

Alievskaya, Victor Fulmacht, Mark and Ada Lvovsky, Michael Kazanevich, Gerach Palkin, Alla Pilatovsky, Lev Furman, Yakov Rubinovich, Moisey Terilitsky, Yuri Ziemann, Alexander Zhukovsky and Pokotillo family; therefore be it

Resolved, That the Massachusetts House of Representatives hereby urges the Government of the Soviet Union to allow refuseniks to emigrate; and be it further

Resolved, That copies of these resolutions be forwarded by the Clerk of the House of Representatives to Secretary Mikhail Gorbachev, the President of the United States, the Presiding Officer of each branch of Congress and to the Members thereof from this Commonwealth."

POM-393. A resolution adopted by the County of Hawaii, Hawaii, recognizing the relocation and internment of Japanese Americans as a grave injustice and urging passage of legislation relative to this injustice; to the Committee on Governmental Affairs.

POM-394. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Labor and Human Resources.

"RESOLUTION

"Whereas, the retirement security of millions of American workers is being undermined by the growing practice among employers of terminating financially sound employee pension plans; and

"Whereas, workers often lose major pension benefits when such terminations occur which can wreck a worker's retirement security; and

"Whereas, the object of employers in these terminations is to drain the so-called "excess assets" from these pension plans so that they can use the funds for other corporate purposes benefitting themselves; and

"Whereas, since 1980, some 1,300 pension plans covering more than 1.6 million participants have been terminated so that companies could appropriate \$16 billion of so-called "excess assets" from these plans; and

"Whereas, the funds being siphoned off by companies really belong to their workers, since a pension plan is not a conditional or discretionary gift by the employer but represents current wages withheld to pay a benefit on retirement; and

"Whereas, all responsible experts in the private pension field agree that action is needed to curb the abuses that are occurring with pension plan terminations and the reversion of excess assets; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania call upon the Congress of the United States to enact legislation that will recognize that pension fund assets are the deferred wages of workers and are held in trust for workers and retirees and that, therefore, employers have no right to appropriate such funds for other purposes; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each Member of Congress from Pennsylvania.

POM-395. A resolution adopted by the Senate of the Commonwealth of Massachusetts; to the Committee on Labor and Human Resources:

"RESOLUTIONS MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION PROVIDING FOR ADDITIONAL OSHA INSPECTORS

"Whereas, there has been an alarming increase in fatal disabling accidents in the workplace and on construction sites throughout the country; and

"Whereas, the rise in avoidable industrial accidents has been generally attributed to budgetary cutbacks to the Occupational Safety and Health Administration resulting in serious reductions in the agency's staff of investigators and inspectors which severely hampers the agency's ability to provide for all Americans a safe working environment; and

"Whereas, all citizens of this Nation ought to be able to engage in their daily labors secure in the knowledge that all precautions have been taken to guarantee their physical and mental integrity within the workplace; now therefore be it

Resolved, That the Massachusetts Senate hereby respectfully urges the Congress of the United States to enact legislation enabling the Occupational Safety and Health Administration to increase its staff of inspectors and investigators in order to reduce the incidence of tragic and senseless industrial accidents in this Nation; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the clerk of the Senate to the President of the United States, the Presiding Officer of each branch of the Congress and to each Member thereof from the commonwealth."

REPORTS OF COMMITTEES SUBMITTED DURING SINE DIE ADJOURNMENT

Under the authority of the order of the Senate of December 22, 1987, the following reports of committees were submitted on January 22, 1988, during the sine die adjournment of the Senate:

By Mr. PELL, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 96. An original concurrent resolution to express the sense of the Congress on the proposed revision of the United States agreement for nuclear cooperation with Japan (with additional views).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

A. 1999. A bill to extend until January 1, 1999, the waiver granted by the Federal Communications Commission to the New York Post in connection with the Federal Communications Commission's rule relating to the common ownership of a daily newspaper and certain television stations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRANSTON (for himself, Mr. KERRY, Mr. SIMON, and Mr. INOUYE):

S. 2000. A bill to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity; to the Committee on the Judiciary.

By Mr. HELMS:

S. 2001. A bill to restore the right of voluntary prayer in public schools and to promote the separation of power; read the first time.

By Mr. CRANSTON:

S. 2002. A bill to extend the period during which a special agricultural worker may apply for adjustment of status of that of an alien lawfully admitted for temporary resi-

dence, and for other purposes; to the Committee on the Judiciary.

