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OSC ANTIDISCRIMINATION OUTREACH UNDER  
THE  
IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)  
1987 - 1991

The Department of Justice is committed to ensuring that IRCA's employer sanctions provisions do not lead to unlawful discrimination. I view the employer sanctions and antidiscrimination provisions as complementary. It is as important that employers do not discriminate as it is that they do not employ unauthorized aliens.

Attorney General  
December 6, 1989



OSC ANTIDISCRIMINATION OUTREACH UNDER  
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IMMIGRATION REFORM AND CONTROL ACT OF 1986 (IRCA)  
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by  
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The Immigration Reform and Control Act of 1986, as amended, (IRCA) prohibits the knowing employment of individuals unauthorized to work in the United States and established a system by which all employers were to check the work authorization of all new hires, 8 U.S.C. § 1324a. IRCA also prohibits discrimination on the basis of national origin and citizenship status, 8 U.S.C. § 1324b.

It mandated education concerning the initial implementation of the employer sanctions provision. It directed that the Attorney General in conjunction with the Secretaries of Agriculture, Commerce, Health and Human Services (HHS), Labor (DOL), and the Treasury with the Administrator the Small Business Administration (SBA) "disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements" of the employer sanctions provision for six (6) months following IRCA's passage, 8 U.S.C. § 1324a(i)(1). The Attorney General's responsibility was assigned to the Justice

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<sup>1</sup>All references are to fiscal years unless otherwise indicated.

component responsible for enforcing the sanctions provision, the Immigration and Naturalization Service (INS). This education period was followed by a statutorily mandated twelve month (12) citation period, 8 U.S.C. § 1324b(i)(2). Basically, employers believed to be in violation of the sanctions provision during this time period were only to be issued warning notices.

There were no statutory mandates concerning education about IRCA's antidiscrimination provision, 8 U.S.C. § 1324b.

#### 1987 - OSC's First Year

IRCA created within the Department of Justice an Office of Special Counsel for Immigration Related Unfair Employment Practices (Office of Special Counsel or OSC) headed by a Presidentially appointed, Senate confirmed Special Counsel to enforce its antidiscrimination provision. OSC became operational on April 16, 1987 with the appointment of an Acting Special Counsel.<sup>2</sup> It moved into its office on May 18, 1987. Activities were primarily focused on hiring a staff, establishing and equipping OSC's office, and promulgating OSC's implementing regulations. However, despite the fact that no funds had been specifically budgeted, early on OSC recognized education and outreach as two of its responsibilities. Thus in 1987, in the area of education, OSC attorneys gave over 45 presentations at

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<sup>2</sup>Mary Mann was designated as Acting Special Counsel by President Reagan pursuant to 8 U.S.C. § 1324b(c)(1). She served until November 22, 1987, when Lawrence J. Siskind took office as OSC's first Presidentially appointed, Senate confirmed Special Counsel.

seminars, conferences, and meetings throughout the country. They spoke to employer groups, unions, attorneys, personnel officers, public interest groups, and Federal agencies, including INS, U.S. Attorneys' offices, and the Equal Employment Opportunity Commission (EEOC) offices. They participated in the preparation of a number of videotapes and videotaped programs to help educate attorneys and the general public about the new immigration law. The Office responded to over 800 telephone calls and over 240 written requests for information.

In the area of outreach, OSC distributed charge forms and explanatory material concerning IRCA's antidiscrimination provision to all U.S. Attorneys' offices, all EEOC district offices, and all qualified designated entities (QDEs).<sup>3</sup> OSC also sent informational packets to about two dozen public interest organizations and approximately an equal number of state and local civil rights agencies. The Office also established its toll free telephone line (1-800-255-7688)<sup>4</sup> to make it more accessible to individuals outside the Washington, D.C. area. Unlike INS's automated 800 number system, OSC's 800 number was manned by bi-lingual attorneys, paralegals, and support staff. After business hours, a recording, in both Spanish and English, informed callers that if they left a message it would be

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<sup>3</sup>QDEs were organizations recognized under IRCA as being authorized to help aliens avail themselves of the Act's amnesty program. There were approximately 977 QDEs. OSC worked with INS's Public Outreach Program, which was INS's liaison with the QDEs, to conduct this and subsequent mailings.

