take action. The problem is it's up to that particular agency whether or not they will take action. If they

don't, the worker has no other remedy unless there is an advocate that is willing to take their case.

MR. GARTEN: Thank you.

CHAIRMAN HALL: Thanks again to all three of you. We have some other presenters who need to come forward. Please stay around in case there are some other questions that a Board member may have.

Welcome to all of you. Our next presenter will be Martina O'Sullivan, who is from the Migrant Ministry of the Catholic Diocese.

Would you present, please?

PRESENTATION OF MS. MARTINA O'SULLIVAN

MS. O'SULLIVAN: That's not entirely right. I am Martina O'Sullivan. I'm the Director for Catholic Charities.

CHAIRMAN HALL: Okay. I'm sorry.

MS. O'SULLIVAN: I am going to present a bit differently. As I sat and listened as I came in, certainly hearing all the challenges of what is going on with farm workers and the need for some very serious legal support and participation.

But I am going to try to describe for you who

of the 25,000 people over the last year, about 87 percent of those Spanish speaking farm workers, locked into an agency by Catholic Charities, and what it was that they in fact claimed they needed.

MS. BeVIER: Excuse me. Could you speak a little bit louder? Thank you.

MS. O'SULLIVAN: I am going to start with a questionnaire that you can answer for yourselves.

How many of you on this panel are living in a single dwelling home with relative members of your family? How many of you within the last year have had a medical appointment that wasn't an emergency? How many of you have in the last year had some form or type of vacation? How many of you have a home computer? How many of you when you walk into whatever you call home turn on the lights and the lights come on? How many of you have a state's driver's license for whatever state that you are living in?

If the answer to these questions were all yes, then certainly you are in a very different space than the 25,000 people that Catholic Charities served over this last year.

The people that come into the doors of Catholic Charities come with choices to make, choices that their economic conditions, their social and cultural conditions are forcing on them.

I am going to tell you a few stories. These are stories specific but could be any one of the 25,000.

I am going to introduce you to Lupe, who is the mother of seven children, who is working in a strawberry field along the central coast. Lupe has three children who are very seriously asthmatic. Her coming into Catholic Charities was the result of her making a choice to ensure that those three children had asthmatic medication, medication for that chronic condition that can be very serious, as opposed to paying for her rent.

At the point that she came tc us, there was a three day eviction notice. Choices.

A teacher from a school not far from here, an elementary school, called Catholic Charities, and I happened to get the call.

She asked if we had anything in our services

related to food distribution. I explained what we did. I said why are you asking.

She said let me tell you about a young boy in my class. They were doing an unit on nutrition. She went around the room and queried each of the students as to what they had for dinner the night before. Of course, she was breaking whatever they said down into the various food groups.

She comes to this one young boy who clearly did not want to be in the discussion and had his head lowered. She bypassed him. However, to her credit, she asked him to stay after class. She said to him, I noticed that you did not want to participate, is there anything wrong.

He looked up at her and he said to her, it was not my turn to eat last night. Not an atypical scenario.

Another really quite wonderful story involved a 12 year relationship that Catholic Charities had with a woman who during that time had raised three sons or was in the process. One is actually in junior college by now, and one was finishing high school.

What was remarkable about this woman is that she started her life in America looking for the American dream, started off working in the fields, started off with nothing.

The particular day that I encountered her, she had a smile on her face, as they say in the commercials these days, was priceless. She was on her way to be sworn in as a naturalized citizen.

I want to note that the 12 year relationship that she had with Catholic Charities was the result of how long it often times takes for that process to occur.

So many of the families that we work with through Catholic Charities are struggling in all of the areas that have been noted, economics, housing, safety.

Within this region, as I'm sure in so many others across the country, safety becomes a very large issue when you have parents that are working extremely long hours, and the children have to decide and make choices as to where that time will be sent and with whom.

Health care. Tremendous problem within this

region as well. Santa Cruz County, not far from Monterey, is involved in one of the first universal health care pieces on the central coast called Healthy Kids.

What that means is it pulls a community together to look at the issue of who is and who is not receiving health care. In some ways, the focus on an issue such as this has brought that particular community together, and put some emphasis on that.

I think more than anything, folks come to us in crisis. People don't walk into an agency like Catholic Charities without being in crisis. It is very difficult as newcomers to this country or as folks who have been here for a number of years but have been working the long hours that you have heard described, to know and understand how to navigate through social service systems that could lend some support to what they are going through.