By Mr. GRAMM:

S. 2003. A bill to amend the Internal Revenue Code of 1986 to exempt from tax diesel fuel used for farming purposes; to the Committee on Finance.

By Mr. BIDEN (for himself and Mr. THURMOND):

S.J. Res. 240. Joint resolution to designate the period commencing on May 16, 1988, and ending on May 22, 1988, as "National Safe Kids Week."

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD:

S. Res. 354. Resolution informing the House of Representatives that a quorum of the Senate is established; considered and agreed to.

S. Res. 355. Resolution informing the President of the United States that a quorum of each House is assembled; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (for himself, Mr. KERRY, Mr. SIMON, and Mr. INOUYE):

S. 2000. A bill to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity; to the Committee on the Judiciary.

HATE CRIMES STATISTICS ACT

Mr. CRANSTON. Mr. President, today I am introducing a bill that would direct the Attorney General to collect data on the incidence of crimes that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity. Data would be collected on such crimes as homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, threat, and other crimes as the Attorney General considers appropriate. I am pleased to be joined in introducing this bill by the Senator from Massachusetts [Mr. KERRY].

Mr. President, I am aware that other legislation is pending in the Senate which mandates the collection of data regarding crimes against racial, ethnic, and religious groups. However, these bills do not require that data be collected on crimes against gay and lesbian individuals. I am introducing this bill today because I believe that crimes based on prejudice against gay and lesbian individuals are just as reprehensible as crimes based on any other type of prejudice. The purposes of the data collection effort we would require the Attorney General to undertake will best be served if all incidents of crimes based on prejudice are compiled. In fact, the House Judiciary Committee has approved a bill, H.R. 3193, which is identical to the bill I am introducing today. I therefore hope that we can

reach consensus on this issue in the Senate.

Mr. President, the seriousness of the problem of crimes based on prejudice against individuals because of their race, ethnicity, religion, or sexual orientation, is well-documented. A recently completed report commissioned by the National Institute of Justice (NIJ) entitled "The Response of the Criminal Justice System to Bias Crime: An Exploratory Review," October 7, 1987, reviewed evidence regarding the incidence of "bias" or "hate" crimes, defined as "words or actions designed to intimidate an individual because of his or her race, religion, national origin, or sexual preference." The report notes that the evidence suggests that bias crimes are widespread and increasing. The report further explains that "[b]ias crimes may be turning more violent: compared with the past, a larger proportion of incidents appear to involve personal injury as opposed to vandalism." Additionally, the report indicates that "[t]he most frequent victims of hate violence today are blacks, Hispanics, Southeast Asians, Jews, and gays and lesbians." Of these groups, the report found that "[h]omosexuals are probably the most frequent victims."

The NIJ report's finding that homosexuals are frequently the victims of hate crimes is corroborated by the data collection efforts which have been undertaken by organizations and State law enforcement agencies. For example, the National Council of Churches recently released a report on hate crimes which documents the growing incidence of hate violence. The report, entitled "They Don't All Wear Sheets: a Chronology of Racist and Far Rights Violence—1980-1986," explains the members of the Ku Klux Klan "have increasingly targeted gay and lesbian individuals for physical attack and intimidation. In addition, a largely spontaneous wave of homophobic violence appears to be sweeping the Nation."

The scope of the problem is further emphasized by reports of hate crimes documented by the National Gay and Lesbian Task Force. In 1985, the task force received 2,042 reports of hate crimes directed at gay and lesbian individuals, and in 1986 it received 4,946 reports of hate crimes.

Furthermore, there is evidence that the public's fear and lack of information regarding the AIDS epidemic are causing an increase in attacks against gays. This issue is thoroughly discussed in an article entitled "'Gay Bashing'—AIDS Fear Cited as Attacks on Male Homosexuals Grow" which appeared in the Los Angeles Times, April 10, 1986. That article quotes a number of representatives of organizations and agencies from around the country who point out that the incidence of crimes against gays is growing and is related to the public's fear of AIDS. Mr. President, I ask that the full text of this ar-

ticle be entered in the RECORD at the conclusion of my remarks.