<sup>4</sup>OSC's toll free TDD number is 1-800-237-2515.

responded to as soon as possible. In conjunction with INS, work was begun on a handbook with the working title The New Immigration Law - Your Job and Your Rights. It was intended to complement the INS issued Handbook for Employers - Instructions for Completing Form I-9.

In short, OSC recognized that despite the lack of any explicit statutory responsibility, public education was an important component in the enforcement of IRCA's antidiscrimination provision. The groundwork was laid for an outreach/education program.

1988

Calendar 1988 was ushered in with a Washington Post article that emphasized the need for a continuous outreach/education program. The January 19, 1988 article was headlined "Office's 'Outreach' May Exceed Its Grasp". The article reported:

Telephone calls to EEOC, INS and U.S. Attorneys' offices here and in New York and California - the two states that have accounted for 88 percent of the complaints filed with [the Special Counsel Lawrence J.] Siskind's office - found that only one of 12 offices contacted was aware of the Justice Department office, and that office did not have its toll-free number.<sup>5</sup>

An immediate result was the development of two fact sheets, available in both English and Spanish, for use by INS and OSC attorneys. These fact sheets provided a brief summary of the law

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<sup>5</sup>p. A13, Washington Post, January 19, 1988.

and OSC's address and telephone numbers. Fact sheets were provided to INS to be placed in every INS District and Legalization Office.

OSC proposed, and INS adopted, a revised discrimination message on INS' 800 number automated telephone system (ATS) and the "Ask Immigration" telephone system. For the first time, OSC's telephone numbers were given as a source for additional information. OSC was invited to participate in INS' interagency task force on sanctions.

OSC composed 15, 30, 45, and 60 second radio spots. It offered them to radio stations around the country as public service announcements.

Efforts were made to provide for automatic transfer of calls about IRCA's antidiscrimination provision on the INS "Ask Immigration" and 800 ATS numbers. However, technical and cost problems prevented installation of this transfer system.

The OSC/INS brochure, Your Job and Your Rights was distributed to all INS offices, legalization offices, QDEs, EEOC offices, Office of Federal Contract Compliance Programs (OFCCP) offices, Wage and Hour Offices, United States Attorneys' offices, National Labor Relations Board offices, and interested organizations. In addition, OSC worked with EEOC to produce a brochure explaining the relationship of IRCA's antidiscrimination provision with Title VII. Two brochures were produced. One was aimed at employers and one was aimed at employees. Only limited

numbers of these brochures were produced because of funding constraints.

In 1988, the antidiscrimination provision required that a declaration of intending citizen be filed if an alien was to be protected from citizenship status discrimination.<sup>6</sup> INS had created a form, the I-772, to satisfy this requirement. A continuing question was whether this declaration had to be filed prior any alleged discrimination for an alien to be protected. OSC took the position that as long as the form was completed before a charge was filed the statutory requirement was met. This policy was of considerable importance. Without it, virtually no alien would have been protected from citizenship status discrimination. Before this declaration requirement had been eliminated, less than 50,000 I-772 forms had been filed by aliens otherwise protected from citizenship status discrimination.

OSC announced this policy position by mailing a notice to over 700 interested organizations and publishing a notice in the Federal Register.<sup>7</sup> In an effort to ensure that the form was available to aliens, OSC provided it to all QDEs. INS agreed to provide a copy of the I-772 and a fact sheet or a Your Job and

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<sup>6</sup>The Immigration Act of 1990 eliminated the need for the declaration of intending citizen. Now all permanent residents, temporary residents, refugees, and asylees are protected from citizenship status discrimination as long as they make timely application for naturalization. 8 U.S.C. § 1324b(a)(3)(B).

<sup>7</sup>Notice of this change in policy was published in the March 24, 1988 Federal Register, 53 Fed. Reg. 9715.

Your Rights brochure to all aliens who adjusted to permanent residence, who filed naturalization petitions, who were admitted as refugees, who were granted asylum, and who were granted temporary resident status.

Since the I-772's only purpose was to allow an alien to file a charge of citizenship status discrimination, many INS offices were unfamiliar with it. Some INS offices would not even accept the form for filing. To remedy this problem, OSC entered into an agreement with INS. It made OSC the custodian of all I-772 forms and allowed aliens to file them directly with OSC by mail as well as with any INS office.<sup>8</sup>

To compensate for the fact that it only had a Washington, D.C. office, OSC entered into an interim memorandum of understanding (MOU) with EEOC. The MOU was basically a reciprocal agency agreement authorizing EEOC to receive charges for OSC and vice versa in order to toll the statute of limitations.<sup>9</sup>

In 1988, OSC continued its mailings to educate the public about its existence and the law it enforced. By the end of 1988 OSC had done 14 mailings to over 4,000 government offices, QDEs, public interest groups, law firms, and interested individuals.<sup>10</sup>

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<sup>8</sup>This agreement was published in the October 17, 1988 Federal Register, 53 Fed. Reg. 40498.