We are really privileged over the last 21 years in this particular area, four counties, that Catholic Charities has certainly been part of helping that navigation, of being there to provide help and

hopefully create hope.

We see the same issues coming up day in and day out. As someone said earlier, the question was asked have things changed in the last 20 years you have been doing this, and unfortunately not, and we can say that as well in the social service arena.

Agencies such as Catholic Charities becomes a safety net for this group of people. I can tell you that within Monterey County alone, there are over 600 non-profits. However, those that are really here as a safety net are not in as high a number.

It is needed. The voices feel as though there is no voice for them, may not know what is or is not all right for them, those are the people that we within Catholic Charities and other non-profits are there for.

The stories could go on, but as you leave this area, and you are certainly in one of the most beautiful areas in the country, Monterey, the county of Monterey, please remember that the natural beauty that we have is a gift, and not all the residents of this county and all the residents of California who live in this state of such beauty can appreciate it to the same

degree because of the challenges. I ask you to think about that.

In this county, in particular, there is the disparity of has and has not. It was brought to bear to me the first year that I started with Catholic Charities, and I began my day in the home on Pebble Beach and ended in Castorville with a family that was struggling.

You have quite a task ahead of you. I thank you all very much for taking it on.

CHAIRMAN HALL: Thank you for coming and sharing your passionate insight to the people who are served by our grantees.

Any questions from the Board members of Ms. O'Sullivan?

(No response.)

CHAIRMAN HALL: Hearing none, thank you again. Again, I apologize for not getting the title correct.

MS. O'SULLIVAN: Thank you. That's okay.

CHAIRMAN HALL: Our next presenter is Aurora Vasquez. It is always important for us as a board to not only hear from the deliverers of the service, but

to hear from those who receive the service that our grantees provide.

It is our honor to have Ms. Vasquez, who is a migrant farm worker, to come and present. We welcome you and thank you for being here.

MR. PADILLA: My name is Jose Padilla. I am a state director of CRLA. As part of our presentation, we decided that in part we would have a client speak to you. Obviously, it's one thing for us as advocates to talk to you about our work. It is another thing to have our clients speak to you directly, particularly, little do we know about what they suffer.

I wanted to make the initial comment only because Ms. Aurora Vasquez has courageously agreed to be here to share her story with you. She's a client who we represented in a sexual harassment case, one of the most invisible issues affecting agricultural workers, affecting agricultural migrant workers and women farm workers.

I wanted to thank her on behalf of our agency for agreeing to be here before you to bring her story. She will make her presentation in Spanish. For those

who do not understand Spanish, we have put in front of you headsets, and we will have Maria sit in and translate for you her statement.

If you would put your headsets on channel two, you will hear the translation of the statement that Ms. Vasquez will make to you.

PRESENTATION BY MS. AURORA VASQUEZ

THROUGH TRANSLATOR

MS. VASQUEZ: Good afternoon. My name is Aurora Vasquez. I was invited to talk about farm workers work. I want to start regarding -- I'm a little bit nervous.

Farm workers work under the cold climate, hot climate, under minimum wages, working as much as they can work us, from sun up to sun down.

I worked for a company where there was a person that came from Human Resources. This person offered us some work to a lot of women, where they offered us better wages. I accepted because I thought I deserved it, deserved it for the time I had been working there.

I saw that this person had other intentions.

They started sexual harassment. They offered a better job to my husband -- I didn't accept to go to bed with him. After that, I couldn't take it any more and I looked for professional help.

I went to the office in California for legal assistance, where they helped me. A lot of us don't speak up because they think we won't be supported. I went to get help,. We filed a lawsuit. We won the case.

I think the compensation for what I went through, my children suffered, because up until now, my husband still blames me for what happened, and my co-workers that I used to work with -- the closing of the company. In reality, the company didn't close. They just changed names.

A lot of the workers were offered to talk about what happened in the fields because -- I could talk all day of the things I know and I have seen, but I know I don't have the time.

Thank you for listening to me. It is sometimes overwhelming.

CHAIRMAN HALL: On behalf of the Board, I want

to thank you for your courage, and for being willing to not only share the words, but to share the passion that comes with those words, and it means a great deal to us to hear both the words and to hear the passion.

Thank you again for your courage and for your story.

(Applause.)

