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1 CHAIRMAN WALTON: Thank you very much for
2 your testimony.

3 Ms. Holguin?

4 MS. ILIANA HOLGUIN: Thank you.

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

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

21 Many times the LOP is the only opportunity
22 that detainees have to ask a nongovernmental
23 official for information related to their particular
24 case, for an explanation of the court system which
25 they will soon be forced to navigate, and to express

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1 their concerns regarding the conditions of their
2 detention or report any abuses that may have
3 occurred while being detained.

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

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

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

20 The purpose of my testimony today is to
21 describe the LOP, the manner in which the program is
22 administered within the various ICE detention
23 facilities, and to provide the Commission with data
24 regarding the numbers of detainees impacted by the
25 program.

1 Since 2003, EOIR has administered the LOP
2 at ICE adult detention facilities throughout the
3 country in an effort to improve judicial efficiency
4 and assist all parties involved in the removal
5 proceedings of detained immigrants.

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

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

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

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

21 The LOP generally includes three
22 components: an interactive, large group
23 orientation; an individual orientation for
24 individuals who have participated in the large group
25 session and have specific questions for the

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1 prisoner; and, finally, a self-help component where
2 individuals with potential relief from removal are
3 referred to pro bono counsel or provided self-help
4 materials and training through group workshops
5 overseen by the LOP presenters.

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

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

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

19 One of the first statements at a large
20 group orientation that is made by the LOP presenter
21 to a detainee is an explanation that he or she is
22 not a government employee and is not employed by
23 either the immigration court or ICE but, rather, is
24 a representative from an independent nonprofit
25 organization.

1 This information is absolutely essential in
2 order to establish a trust relationship with the
3 detainees so that they will be comfortable asking
4 questions of the presenter and sharing their
5 particular -- the facts of their particular case
6 during the individual orientations or in the small
7 group, self-help workshops to follow.

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

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

19 The LOP presenter explains the various
20 avenues of relief from removal that may be available
21 to detainees. At this time detainees are also
22 questioned as to whether they have ever been the
23 victims of a crime and are told of the various
24 remedies available to victims who have assisted in
25 the investigation of certain criminal activity.

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1 After the presentation, detainees are
2 invited to sign up for individual consultations,
3 during which time more detailed information
4 regarding the various relief applications may be
5 given.

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

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

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

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

24 By October 2006, in addition to the 900 ICE
25 detainees held at the El Paso SPC, 700 ICE detainees

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1 were held in Albuquerque, and another 200 ICE
2 detainees were held at the Otero County Prison.

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

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

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

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

20 As a consequence, the LOP presentation was
21 given in the center of the pod where the ICE
22 detainees are held. Because an attendance list had
23 not been generated by ICE or the facility, detainees
24 were told that participation in the LOP presentation
25 was voluntary.

1 While the majority of the detainees chose
2 to participate, many did not and went about their
3 daily activities within the pod. This meant that
4 many detainees were utilizing the pod's restroom and
5 shower facilities which were adjacent to and within
6 full view of the pod where the presentation was
7 being given.

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

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

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

24 The presenter's experience at the Otero
25 County facility was very similar to what occurred at

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1 the Albuquerque facility. Although our LOP
2 presenter was able to use the facility cafeteria
3 rather than the pod where the detainees were being
4 housed, the presentation was difficult to conduct
5 because the detainees were forced to return to their
6 pods repeatedly to comply with counting
7 requirements, which disrupted the presentation as a
8 consequence.

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

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

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

24 I won't go into detail about the issues
25 with the telephones at these two facilities as

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1 Ms. DeConcini already mentioned the problems that
2 we're seeing. But I will say that I myself went to
3 the Albuquerque facility to try the telephones after
4 receiving numerous complaints from detainees that
5 they could not get through.

6 The instructions on how to make a call to
7 one of the providers on the list of free legal
8 services were so complicated, however, that I wasn't
9 even able to make the phone call without having to
10 seek assistance from the program director of the
11 facility who happened to be standing next to me.

12 She also, though, had problems making that
13 phone call and had to listen to the instructions
14 several times.

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

21 In my written testimony I relate the story
22 of a client of ours that was sexually assaulted by
23 the Border Patrol agent that arrested her at the
24 time of her attempted entry into the United States
25 in October of 2004.

1 Although she finally broke down and relayed
2 her horrific experience to a deportation officer at
3 the El Paso facility, she did so after having been
4 detained for a period of time by an agency that
5 employed the very agent that had assaulted her.

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

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

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

24 Nonprofit organizations with regular access
25 to detainees in an appropriate setting can

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1 facilitate this necessary exchange of information.

2 Informational initiatives such as the LOP
3 have demonstrated that they have the capacity of
4 reaching hundreds of detainees per month and of
5 relaying vital information that detainees are often
6 unable to obtain elsewhere.

7 That concludes my testimony. Thank you.

8 CHAIRMAN WALTON: Thank you very much for
9 your testimony.

10 Ms. Tosado, let me just ask.

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

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

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