<sup>9</sup>This interim agreement was published in the May 4, 1988 Federal Register, 53 Fed. Reg. 15904.

<sup>10</sup>These mailings were done to the following entities:

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<sup>10</sup>(...continued)

1. QDEs. They were done with the cooperation of INS' public outreach office to all QDEs (approximately 977 entities). There were three mailings.
  - A. The first mailing included a fact sheet, English charge forms, the antidiscrimination provision, OSC's final regulations, and I-772 forms.
  - B. The second mailing restated the office address and phone numbers and included Spanish charge forms.
  - C. The third mailing set forth the change in I-772 filing policy.
2. OFCCP. Sixty-eight (68) OFCCP headquarters, regional, and area offices received the fact sheet, English and Spanish charge forms, the statute, final regulations, and I-772 forms.
3. Wage and Hour, U.S. Department of Labor. Three hundred and twenty (320) Wage and Hour headquarters, area, and field offices received the fact sheet, English and Spanish charge forms, the statute, final regulations, the I-772 Federal Register Notice, and I-772 forms.
4. National Labor Relations Board (NLRB). Fifty-three (53) headquarters, regional and area offices received the fact sheet, English and Spanish charge forms, the statute, final regulations, and I-772 forms.
5. U.S. Attorneys' Offices. They received an informational letter, final regulations, charge forms, and I-772 forms.
6. Equal Employment Opportunity Commission (EEOC) District Offices. They received an informational letter, final regulations, charge forms, and I-772 forms.
7. INS Regional and District Offices. They received an informational letter, final regulations, charge forms, and I-772 forms.
8. Legal Aid Offices. They received an informational letter, final regulations, charge forms, and I-772 forms.
9. Unions. They received an informational letter, final regulations, charge forms, and I-772 forms.
10. Hispanic Organizations. They received an informational letter, final regulations, charge forms, and I-772 forms.

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These mailings, which were done in government franked envelopes, minimized the "cost" of these mailings, or at least pushed them into the next fiscal year. This was of some importance, since OSC still had not been appropriated any funds specifically earmarked for outreach or education.

This lack of funds, however, did not deter OSC from attempting to reach out to a wider audience. OSC began providing press releases to the Justice Department's Office of Public Affairs detailing various settlements it obtained, complaints it filed, and other noteworthy actions of the Office. Public Affairs released these press releases through its normal channels. OSC, however, took the process a step further. It developed a list of reporters, newspapers, news letters, etc. interested in IRCA, immigration issues in general, or OSC in particular. It mailed and faxed its press releases to these organizations. Thus, OSC press releases gained a considerable amount of local and specialized print media coverage even though

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<sup>10</sup>(...continued)

11. Public Interest Organizations interested in immigration issues. They received an informational letter, final regulations, charge forms, and I-772 forms.
12. Civil Rights Organizations. They received an informational letter, final regulations, charge forms, and I-772 forms.
13. Law Firms. They received an informational letter, final regulations, charge forms, and I-772 forms.

(Numbers 8 - 13 comprised approximately 1100 organizations).

14. Public Interest Groups, Law Firms, and Interested Entities and Individuals. They received the change in I-772 filing policy.

the major wire services may not have picked them up. In FY 88, 8 press releases were issued about OSC activities.

With INS funding, OSC produced a closed-captioned public service television announcement (PSA) in English and Spanish. At OSC's behest, Jimmy Smits, of LA Law, appeared in it at no cost. OSC, again utilizing its frank, provided tapes of the PSAs to a wide variety of television and cable stations. They were broadcast in Los Angeles, San Antonio, and on the Discovery Channel, among other places.

OSC's outreach efforts by some measures were having an effect. In FY 87, OSC received 21 charges. In FY 88, OSC received 276 charges. In FY 87, OSC received and responded to over 800 telephone calls. In FY 88, OSC received and responded to over 10,000 telephone calls.