PRESENTATION BY MR. JOSE PADILLA

MR. PADILLA: My name is Jose Padilla. I am a state director of California Rural Legal Assistance. Like Ms. O'Sullivan, we decided that we wanted to localize the issue.

It is very, very hard for me to begin my written statement, having heard Ms. Vasquez's testimony, but again, on behalf of CRLA, I want to recognize the incredible courage of our clients here represented by Ms. Vasquez. I feel humbled in so many ways to hear her statement.

I can tell you how honored we are at CRLA to have such courageous and principled folks choose us to be their voice in such difficult and dire life situations as she has described to you today, as she

stood here and spoke on behalf of so many who suffer the indignities in silence.

We are here to not be silent. Like the fellow advocates in our network who spoke to you, I also wanted to speak to you very briefly about the work that we do.

We have prepared a briefing book for you that I wanted to have passed out. I will be making some very brief comments related to that briefing book. Members of the public who are interested in the briefing book can also obtain copies.

As the previous advocates have described farm work and migrants, so do we. I wanted to applaud the leadership, first of all, of Mr. Strickland, Helaine Barnett, you, Mr. Hall, as the chair of this Committee, for taking this leadership, to hear about a different type of poor people.

We know that among the poor, there are those who have a little less, and then among those who have a little less, we know there are those that have the least, but then we also know that among those who have the least are those who have not.

Among the poor, the ones that have the least and the ones that have not, are the migrant farm workers, whose conditions you see around you, whose conditions you have heard from Ms. Vasquez, but we have data about California farm workers, like in other states, the earnings are low.

In my state nationally, the farm work, as was said before, the earnings are between $10,000 and $12,500. That is an individual income.

In your material, you have information about what that is per family. In your material, you have information that says that for farm worker families in the NAWS data, it says that total family income average is between $15,000 and $17,500. The NAWS data says 30 percent of all farm workers have total family incomes below poverty.

The most current data that I found about California farm workers, our poverty rate is 38 percent, whereas nationally, it is 30 percent in the NAWS data. In our state, the poverty rate is 13 percent. You can see what it is for farm workers, that it is different.

The most current data that I found about California farm workers, our median income here in this state is $9,800. Yet, the median income in our state is $18,700. For farm workers, half as much.

When you look at occupation, farm work continues to be dangerous. In terms of causing disability, farm work is second only to construction. When you look at this in terms of causing fatalities, farm work is second, second to what? Second to mining.

Farm workers today still die in the fields in my state. Salud Zamudio Rodriguez, 42, whose name ironically in Spanish means "health, welfare, prosperity," died in Oregon while picking bell peppers in 105 degree heat, 12 days ago.

Again, according to NAWS, 42 percent of the crop workers in 2001 and 2002 were migrant. In my state, according to research, the figure is less, about 25 to 32 percent in my state are migrant.

Because of time, I cannot or will not give you more data. We have prepared this briefing book that provides for you much more information about farm workers in California. In that briefing book, you have

a table of contents in yellow. In the middle of that book, there are articles about farm worker poverty.

In one of those articles, it describes California farm worker poverty as poverty that you would find in Appalachia, referring to our poverty in our region with the poverty in the Appalachia of the West.

There are articles about health and safety and employment. The latest national agricultural worker survey data that just came out this last March is summarized in your material.

In particular, I would want you to review the piece by Dr. Richard Mines, a researcher who has done work for you. In there, you will find the latest demographic data by California farm workers between the year 2000 and 2002, data that I really do urge you to look at.

In that material, you will also find very special problems that we find among farm workers, that makes our advocacy much more complex. You have articles about share cropping in my state.

Author Eric Schlosser, who has written about

share cropping, is here. He will make a few statements to you in the reception.

Share cropping is real. It is not something that you find in the South. You find it in my state.

You have articles there about trafficking. You have an article there about a recent study that cites a steroid case, the example of trafficking in agriculture, a case that I noted in my testimony before a congressional subcommittee in March of last year. It is mentioned there, not as a wage case, not as a housing case that we did, but as a trafficking case.

Then you have articles there about sexual harassment as described by Ms. Vasquez, an issue that we have successfully and collaboratively put on the EEOC agenda, and tomorrow morning, the regional attorney from EEOC will talk to you for a few minutes, talking about that work, and how we have collaborated with the Federal Government to successfully address the issue of farm workers, farm worker women in agriculture and the sexual harassment they face there.

In the reception, you will have presented a number of issues. We have advocates here who will be

there to answer questions for you. They will be there showing you successful cases, talking about what we have been able to do on behalf of farm workers.