Unfortunately, Mr. President, the problem of violence against gay and lesbian individuals is very serious in my home State of California. For example, last April the staff of the AIDS project Los Angeles and a person with AIDS were harassed and assaulted outside the project's food bank. Partly in response to this incident, the Gay and Lesbian Community Services Center of Los Angeles established a hot line to document the incidence of violence against gay men and lesbians in the Los Angeles area. During the months of May through November of 1987, that hot line received 125 calls from Los Angeles gay and lesbian residents complaining of a variety of incidents including verbal abuse, physical or verbal threats, assault, robbery, hate mail, and other forms of harassment. Additionally, the San Francisco-based Community United Against Violence organization reports that as of June 30, 1987, it has recorded double the number of severe assaults against gay and lesbian individuals which have required hospitalization or surgery, as compared to a similar time period in 1986.

Because of the incidence of hate crimes in California, the State attorney general established the Commission on Racial, Ethnic, Religious, and Minority Violence in May 1984 to determine the nature and extent of violence perpetrated against blacks, Hispanics, Asians, native Americans, religious groups, lesbians, gay men, elderly persons, and disabled persons. Through public hearings the commission determined that in every region of the State, incidents have occurred in which racial, ethnic, religious, and sexual minorities have been harassed, intimidated, assaulted, and even murdered. As a result of the commission's findings and recommendations, California law enforcement agencies conducted a pilot project to identify the preliminary steps that are needed to establish a statewide system of collecting data on hate crimes. Legislation is currently pending in the California legislature to implement the findings and recommendations of that pilot project throughout the State.

Mr. President, other States have also undertaken efforts to develop effective and workable systems of collecting data on the incidence of hate crimes. Yet, currently there is no ongoing, in depth effort to collect relevant data nationwide. The NIJ report, mentioned earlier, was merely an "exploratory" review—as indicated in its title—and it points out that a more comprehensive effort is needed to "understand the severity, pattern, and location of bias crimes. With improved data collection, law enforcement officials and prosecutors will be better able to make appropriate resource allocation decisions and to target specific neighborhoods or organizations for special attention."

While it is clear that a Federal mandate to collect national hate crime data is needed so that we can make better decisions regarding legislative solutions and the needed allocation of our limited resources at the Federal level, the bill I am introducing today is not intended to subvert those efforts at the State level, such as that undertaken by California, to establish systems of documenting hate crimes. I would expect the Attorney General, in carrying out the mandate of this bill, to work cooperatively with ongoing State efforts.

In conclusion, Mr. President, I would like to stress to my colleagues that this bill I am introducing today represents an important first step in addressing the very serious problem of the incidence of hate crimes in the United States. To be effective, it is absolutely imperative that every form of prejudice which motivates hate crimes be addressed, whether that prejudice is directed at individuals because of their race, ethnicity, religion, or their sexual orientation. I urge my colleagues to support this bill.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hate Crime Statistics Act".

SEC. 2. ACQUISITION AND PUBLICATION OF DATA.

(a) IN GENERAL.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire, for calendar year 1988 through calendar year 1992, data on the incidence of criminal acts that manifest prejudice based on race, religion, affectional or sexual orientation, or ethnicity. The crimes with respect to which such data shall be acquired are as follows: homicide, assault, robbery, burglary, theft, arson, vandalism, trespass, threat, and such other crimes as the Attorney General considers appropriate.

(b) LIMITATION ON USE AND CONTENT OF DATA.—Data acquired under this Act shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual summary of the data acquired under this Act.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act for fiscal year 1988 through fiscal year 1992.

(From the Los Angeles Times, Apr. 10, 1986)

"GAY BASHING"—AIDS FEAR CITED AS ATTACKS ON MALE HOMOSEXUALS GROW

(By Ruth Snyder)

SAN FRANCISCO.—A group of teen-agers, shouting "diseased faggot" and "you're killing us all," dragged David Johnson from his car in a supermarket parking lot last De-

ember, beat him with their skateboards, kicked him and clawed his face.

Johnson's jaw and three ribs were broken, his head was gashed, his kidneys bruised, and his face and neck cut with deep fingernail scratches.

"I just keep thinking . . . why did this happen? What did we do?" said Matthew Holoway, Johnson's lover who was with him when he was attacked.

"It shattered our lives," Johnson said.

Johnson was an apparent victim of "gay bashing"—attacked solely because he was a homosexual. His assailants have not been found.

Gay activists say that physical attacks against homosexuals are increasing at an alarming pace here and elsewhere.

They attribute at least part of the increase to a fear of AIDS, the deadly disease that has most commonly stricken gay men in this country. They also charge that the belief of conservative religious groups that the AIDS epidemic is God's way of punishing the gay community has spurred anti-gay sentiment.