Paradoxically, just as OSC was increasing its outreach and educational activities, INS was decreasing its activities in these areas. The General Accounting Office (GAO) reported that in June, 1988 INS reduced the resources devoted to education from 50 percent to 25 percent of its investigative personnel.<sup>11</sup>

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<sup>11</sup>p. 61, General Accounting Office, IMMIGRATION REFORM Employer Sanctions and the Question of Discrimination, GAO/GGD 90-62, March 1990.

1989

In March of 1989, the Attorney General, in response to a recommendation made in GAO's second report,<sup>12</sup> directed the Special Counsel to chair a task force (the IRCA Antidiscrimination Outreach Task Force) including representatives DOL, EEOC, SBA, and INS.<sup>13</sup> To facilitate its formation, the Attorney General wrote personal letters to the Secretary of Labor, the SBA Administrator, the Chair of EEOC, and the Commissioner of INS. The purpose of this task force was to coordinate public education activities by its members about IRCA's antidiscrimination provision.

But it is difficult to educate employers about IRCA's antidiscrimination provision, if they do not understand their basic responsibilities under IRCA's employer sanctions provisions. GAO found that fewer employers year to year understood IRCA's basic requirements concerning verification of employee work authorization. GAO found that while more employers were aware of IRCA (83% in 1989 compared to 78% in 1988), fewer employers reported that they understood IRCA's requirements for complying with the sanctions provisions. From 1988 to 1989, there was a 31 percent decrease in employers who understood I-9 requirements (the principal mechanism by which employers

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<sup>12</sup>Section 101(a) of IRCA required three annual GAO reports assessing the effect of employer sanctions. One of the effects to be assessed was whether sanctions caused discrimination.

<sup>13</sup>p. 60, General Accounting Office, IMMIGRATION REFORM Status of Implementing Employer Sanctions After Second Year, GAO/GGD-89-16, November 1988.

determine if an employee is authorized to work), a similar decrease in employers who understood IRCA's document requirements, and a 29 percent decrease in employers' understanding of the restriction on hiring unauthorized workers.<sup>14</sup>

As a practical matter, since the passage of IRCA, the INS, and to a lesser extent DOL, have had primary contact with employers through their educational and enforcement efforts concerning employer sanctions. The Office of Special Counsel primarily has contact with the victims of discrimination. As a result, most but not all of this Office's outreach efforts have been directed to potential victims of discrimination and the general public. This was a practical division of responsibility that we would have liked to see continued to the extent possible. But as mentioned, GAO reported that INS officials stated "the education program's effectiveness may have been hampered by decreased (1) education resources . . ." GAO also reported that in June, 1988 INS reduced the resources devoted to education from 50 percent to 25 percent of its investigative personnel.

The Office of Special Counsel, working with the members of the IRCA Antidiscrimination Outreach Task Force, was to educate employers about IRCA's antidiscrimination provision. But given its resources (at the time, the Office of Special Counsel consisted of 36 people based in Washington, D.C.), it could not

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<sup>14</sup>pp. 69-61, IMMIGRATION REFORM Employer Sanctions and the Question of Discrimination, supra.

entirely shoulder the responsibilities previously carried out by INS concerning the education of employers about basic I-9 requirements, document requirements, and hiring restrictions.<sup>15</sup>

What we could do is educate employers on how to avoid the most common discrimination problems that arise from the employer sanctions provisions. The Office of Special Counsel developed educational material on just this point. However, it assumed that an employer knew what an I-9 form is, what the employer sanctions verification requirements were, and what were acceptable work authorization documents. Through the IRCA Antidiscrimination Outreach Task Force, we arranged for this material to be distributed to employers by DOL, SBA, and INS.

When the Office of Special Counsel discovered a recurring discrimination problem, we attempted to utilize relevant Federal agencies to help educate employers in how to avoid it. For example, many employers fear adverse Federal action when they discover that newly legalized temporary resident employees had previously used false social security numbers. As a result, they may discriminate against newly legalized aliens. We arranged for the Social Security Administration to include educational material on this subject in a newsletter sent to every employer who reports withholding social security taxes. The Social Security Administration also sent this educational material to

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<sup>15</sup>Some of the task force members were forthcoming with financial and other resources to facilitate the production of educational materials. The Department of Labor in particular was very helpful as was INS.

various business associations that represent employers and asked that they include it in their newsletters and publications.

Many defense contractors did not understand the limited nature of IRCA's exception for citizenship status discrimination required by government contract. The Office of Special Counsel arranged for educational material to be printed in a Department of Defense newsletter distributed to all defense contractors.