I ask you to, at your leisure, be there and ask those questions and learn more about that.

I wanted to end with three statements, and make three points here today in the few minutes that I have.

First, I want to talk about the human element of this. In your material, you have a quote from Cesar Chavez, which reminds us about this. He reminds us that we would fail in our work were we to forget that this poverty condition of the farm worker is not about union activism. It is not about social activism. It is not about numbers, and it is not about data.

We cannot forget that we are serving people who find themselves in a human condition that begs for and cries out for attention. That human story is in the photography behind you. It is about encampments. It is about people who live in the bush.

It is in the encampment photographed by David Bacon. It is in the face of the 14 year old boy,

Fernando, who according to David, built his home out of reeds, the reeds that you see there in that housing encampment. That encampment is in rich wine country two to three hours north of here. That photograph was not taken five years ago. It was not taken four years ago, three years ago, two years ago. That photograph was taken one year ago in Sonoma County, outside of our office in Santa Rosa.

That human condition is in the faces of Mixtec women living in the hills of wealthy North County San Diego. You see the faces there behind you. That photography was not taken four years ago, three years ago, two years ago, or one year ago. That photography was taken six months ago in January, in wealthy San Diego County.

These are the foreigners among us, that the Bible said that we must serve because they set our table, feed us when we are hungry, and yet, they are hungry. They go hungry and they go without.

In some of those photographs, like the one right behind you, Ms. Mercado, you look at that poverty, and it is almost a haunting poverty. It is a

haunting poverty because of the humiliation that our people go through, those who come into our offices to be served. That is why we are here.

My second point is about change. Ms. O'Sullivan spoke about the fact that she has been doing this work for 20 years. I have been doing this work for 26 years. I'd like to say perhaps that things have not changed, but things do change.

The photography is sobering, but if history teaches us something, it teaches us that advocacy can make a difference.

I was in front of you or a board like this eight years ago in 1997 in Los Angeles. We showed conditions very much like these. In your material, right in front of the yellow division, you actually have photography that I presented to you in 1997.

The San Andreas labor camp is in that material. You see the conditions there. Today in San Andreas, within an half hour of here in Monterey, there is a new labor camp. We showed you photography of farm workers weeding by hand in this county eight years ago. Hand weeding has now found regulatory resolution in my

state.

We showed you photography of workers who died because of something called the driverless tractor. Eight years later, that has come to regulatory resolution in my state because of our work.

In a photograph that you see there that shows the restroom that has a symbol of a farm worker woman, when you look at that and you say why is that sexual harassment? It is because those dots that you see there, those dots are holes. They are holes that we refer to peep holes.

It was that in agriculture that led us to the collaboration that we now have with the EEOC that has resulted since that time in more than $3 million in remedies that we have brought on behalf of farm worker women in this state.

In your material, you have a list of the cases that the EEOC has brought in our region because we at CRLA brought sexual harassment as a critical issue for the Federal Government to become involved with, and you will see a summary of the cases in which we have been involved, and in which we have brought those remedies

that have now added up to more than $3 million.

Through your funding, through your leadership, allow us to do that work. We want to leave you with something different. We want to leave you with some images of a video taken a little over a month ago in the Coachella Valley. We want to present to you some migrantcy as we engage it.

Just one month ago, CRLA investigated conditions in the Coachella Valley, as migrants passed through. It is the indignity of farm workers living in parking lots without restroom facilities nor bathing facilities.

To the right, you will see a picture of farm worker housing taken in Mecca, California ten years ago. It was part of Mecca's housing stock ten years ago. Today, hundreds of migrant farm workers do not even have that deplorable housing.

To be honest, I am not sure what is the lesser of the evils, living in that housing or living in the parking lots shown in this video.

I wanted to have Emmanuel Benitez, a community worker, come up. What you will see in the video is a

video about farm workers six weeks ago in Coachella. Emmanuel Benitez was the one who took this along with our paralegal, Lorena Martinez, in Mecca.

In Mecca, it is a place of indignity. It is not a mecca as we know "mecca" and what that word means.

His translations were done of migrants in Spanish. As we present the video, I want him to translate. Again, put your headsets on, turn them to channel two.

This is the condition that we found in Mecca on the Border six weeks ago.

(Video presentation.)

MS. BeVIER: Why doesn't he just translate it into the mike?

