CHAIRMAN WALTON: Thank you very much for your testimony.

Ms. Holguin?

MS. ILIANA HOLGUIN: Thank you.

Good afternoon, Commissioners. My name is Iliana Holguin, and I am the executive director and managing attorney for Diocesan Migrant & Refugee Services, a nonprofit organization located in El Paso, Texas, and the largest provider of free and low-cost immigration-related legal services in west Texas and southern New Mexico.

In addition to providing direct legal representation for immigrants in removal proceedings, DMRS has been contracted by the Executive Office for Immigration Review to administer the Legal Orientation Program, the LOP, at the ICE detention facilities within the El Paso district in an effort to assist detained individuals in immigration court proceedings by explaining their legal rights and options.

Many times the LOP is the only opportunity that detainees have to ask a nongovernmental official for information related to their particular case, for an explanation of the court system which they will soon be forced to navigate, and to express
their concerns regarding the conditions of their
detention or report any abuses that may have
occurred while being detained.

Allowing nonprofit organizations and other
third parties access to individuals in detention
assures that a mechanism exists whereby detainees
can report potential abuses to someone other than
the custodian who may be the very person committing
the abuses.

By providing an outside outlet to
detainees, detainee fears of retribution and
retaliation regarding abuse may be alleviated,
resulting in a detainee's increased willingness to
report potential abuses.

Informational initiatives and programs such
as the LOP provide a good mechanism by which to
ensure that information is efficiently disseminated
to the detainee population in a timely and neutral
manner.

The purpose of my testimony today is to
describe the LOP, the manner in which the program is
administered within the various ICE detention
facilities, and to provide the Commission with data
regarding the numbers of detainees impacted by the
program.
Since 2003, EOIR has administered the LOP at ICE adult detention facilities throughout the country in an effort to improve judicial efficiency and assist all parties involved in the removal proceedings of detained immigrants.

While the LOP does not provide for direct legal representation, it offers access to legal information and pro bono services to individuals in removal proceedings at the various program sites.

Currently, six LOP sites are operational at adult detention facilities across the country: in Arizona, Texas, Washington, California, and Colorado.

In fiscal year 2005, more than 20,000 detainees, nearly 25 percent of all detainees who appeared before EOIR immigration judges, were served by these six sites.

A recent expansion of the program to six more adult sites will mean a drastic increase in the numbers of detainees receiving this service.

The LOP generally includes three components: an interactive, large group orientation; an individual orientation for individuals who have participated in the large group session and have specific questions for the
prisoner; and, finally, a self-help component where individuals with potential relief from removal are referred to pro bono counsel or provided self-help materials and training through group workshops overseen by the LOP presenters.

Currently the ICE El Paso service processing facility houses approximately 900 immigration detainees. LOP presentations are conducted at the SPC four days per week, and a self-help workshop is conducted once per week.

Unfortunately, we are currently only allowed to conduct presentations to individuals who are in immigration court proceedings and not to those who have already been ordered removed and are simply awaiting their removal.

This means that in reality, we only see a small percentage of the detainee population held at the facility.

One of the first statements at a large group orientation that is made by the LOP presenter to a detainee is an explanation that he or she is not a government employee and is not employed by either the immigration court or ICE but, rather, is a representative from an independent nonprofit organization.
This information is absolutely essential in order to establish a trust relationship with the detainees so that they will be comfortable asking questions of the presenter and sharing their particular -- the facts of their particular case during the individual orientations or in the small group, self-help workshops to follow.

The detainees are also informed, however, that the LOP presenter is not their attorney and will not be appearing in court with them. The LOP presenter does, however, present the detainees with a list of free legal service providers if they have not already been provided by ICE, as required.

The LOP presenter informs the detainees as to the typical course taken by a removal hearing, including explaining the role of the immigration judge and that of the government attorney who will be acting in an adversarial capacity.

The LOP presenter explains the various avenues of relief from removal that may be available to detainees. At this time detainees are also questioned as to whether they have ever been the victims of a crime and are told of the various remedies available to victims who have assisted in the investigation of certain criminal activity.
After the presentation, detainees are invited to sign up for individual consultations, during which time more detailed information regarding the various relief applications may be given.

Self-help packets of information and application forms can also be distributed to detainees at this time or at a subsequent self-help workshop to be held at a later date.

The regular presence of an LOP provider at a facility not only benefits the detainees themselves, but the facility as a whole.

In general, the atmosphere at an LOP site as compared to a non-LOP site is much more calm as detainee anxiety levels tend to be lower in LOP facilities.

This has become apparent to our LOP presenter, who has observed a very noticeable difference between the detainee population at the El Paso SPC and two new privately run facilities housing overflow ICE detainees: The Albuquerque Regional Corrections Center and the Otero County Prison in Otero County, Mexico.

By October 2006, in addition to the 900 ICE detainees held at the El Paso SPC, 700 ICE detainees
were held in Albuquerque, and another 200 ICE
detainees were held at the Otero County Prison.