The Office of Special Counsel worked with INS to develop a PSA featuring Edward James Olmos. This PSA used the same script as the Jimmy Smits PSA. This closed-captioned PSA in English and Spanish was distributed to television stations for airing.

OSC began to increase its emphasis on educating employers about how to avoid discrimination problems. For example, it took out a quarter page ad in USA TODAY, printing a full size reproduction of its "What You Should Know" poster.<sup>16</sup> This poster, a version of which is still in use, tells employers how to avoid discrimination in the I-9 process.

But the Office of Special Counsel had another outreach problem as well. GAO related that almost one in five employers reported discriminatory practices on the basis of national origin or citizenship. Yet as of April 16, 1990, OSC had received only 865 charges of discrimination. GAO reported that EEOC had received only 168 charges that EEOC believed might be IRCA related. Either people did not know they had been discriminated

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<sup>16</sup>p. 13A, USA TODAY, September 28, 1989.

against or they did not know that there were agencies where they could file a discrimination charge.

The Office of Special Counsel and the members of the IRCA Antidiscrimination Outreach Task Force worked on this problem. This Office, in conjunction with INS, developed a brochure entitled: Your Job and Your Rights. It was available in English and Spanish and sets forth basic I-9 requirements and antidiscrimination protections under IRCA and Title VII. Its primary audience is potential victims of discrimination. We arranged for INS to provide one to every alien who adjusts his/her immigration status. Through the auspices of DOL, this brochure was distributed through state unemployment compensation insurance offices and state job referral agencies, and through participants in Job Partnership Training Act programs. Supplies have been provided to QDEs, public interest groups, unions, legal aid offices; EEOC, DOL, and INS offices; and state and local fair employment practices agencies (FEPs), among others.

The Office of Special Counsel also attempted to utilize existing Federal, state, and local government offices to make it as simple as possible for victims of discrimination to file charges. As mentioned, in April of 1988, this Office and EEOC entered into a memorandum of understanding (MOU) appointing each as the agent of the other for the purposes of filing



discrimination charges and tolling the 180 day statute of limitations. A final MOU was entered into in July of 1989.<sup>17</sup>

The Office of Special Counsel offered to enter into similar MOU's with 117 state and local fair employment practice agencies (FEPs). On June 6, 1991, all MOU's then in effect (26) were published in a Federal Register notice.<sup>18</sup> The Office offered to provide on-site training and educational material to every FEP that enters into an MOU.

OSC continued to have press releases issued concerning its activities. In FY 89, 22 press releases dealt with OSC activities. OSC attorneys gave over 50 presentations on IRCA antidiscrimination issues.

Again by some measures, OSC's outreach efforts seemed to be having an impact. In FY 89, OSC received 385 charges, a 39.5% increase over FY 88. OSC received over 28,000 calls on its 800 toll free number in FY 89. And again it was done with no funds specifically earmarked for outreach.

#### 1990

In November 1989, Congress provided the Office of Special Counsel with an additional million dollars with which to conduct outreach in addition to the money INS was devoting to its educational activities. In December, Congress enacted the

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<sup>17</sup>This final agreement was published in the August 8, 1989 Federal Register, 54 Fed. Reg. 32499.

<sup>18</sup>56 Fed. Reg. 26146

Immigration Nursing Relief Act of 1989. This act authorizes, but does not mandate, states to spend up to one percent of their State Legalization Impact Assistance Grants (SLIAG) for IRCA antidiscrimination outreach after consultation with the Office of Special Counsel. OSC worked with the Department of Health and Human Services (HHS), which is responsible for financial oversight of the program, to develop regulations to implement the consultation requirement. OSC worked with states and HHS to make these requirements the least burdensome possible. Seven states spent SLIAG monies for antidiscrimination outreach and education in FY 90.<sup>19</sup>

One of the immediate impacts of the SLIAG program was the additional distribution channels it provided. OSC made its outreach and educational materials available to SLIAG administrators so they could use their resources to disseminate it to employers or use it as a basis for developing additional educational material. This distribution network could be very effective. For example in California, the SLIAG administrator arranged for OSC education material to be included in a quarterly newsletter sent to all employers who report paying state taxes. In addition, OSC press releases were now routinely sent to SLIAG program officials so they could utilize their own relationships with local media to disseminate them.