MR. BENITEZ: They worked for six weeks there in the grape season, basically with the heat and everything. The first migrant came from San Luis, Arizona. You work in the grape season? Yes. This is the first season you came or you have a few seasons? I have a few seasons coming here. Do you stay here, do you live here? Yes. There is a lot of

dirt here. When the heat comes, we go under the trees. We go to an orchard when the heat is really hot.

We shower also in the orchards. We use irrigation water to bath.

I work in the Valley, Coachella Valley. I also complain because we don't have no showers, there is a lot of dirt. We are working here. All I want is to have showers. There is a lot of dirt. We take showers in the orange groves.

After the grape season, where are you going? Do you follow the season? Yes. I'm going to Fresno. Do you do the grape season there? Yes, I do the grape season there. Do you have housing there? Yes, we do have.

You would like to have some changes here about housing and showers? Yes, I would like to see some changes. We have many years here, they promise a lot. We don't have any restrooms to go and do our necessities. We have to go to the orchard. The orchard trees are far away. In order to do our necessities, we need restrooms and showers to take a shower.

How many people stay here? About 500 people here. You can see them here. We have to do it this way. We work. Do you want to add anything? What I want is Coachella Valley to have better conditions and to bring showers and restrooms so we can do our necessities. When the heat is high, 110 degrees, we are really burning here.

Do you stay here, do you do the grape season, do you take showers in the canal? Yes, we take a shower in the beach and the canal.

Can you say your name, please? My name is Isidro Herrera. I come from the Mexicali Valley. We are established in this place. Many people, we stay here. We come to work. We are taking showers in a canal. We all take showers there. I don't know where the water comes from.

The water is really cold. We would like to have some showers here.

MR. PADILLA: This is a video now of the way they are living in the parking lot. It is showing you some of them sleeping in their vehicles, cooking outside.

MR. BENITEZ: He is showing where he sleeps. This is his co-worker. What is your name? Laurencio Martinez. My co-worker is taking your picture. It is okay with you? You also stay in the cars? You also do the grape season? Where are you taking a shower here? There are no showers. They don't have any.

Are you going to follow the season here? I'm going to Oregon. What are you going to do in Oregon? I work in a cannery, a corn cannery. After that, you will come back to the Valley? I go to the lettuce, to Yuma.

Some people say this water is from irrigation, from a fishing pond. Do you know? He didn't know where the water came from.

How much do you make by the hour? $6.75. $6.75 per hour. Is there something you want to add? Just to have showers and places to sleep. We can manage. We need to work. What would you want to see here about housing issues? It would be very important to have housing, and we can rent the lower rents, rents are really high. We make really low money. We are

temporary workers. We cannot pay high rents.

You would like to have housing for seasonable workers? Yes, exactly that, and rent that is affordable for us. Let me ask you, you would want to rent in Mecca, there are places you can rent now? There's no places. Everything is full. The worse thing is because you rent a room, in a small room, 30 people live in it, workers live in that room.

How many people would be in the house? I have counted up to 45 people living or 50 people living in a house.

MR. PADILLA: This is now them cooking in the desert. They asked where are these workers living and where they eat. They actually go into the desert and cook in the open desert.

MR. BENITEZ: You come to Mecca a few seasons. What do you want to say about that? What I want to say is the showers that were there. to bring back those portable showers that we used to have, because now, after work, we take a shower -- you will have to go to the canals in order to take a shower.

How about housing? We can't have rooms just

to sleep because we are seasonable. They have apartments. We work only two months. We don't have enough. You would want to have housing for seasonable workers? Yes, even if we pay, it's okay. We can pay $20, $15, I don't know how much. We don't want free housing, as long as we have something.

Is there something else you want to say?

MR. PADILLA: What you see is that below there, you will see where they are cooking their tortillas right there where he was crouched.

MR. BENITEZ: Do you follow the seasons here? Sometimes, we follow the season. Right now, where are you going after this season ends? We are going to Arvin-Bakersfield. We follow the grape season, the chile season. Where you are going, do you have housing there? Yes, more places to rent. Something else you want to say? No, it's okay.

Have you ever been assaulted here? No, because many people stay there, they are afraid of us. If somebody comes, tries to harm us, we all get together.

MR. PADILLA: In the final scene that we have,

it is another phase of that which was also videoed. Why don't we move on? I know we are running out of time. We have run out of time.

The last scene, again, is of a bather. Remember, this is six weeks ago.