"It's like giving them a carte blanche, saying it's OK to beat up gays," said Dr. Ian Barlow, a San Francisco psychologist who counsels victims of anti-gay violence.

Community United Against Violence, a San Francisco agency serving victims of anti-gay violence, reported the number of clients it served in 1985 increased 61%, from 185 to 298, over the previous year. The New York City Gay and Lesbian Anti-Violence Project reported a 41% increase in the same period.

A poll conducted last year by the Philadelphia Gay and Lesbian Task Force concluded that homosexuals are four times more likely to be victims of violence than the general urban population.

"Anti-gay violence has reached epidemic proportions," said Kevin Berrill, manager of the Washington, D.C.-based National Gay and Lesbian Task Force's project on violence.

Law enforcement officers, though, are divided on whether gay bashing is increasing. For instance, Lt. Paul Seidler, the San Francisco Police Department's liaison to the gay community, said he personally believes it is on the rise. But Ray Benson, deputy chief of the Mission District Police Station, which covers the Castro District, the largest gay neighborhood in San Francisco, says he has no reason to believe that is true.

Law enforcement officers in the Los Angeles area also say they have seen no increase. "We don't have any systematic attacks on gays," said Capt. James Cooke of the West Hollywood Sheriff's Station.

Some gay activists disagree. Eric Rofes, executive director of the Gay and Lesbian Service Center in Hollywood, asserts that "Los Angeles is seeing an increase in anti-gay violence." However, neither he nor other gay activists in the Los Angeles area can document any increase. The only California organization to keep statistics on the issue is Community United Against Violence, which records attacks only in San Francisco.

Similarly, police keep no statistics on attacks against gay.

There's no box to check off on the police report form. They can mention it in the body of the report but no one is really tracking it," Seidler said.

Still, a number of cases have received public attention in the last two years.

In Stockton in February, the body of Virgil Scott, a minister of the Metropolitan Community Church, which has a predominantly homosexual congregation, was discovered in the trunk of his car. Scott, who

was also gay, had been badly beaten and suffered multiple stab wounds.

At least 30 Metropolitan Community Churches nationwide have been burned in the last 13 years and several dozen ministers and staff members have either been assaulted or received death threats, according to church officials in Los Angeles. The church has formally requested an FBI investigation into the "concentrated effort to murder, terrorize and otherwise deprive ministers and others of their civil rights." An aide for Sen. Alan Cranston (D-Calif.) said the senator will also ask for an FBI investigation.

Last month a New Jersey gay man was assaulted by three men, who extinguished cigarettes on his face, tied him to the back of their truck and drove along a road dragging him in tow. Local gay activists say he was attacked because he was gay.

A man arrested for the 1985 shooting and killing of a gay man in Vermont explained why he shot the victim he had never met: "I killed him because he looked like a fag."

In January, three youths who were among a group in 1984 who attacked John O'Connell, a San Francisco gay man, were convicted of second-degree murder. Witnesses said O'Connell was walking down the street with a friend, when the youths—shouting "faggot"—jumped them. O'Connell fell and struck his head on the curb. He died two days later.

In some cases homosexual men and women say they are being victimized, not by violence, but by the threat of violence.

Jim Langham, who works as a health care products distributor in San Francisco, says he has been repeatedly chased and shouted at by a group of teen-agers who live in his neighborhood.

"I have to live with this every day," said Langham. "They scream 'AIDS, AIDS, you've got AIDS.' They just stalk me like an animal—like a wolf pack. Sometimes I feel angry, like going and beating up the little punks."

The New York project reported that 28% of the incidents it documented in 1985 involved violence against people with AIDS or explicit use of AIDS-related epithets by the assailants.

"One of the reasons I see it increasing is because AIDS has been used as a way of legitimizing anti-gay attitudes," said Randy Schell, a counselor at Community United Against Violence in San Francisco.

"People are getting the message that gay equals AIDS, that it's OK to hate these people and it's OK to do something about it."

Another reason for the increase, Berrill said, may be a backlash against the gay rights movement.

"We are more visible now and that makes us more vulnerable to people who hate us and would hurt us," Berrill said.

Groups like Community United Against Violence are urging victims of gay bashing to fight back. The first step, says Schell, is to persuade victims to report attacks to police.

According to a report last year by Mayor Dianne Feinstein's Criminal Justice Council, "community outreach data suggests that 82% of anti-gay attacks were not reported to the police."