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<sup>19</sup>These states were Arkansas, California, Colorado, Idaho, Louisiana, Nevada, and Oregon.

The SLIAG consultation provisions, in addition to providing additional resources for IRCA antidiscrimination outreach and education, further strained OSC resources. OSC was now acting as a law, public relations, and consulting firm. In an effort to gain some control and approval of its outreach/educational activities, in January, 1990, OSC proposed a three prong approach to outreach to the Attorney General.

The three prongs were made up of OSC's own outreach activities, the establishment of an advisory committee of state administrators of SLIAG funds, and an advisory group of relevant advocacy groups. The Attorney General approved this approach. It was hoped that the SLIAG advisory group would provide a vehicle to coordinate SLIAG activities and keep all SLIAG states involved in antidiscrimination outreach aware of what each was doing. In this way there could be a cross-fertilization of ideas and, hopefully, innovative approaches could be shared. It would also provide a way to ease OSC statutory consultation obligations. It was hoped that the advocacy group advisory group would serve many of the same purposes.

The American Public Welfare Association (APWA) meetings composed of SLIAG administrators served as the de facto SLIAG advisory group. This group had success in the beginning. But as everyone became familiar with IRCA's antidiscrimination provision and the various outreach strategies, they became somewhat repetitious. The IRCA Antidiscrimination Outreach Task Force invited interest group members to meetings and this served as the

de facto advocacy group advisory entity. These meetings provided some good information and allowed the voicing of concerns to the relevant government entities. However, the difficulty in scheduling these meetings so all relevant groups and task force members could attend meant that not many were held.

OSC, with the input provided by these "advisory groups," continued its own outreach efforts. Where possible, it utilized the input provided by these "advisory groups." In August 1990, OSC began publishing a newsletter, OSC UPDATE. This was a periodic newsletter on IRCA antidiscrimination issues aimed at states participating in the SLIAG program.

As part of an experimental "media blitz" in El Paso, Texas, conducted in January and February 1990, OSC arranged to have outreach material distributed to all high school students in a school district reported by the Department of Education to have a high alien student population. Through the cooperation of the school district, IRCA's antidiscrimination provision was included in the social studies lesson plans during this time period. We arranged to have it published in local newspapers. We also arranged for local radio and television stations to air public service announcements (PSAs) in English and Spanish aimed primarily at potential victims of discrimination. Finally, an OSC attorney appeared on local television news and talk shows. While OSC expected an impact measured by an increase in charges or at least an increase in 800 calls from El Paso, it never occurred.

OSC attempted to utilize the special relationship legislators have with their constituents as part of its outreach efforts. For example, through the Department's Office of Legislative Affairs, we provided educational material to all members of the House and Senate. We undertook a similar effort to every state legislator in the five high alien population states: California, Florida, Illinois, New York, and Texas.

To demonstrate the Attorney General's commitment to IRCA's antidiscrimination provision, OSC proposed a letter for his signature stressing the provision's importance. In December 1989 letters to the American Civil Liberties Union (ACLU) and the Mexican American Legal Defense and Education Fund (MALDEF), which were widely distributed to interest groups, the Attorney General stated:

The Department of Justice is committed to ensuring that IRCA's employer sanctions provisions do not lead to unlawful discrimination. I view the employer sanctions and antidiscrimination provisions as complementary. It is as important that employers do not discriminate as it is that they do not employ unauthorized aliens.

In response to suggestions from advocacy groups that the Your Job and Your Rights brochure was too technical for its intended audience, OSC, through the New York School of Design, designed an illustrated brochure providing a specific example of citizenship status discrimination. Advocacy group representatives saw the mockups and thought it was an improvement over the Your Jobs and Your Rights brochure. It addressed the

practice of employers not hiring persons who have temporary work eligibility documents (for example, temporary resident aliens). GAO reported 13 percent of employers it surveyed began this practice as a result of IRCA. It also addressed the reported practice of the 14.7 percent of surveyed employers who said they began to hire only persons born in the United States as a result of IRCA. Distribution of the initial printing (a total of 500,000 in English and Spanish) was completed by the end of May, 1990.<sup>20</sup>

The IRCA Antidiscrimination Outreach Task Force met with various employer group representatives and sought their input on how the Task Force could help employers comply with IRCA's antidiscrimination provision. One item they requested was a telephone number employers could call if they had questions concerning an unusual or unfamiliar type of work authorization document. INS agreed to distribute to the attendees a list of local INS Employer and Labor Relations Offices and telephone numbers that employers could call for answers to such questions. The Office of Special Counsel also provided its toll free 800 number. These calls involve everything from irate citizens

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<sup>20</sup>This "novella", which was designed at no cost to OSC, achieved some fame in its own right. It was the subject of an article in the April 1991 issue of Public Relations Journal. The article entitled, "Clients, not exams, stress students" pointed out the mutual advantages there were in utilizing public relations students to design various aspects of a public relations campaign. The Attorney General wrote a letter of thanks to those involved in the novella design.

complaining about the verification requirements to people wanting to know how to file a discrimination complaint.