MR. BENITEZ: There is no place to rent in Mecca, there's no housing. What would you like to see to change? I would like to see housing to change to have workers sleep and shower, to take a shower. We worked so few hours this week, we only worked six hours some days. We are working so few hours right now, it's little money.

It's little money in order to pay an apartment. How much you make per week? This week, I make $280. Do you want to add anything? No, I don't think so. Thank you. I hope this gets better in the future, even if not for me, for all people, because maybe I will not come back to these conditions, but maybe for some other people that may be coming.

Where do you come from? I come from Mexicali. Many thanks. Thank you to you all. Bye-bye.

MR. PADILLA: We want you to see as we pulled

back in this last scene, that bridge, there is a state highway that runs right by that. There is a railroad that runs right by that. Many men and women take showers in exactly this place.

What you are seeing are small fish.

MR. BENITEZ: She is asking did somebody put those sacks there to haul water. That is irrigation water. He said yes.

MR. PADILLA: There is a railroad track.

What we want you to know is this is half an hour from Palms Spring. This area is about an hour from where I was born and raised. I have passed on that highway hundreds of times. When I pass through there, what I see is the invisibility that you saw there at the end. You never see the people there, yet they are there.

I wanted to end with that shot about the invisibility because for us, one thing about invisibility is when it's human, it really reflects what poverty is, that it's vulnerable. These people are disempowered. It is one of the most inhuman ways for us to treat people, to keep them invisible.

We brought you this video, we brought you this photography because we wanted to make it as visible as possible for you. We brought Ms. Vasquez so she could talk to you personally about how it is for a farm worker, woman, to work these fields in these days, and we wanted to have Mr. Benitez here to show you what he encounters, what he encountered six weeks ago as a migrant community worker, out there trying to do outreach to those workers, trying to teach them a little bit about their labor rights.

We wanted to bring this as close to you as possible. I wanted to thank you for this opportunity. I know it was rather long, but it was one of the few ways that we could tell you again that migrant farm worker conditions are not something about ten years ago, 15 years ago. It is about something as current as six weeks ago, and that is what you saw.

Thank you very, very much for your patience and your time.

CHAIRMAN HALL: Thank you for a very impressive presentation, both through the video and the pictures and your powerful words.

We are running out of time. If there are questions from any of the Board members, either on the phone or here presently, I think we can take a few minutes to entertain those questions.

MS. MERCADO: It's not a question but a comment. This video that you just showed is actually about the living conditions have been written about in a fictional book, "The Tortilla Curtain."

When you see the actual live pictures of these invisible people that live off the side of the roads and off into the woods with families, children, people getting pregnant, having children there, it is documented in a fictional story.

It is something that is being acknowledged by someone else other than what our grantees do and work on.

MR. PADILLA: We are inviting you to go downstairs to the reception. Mr. Schlosser will be there to talk about ten minutes. I know you are tired. We also will have sort of a static presentation. You will see a lot of this photography there. You will be able to ask some of our advocates questions about

migrants and conditions you will see in the photography downstairs.

Thank you very, very much for giving us this time.

MS. WATLINGTON: I just want to say how much -- I couldn't be there to see it, but I could feel and hear it, and it is great to know you are still out there trying.

CHAIRMAN HALL: Thank you for your comment. Ernestine.

PUBLIC COMMENT

If there are no other questions for Mr. Padilla, the next item is public comment. Is there any public comment to be offered before the Committee?

(No response.)

CONSIDERATION AND ACTION ON OTHER BUSINESS

CHAIRMAN HALL: Seeing none, the Provisions Committee would consider any other business that the members or any of the other Board members would like to present to the Committee.

(No response.)

CHAIRMAN HALL: Hearing none, I would consider

a motion for adjournment.

CONSIDERATION AND ACTION ON ADJOURNMENT

M O T I O N

MS. MERCADO: So moved.

MR. McKAY: Seconded.

CHAIRMAN HALL: The Provisions Committee is adjourned. I want to thank all of our presenters for their thoughtful comments and presentations.

There is a reception that is going to follow this.

Did you want to pass out the new schedule?

MS. BARNETT: Yes. I wanted to pass out to the Board members a revised schedule that has been presented to us for the field trip tomorrow morning.

CHAIRMAN HALL: Okay. The Provisions Committee is now officially adjourned.

(Whereupon, at 4:50 p.m., the Provisions Committee was adjourned.)

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