Gay advocacy groups in Philadelphia, New Jersey and New York also estimate that more than 75% of the victims never report gay-bashing attacks to authorities.

The National Gay and Lesbian Task Force says in a recent report that the reasons victims keep silent are clear: "Those who work with such victims cite fear of exposure and discrimination, fear of reprisals and fear that the police will be indifferent or even hostile."

"There is a real material basis for that kind of fear," said Carmen Marques, community outreach coordinator for the San Francisco project. "It wasn't very long ago that police were raiding bars and arresting people for sodomy. There is little basis for trusting the police, but we're starting to take steps in that direction."

"The most important thing is not to suffer in silence," said Schell, who learned first-hand about homosexual attacks six years ago when assailants repeatedly slammed his head against a lamp post.

Advocacy groups like Schell's and the New York project are helping victims fight back with a variety of services. They are providing hot lines staffed by trained peer counselors, escort services for those who feel they may be in danger, volunteers to go with victims to the police, and court monitoring.

The San Francisco group is also reaching out to potential gay bashers. More than half of the assailants, according to the project's 1985 report, were white males under the age of 18.

Because of that, two volunteers—one gay man and one lesbian—visit family life classes at Bay Area high schools to talk about themselves and to answer questions.

At a recent high school presentation, students sat forward in their chairs and the air was full of waving hands. They asked questions like "When did you become gay?" or "Aren't you afraid of getting AIDS?"

"To unlearn stereotypes you need to be able to talk to real life human beings who can answer questions. We try to reduce the tensions brought on by ignorance and fear that can lead to hostility and violence," Vasquez said.

Johnson, who was beaten up last December, said that at first he withdrew and then he became angry. He has now directed part of his anger at the supermarket that owned the parking lot where he said he was attacked. A lawsuit filed by Johnson alleges that the store security guard remained inside during the 30-minute attack, despite pleas for help from Holloway.

Both Johnson and Holloway say they will never forget the attack.

"No one can know what it was like to turn around and see them ripping off the car door and dragging David out," Holloway said, "I thought, 'My God—what if it was a straight man's wife or child?'"

Mr. KERRY. Mr. President, I am very pleased to join with my good friend Senator ALAN CRANSTON in introducing and sponsoring the Hate Crime Statistics Act. This is an important piece of legislation which would provide for the acquisition and publication by the Attorney General of data about crimes that manifest prejudice based on race, religion, ethnicity, or affectional or sexual orientation.

One year ago, Senator CRANSTON and I introduced the Civil Rights Amendments Act of 1987, to protect the civil rights of gay Americans. The legislation which we introduce today continues and extends that effort. This legislation is a companion bill to H.R. 3193, which has over 65 cosponsors in the House, and which was recently reported out favorably by the House Judiciary Committee.

Hearings which have been held in the House on this legislation indicate that there is a serious problem in America with hate crimes of all types.

including violence against blacks, Hispanics, Asian-Americans, Jews, Arab-Americans, and gays. While there are other bills in the Senate which would address some of these issues, none of them until now has addressed all of them together, including especially the serious problem of antigay violence.

This year, in 1988, it is even more important that we address the problem of violence against gay Americans. The epidemic of AIDS has spread throughout our society, and it continues unabated. Unfortunately, along with AIDS has come an increase in prejudice and violence against gay Americans in certain parts of our society. This problem can only be addressed by confronting it directly. The collection of statistics on hate crimes, and the publication of an annual report by the Attorney General on the subject, is a first and important step in that process.

As we look around us, we see too many examples of hate crimes and crimes of violence and prejudice in our society. From Howard Beach to Forsyth County, from New York and Boston to Los Angeles and San Francisco, such crimes are an ugly fact of life. As legislators, we must be sensitive to this problem and strive to find a solution. For, as Martin Luther King once wrote, "Injustice anywhere is a threat to justice everywhere." ●

By Mr. HELMS:

S. 2001. A bill to restore the right of voluntary school prayer in public schools and to promote the separation of powers; read the first time.

(The remarks of Mr. HELMS and the text of the legislation appear earlier in today's RECORD.)

By Mr. CRANSTON:

S. 2002. A bill to extend the period during which a special agricultural worker may apply for adjustment of status to that of an alien lawfully admitted for temporary residence, and for other purposes; to the Committee on the Judiciary.

SPECIAL AGRICULTURAL WORKER'S PROGRAM

Mr. CRANSTON. Mr. President, I rise today to express my serious concerns regarding the progress of the Immigration Reform and Control Act's Special Agricultural Workers [SAW] Program, and to introduce legislation which I believe is necessary to assure the success of the SAW Program.