In May 1990, OSC distributed the Jimmy Smits and Edward James Olmos PSAs by satellite feed to 650 television stations. It was reported that they aired in at least 5 of the top 15 media markets. The PSAs aired in markets that include Philadelphia, Cleveland, San Francisco, Boston, Houston, Atlanta, Miami, Denver, Phoenix, Sacramento, San Diego, Albuquerque, Tulsa, Chattanooga, Las Vegas, Salinas, Savannah, and Yuma, among others.

It was in this fiscal year that OSC initiated its grants program. This was done partly in response to the consensus opinion of numerous interest group representatives. The consensus was that community based organizations (CBOs) were the best vehicle through which potential victims could be educated about their rights under IRCA's antidiscrimination provision. Though no monies were specifically appropriated for this purpose, OSC managed to award approximately \$1.1 million to 15 grantees located in 8 states and the District of Columbia.<sup>21</sup> The grants

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<sup>21</sup>The grantees were:

1. American Friends Service Committee, Newark, New Jersey.
2. Bracero Troupe Theatre of Centro Latino Americano, Houston, Texas.
3. California Human Development Corporation, Santa Rosa, California.
4. Chinese-American Planning Council, New York, New York.
5. Church Avenue Merchants Block Association, Inc., Brooklyn, New York.
6. The Workplace of the School of Social Work, Columbia University, New York, New York.

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ranged in size from \$46,000 to \$100,000. Their purpose was to fund new, novel, or innovative methods of informing potential victims of discrimination of their rights and employers of their responsibilities under IRCA's antidiscrimination provision. The expertise of the IRCA Antidiscrimination Outreach Task Force was utilized to evaluate the 110 applications OSC received. These initial grants promoted antidiscrimination education and awareness in local and specialized communities by traditional and novel approaches. These included neighborhood meetings and festivals, direct mail and hot lines, public service messages, posters, and theater presentations. There were grants to train community and union leaders and the professionals that had the trust of the immigrant community, as well as grants for programs that worked with schools, churches, government and community based organizations. There were grants to fund programs aimed at educating employers, particularly small businesses. They utilized chambers of commerce and trade associations. These

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<sup>21</sup>(...continued)

7. Council of Hispanic Community Agencies, Washington, D.C.
8. Diocesan Migrant and Refugee Services, El Paso, Texas.
9. Center for Labor Research and Studies of Florida International University, Miami, Florida.
10. Friendly House, Inc., Phoenix, Arizona.
11. Catholic Charities, Catholic Immigration Center, Honolulu, Hawaii.
12. Catholic Charities, Immigration Counseling Center, Santa Clara, California.
13. National Immigration Law Center, Legal Aid Foundation of Los Angeles, Los Angeles, California.
14. Massachusetts Immigrant and Refugee Advocacy Coalition, Boston, Massachusetts.
15. YMCA of the Greater Houston Area, Houston, Texas.



activities included public service ads, direct mail, phone campaigns, and on site visits to reach the small employer.

In addition to their actual grant activities, the grantees provided additional distribution channels for OSC's own educational and outreach literature. They also provided an additional avenue by which OSC press releases could be distributed to local media. However, the impact of OSC's new grant program would not be felt until FY 91, since it took until September, 1990 to decide to whom grants should be awarded and to actually complete the mechanics of the process.

OSC continued to find press releases to be useful education and outreach tools. In FY 90, 17 press releases dealt with OSC activities. In addition, OSC attorneys provided training to 13 FEPs who had entered into MOUs. In all of FY 90, OSC attorneys gave over 130 presentations on IRCA antidiscrimination issues.

Again by some measures, it appeared that OSC outreach was having an effect. OSC charge receipts in FY 90 increased by 35.3% over FY 89, 521 charges compared to 385 charges. Completed 800 number telephone calls to OSC exceeded 38,000.