Because no nonprofit organizations in
New Mexico are currently providing services to
detainees in removal proceedings, DMRS has found
itself having to find a way to deliver these much
needed services to these remote facilities.

Providing services to detainees at the
Albuquerque facility has proven to be the most
challenging due to the facility's physical distance
from our office in El Paso.

Upon arriving at our Albuquerque facility
for the first time in November to conduct an LOP
presentation, our LOP presenter very quickly became
aware of the lack of information and understanding
of their circumstances felt by the detainees.

Although a large room to be used for
televideo immigration hearings and presentations is
under construction, it has not yet been completed.

As a consequence, the LOP presentation was
given in the center of the pod where the ICE
detainees are held. Because an attendance list had
not been generated by ICE or the facility, detainees
were told that participation in the LOP presentation
was voluntary.
While the majority of the detainees chose to participate, many did not and went about their daily activities within the pod. This meant that many detainees were utilizing the pod's restroom and shower facilities which were adjacent to and within full view of the pod where the presentation was being given.

While on average only 25 percent of detainees participating in the LOP presentations at the El Paso SPC elect to participate in individual orientations with the presenter, the number of individuals requesting individual information at the Albuquerque facility was much higher.

Most of the detainees expressed anxiety and frustration in not having been able to speak to anyone regarding their removal proceedings, even though some had been detained for several months.

Many even indicated that they were so desperate to leave the facility, that they were willing to forego any relief from removal that they may have been entitled to simply to be able to get out, even if it meant being separated from their families.

The presenter's experience at the Otero County facility was very similar to what occurred at
the Albuquerque facility. Although our LOP presenter was able to use the facility cafeteria rather than the pod where the detainees were being housed, the presentation was difficult to conduct because the detainees were forced to return to their pods repeatedly to comply with counting requirements, which disrupted the presentation as a consequence.

Compounding the feelings of isolation and frustration and not knowing what is going to happen to them next, detainees are forced to feel even more isolated due to their limited ability to communicate with family, friends, and potential legal representatives by telephone.

Because of the frequent distance between the two New Mexico facilities and the detainees' families and friends, the telephone is often the only way the detainees have to communicate with anyone other than facility staff.

If a detainee's access to a telephone is limited, it becomes even more likely that concerns, frustrations, and reports of abuse will not be reported.

I won't go into detail about the issues with the telephones at these two facilities as
Ms. DeConcini already mentioned the problems that we're seeing. But I will say that I myself went to the Albuquerque facility to try the telephones after receiving numerous complaints from detainees that they could not get through.

The instructions on how to make a call to one of the providers on the list of free legal services were so complicated, however, that I wasn't even able to make the phone call without having to seek assistance from the program director of the facility who happened to be standing next to me. She also, though, had problems making that phone call and had to listen to the instructions several times.

As for the telephone access at the Otero County facility, that facility really isn't even in compliance with the detention standards in that there are no preprogrammed free calls allowed to even the service providers on the list of free legal services, as there should be.

In my written testimony I relate the story of a client of ours that was sexually assaulted by the Border Patrol agent that arrested her at the time of her attempted entry into the United States in October of 2004.
Although she finally broke down and relayed her horrific experience to a deportation officer at the El Paso facility, she did so after having been detained for a period of time by an agency that employed the very agent that had assaulted her.

I believe that had the LOP been in place, as it is today in the facility, our client would have disclosed her victimization much sooner, particularly since a section of the LOP specifically addresses remedies available to victims of violent crime.

In closing, I would like to stress to the Commission that access to independent nonprofit organizations, both in person and via telephone, is absolutely critical to establishing and maintaining the ability of the detainee population to report abuses so that appropriate action is taken.

Without access to nongovernmental, nonfacility personnel, detainees will be much less likely to report any potential abuses and may not even be aware that the abuses that have occurred are in violation of law and that the detainee will be protected if he or she comes forward.

Nonprofit organizations with regular access to detainees in an appropriate setting can
facilitate this necessary exchange of information. Informational initiatives such as the LOP have demonstrated that they have the capacity of reaching hundreds of detainees per month and of relaying vital information that detainees are often unable to obtain elsewhere.

That concludes my testimony. Thank you.

CHAIRMAN WALTON: Thank you very much for your testimony.

Ms. Tosado, let me just ask.

The limitation that was indicated by Ms. DeConcini that your office has over ICE, is that a legislative limitation or is that an internal limitation imposed in the department itself?

MS. REBEKAH TOSADO: Well, I'm not sure I would necessarily describe it as a limitation. Our statute does not state that we have -- we don't have any remedies to provide. So you might interpret that as a limitation.

The Office for Civil Rights and Civil Liberties -- the head of my office sees our mission to be integrated with ICE and collaborate with them in order to promote a culture of respect for civil rights and civil liberties, and he feels the best way to do that is to work together, not