My colleagues may recall that the SAW Program was incorporated into the new immigration law to assure that the reforms provided for under the new law would not have an unfair negative impact on the agricultural industry which traditionally has relied heavily on undocumented workers. Because we realized that it was in our country's interest to assure that farmers have an adequate legal work force to harvest their crops, the SAW Program was designed to provide legal status for workers, without regard to

whether they were currently residing in the United States, who could demonstrate that they previously worked for a period of time in American agriculture.

While the idea we had when we passed this law was a good one, Mr. President, we must now ask whether it is working. For my home State of California, the answer to this question is extremely important. Agriculture is California's leading industry, and it is estimated that one-half of all undocumented immigrants in the United States reside in California. Also, California is the principal destination for undocumented farmworkers from outside the United States.

To answer the question as to whether the SAW Program is working, I recently conducted three forums in the agricultural regions of California. The response was unanimous: The SAW Program is not working as we intended it to.

VIEWS OF CALIFORNIA FARMERS AND FARMWORKERS

While there are many reasons to be concerned about the possible failure of the SAW Program, Mr. President, I am pleased to report that both farmers and farmworkers expressed to me that the new program has provided them with an opportunity, for the first time, to attempt cooperatively to comply with the new law. I heard from farmers who are actively supporting legalization efforts through such organizations as the alien legalization for agriculture [ALFA], as well as from farmers who, on an individual basis, have tried to assist workers in gathering the necessary documentation to establish the required work history. This, I believe, is a significant positive development.

Perhaps it is because of this development that the information I received in all three forums, from both farmers and farmworkers, was consistent. That is, that many farmworkers who might qualify for SAW status are not coming forward to apply, or are unfairly excluded from the program.

FACTORS DETERRING SAW APPLICANTS

Witnesses explained that it is proving difficult and time-consuming for many farmworkers to gather the necessary documentation to establish prior work history because, in many cases, a worker must contact a number of employers throughout the State in order to substantiate that she or he worked 90 days between May 1985 and May 1986. It was reported that sometimes farmers or labor contractors have not kept adequate records, refuse to provide the records for personal reasons or because required deductions were not properly recorded—that is, social security, unemployment, et cetera—or demand that the worker pay exorbitant fees for documents which will verify previous employment. Also, some farm operations have been consolidated, or farm labor contractors have lost their license, so that

workers have no way of obtaining necessary records.

Furthermore, both farmers and farmworkers explained that the failure of INS to establish a uniform national policy that ineligible family members will not be deported if one member of the family qualifies for legalization, is keeping many eligible SAW applicants from applying.

Witnesses also complained that the fees INS charges for legalization, and the cost of an appeal if the initial application is denied, is proving burdensome for farmworkers who generally are among this country's poorest workers.

PROBLEMS WITH INS' ADMINISTRATION OF THE SAW PROGRAM

Both farmers and farmworkers agreed that the policies and inconsistent procedures of INS regarding the SAW Program are imposing unfair burdens on those seeking to legalize their status. For example, witnesses reported that different INS offices have different documentation requirements; some offices will accept signed affidavits as sufficient proof of work history, others require detailed work records signed by the employer. Witnesses also complained that INS has overreacted to some incidents of fraud and has made its documentation requirements unreasonably rigorous.

Furthermore, witnesses pointed out that INS instituted some limitations on the SAW Program which were not authorized by the statute. For example, until recently, INS would not allow individuals to apply for the SAW Program in the United States unless they could show that they arrived in the United States before June 26, 1987. Some witnesses complained that policies such as this have resulted in significant hardship for those farmworkers who thought they did not qualify for legalization and therefore left the United States.

Witnesses also reported that in some regions of the State the border patrol is being overly aggressive in apprehending and detaining workers who have applied, or are in the process of applying, for SAW status.

There was also general agreement that INS has not conducted an adequate and timely public education campaign regarding the SAW Program. Some witnesses reported that, because of the general lack of information regarding what the law requires and when the law requires it, some workers were fired during the last harvest season because farmers mistakenly believed they might be vulnerable to sanctions unless the workers had current work authorizations.

CONCERNS REGARDING STATUTORY REQUIREMENTS

Concern was also expressed, Mr. President, regarding the statutory requirements for the SAW Program. Both farmers and farmworkers explained that the statutory requirement that a worker prove employment