#### 1991

The Immigration Act of 1990 made the IRCA Antidiscrimination Outreach Task Force statutory. It charged the Special Counsel with educating individuals and companies about their rights and responsibilities under IRCA's antidiscrimination provision and Title VII of the 1964 Civil Rights Act, after consultation with

the Secretary of Labor, the Chair of EEOC, and heads of such other agencies as the Special Counsel deemed appropriate. It authorized, but did not appropriate, \$10 million for this purpose.<sup>22</sup> To date, no monies have ever been appropriated pursuant to this act.<sup>23</sup>

OSC continued to diversify its approach to outreach and education. It began production of a video entitled, Going Too Far. The video depicts vignettes setting forth typical situations where IRCA's antidiscrimination provision could be invoked. The Attorney General's Task Force on IRCA-Related Discrimination had recommended that video tapes be considered as a method for explaining IRCA's antidiscrimination provision.

The movie, which is closed-captioned, was produced in two versions; one a stand alone version and one depicting a series of individual vignettes that a trainer expands upon to set forth the nuances of IRCA's antidiscrimination provision. Interest groups, who saw previews of the video were enthusiastic as were INS officials.

The SLIAG program continued to grow. OSC consulted with 26 states and the District of Columbia concerning the use of SLIAG

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<sup>22</sup>See 8 U.S.C. § 1324b(1).

<sup>23</sup>However, in 1991 Congress provided up to \$3 million of unobligated balances from an INS fee account be made available each fiscal year beginning in 1992 for grants, contracts, and cooperative agreements to community based organizations for outreach programs to be administrated by the Office of Special Counsel. see 8 U.S.C. § 1255a(c)(7)(C).

funds for antidiscrimination outreach and education efforts as required by the Immigrant Nurses Relief Act.<sup>24</sup>

In April 1991, OSC began publication of OSC Grantee Update. The purpose of this publication was to inform grantees of the activities each has undertaken since the October, 1990 grant awards.

In FY 91, OSC once again conducted a grants program, even though no monies had been appropriated for this purpose. Again it utilized the expertise of the now statutory IRCA Antidiscrimination Outreach Task Force to evaluate the 185 grant applications. Eleven (11) grants totaling \$1.27 million were awarded to non-profit organizations in 6 states, the District of Columbia, and Puerto Rico.<sup>25</sup> The grants ranged in size from

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<sup>24</sup>The states that used SLIAG money for antidiscrimination outreach and education were Arkansas, Arizona, California, Connecticut, the District of Columbia, Florida, Hawaii, Idaho, Illinois, Louisiana, Massachusetts, Maryland, North Carolina, New Hampshire, New Jersey, New Mexico, Nevada, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Virginia, and Washington.

<sup>25</sup>The grantees were:

1. California Human Development Corporation, Santa Rosa, California.
2. Catholic Charities, Diocese of Dallas, Texas.
3. Catholic Charities Immigration Program, Santa Clara, California.
4. Chamber of Commerce of Puerto Rico, San Juan, Puerto Rico.
5. Chicago Coalition for Immigrant and Refugee Protection, Chicago, Illinois.
6. Coalition of Florida Farmworker Organizations, Homestead, Florida.
7. Hermandad Mexicana Nacional Legal Center, North Hollywood, California.

(continued...)

\$48,649 to \$150,000. They promoted antidiscrimination awareness both nationwide and in local communities through neighborhood meetings, professional conferences and seminars, direct mailings, hot lines, radio and television public service messages, posters, brochures, and on site and video satellite training sessions.

In its efforts to reach as wide an audience as possible concerning its activities, OSC continued to issue press releases. In FY 91, 12 press releases concerned OSC activities. OSC staff also continued to speak on IRCA antidiscrimination issues. In FY 91, they gave over 110 presentations on IRCA antidiscrimination issues.

Again, by some measures, OSC outreach and educational activities still appeared to be having an effect. FY 91 charge receipts increased by 16.1% over FY 90, 606 charges versus 521 charges. OSC personnel handled over 43,000 completed calls to its toll free 800 number.

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<sup>25</sup> (...continued)

8. Legal Aid Foundation, National Immigration Law Center, Los Angeles, California.
9. National Council of Agricultural Employers, Washington, D.C.
10. Ohio Restaurant Association, Columbus, Ohio.
11. Workplace Center, School of Social Work, Columbia University, New York, New York.