

**STATEMENT OF  
ROBERT A. ECKELS,  
COUNTY JUDGE, HARRIS COUNTY, TEXAS**

**BEFORE THE  
UNITED STATES HOUSE OF REPRESENTATIVES  
SUBCOMMITTEE ON INVESTIGATIONS**

**Hearing On Criminal Activity and  
Violence Along the Southern Border**

**AUGUST 16, 2006**

Mr. Chairman and Members of the Committee, I am Robert Eckels. I serve as the County Judge of Harris County, Texas and I would like to welcome you and your staff to Harris County and to our new Harris County Civil Justice Center. Since the ribbon-cutting ceremony this past March, you are the first congressional committee to grace us with your presence in this room.

For those who are not familiar with our system of government here in Texas, a County Judge is the presiding officer of the five member Commissioners Court, the governing body of the county. I represent all the citizens of the third most populous county in the United States in much the same way county executives do in other parts of our country.

Harris County is 1,756 square miles in area and, with our 2005 population estimate of just under 3.7 million, is more populous than 23 states. There are 34 municipalities within the county, including the City of Houston, our county seat, the fourth largest city in the country. More than 1.3 million people live in unincorporated Harris County and rely on the county to be the primary provider of basic government services.

Like other communities around the United States, we rely on the U.S. Census Bureau to tell us about ourselves. On August 4, 2006 the U.S. Census Bureau released its mid-decade statistics on growth entitled "State and County Characteristics Population Estimates - for July 1, 2005." The official estimate for the population of Harris County—3,693,050—is up 292,472 from the 2000 census.

From other Census Bureau reports about Harris County we learned that our growth rate in the decade from 1990 to 2000 was 20.7%. In 2004 it was estimated that 29% of our population was under the age of 18. In 36.7% of our households a language other than English is primarily spoken and 22.2% of our population was foreign born. The Census Bureau does not ask about legal or migrant status of respondents in any of its survey and census programs as there is no legislative mandate to collect this information.

Just two months after the July 2005 estimate, Harris County experienced a sudden influx of evacuees from Hurricane Katrina estimated to be more than 300,000 new permanent residents. While this was certainly not illegal immigration, that 10% increase in population almost overnight coupled with the existing influx of illegal immigrants pushes the resources of our community to the limits.

I applaud you for holding this hearing on Criminal Activity and Violence Along the Southern Border here in Harris County because we are heavily impacted, like major metropolitan areas all over our country, by this kind of activity as well as by illegal immigration.

Although we are not located on the southern border of the United States, the Port of Houston is our gateway to the Gulf of Mexico enabling us to tremendously expand the commerce of our region and state, but also making us vulnerable to criminal activity and violence. We have been working with this committee, the Congress and the U.S. Department of Homeland Security to provide a higher level of security for the Port.

Harris County received funding under the FY2005 Port Security Grant Program which will enable electronic surveillance and the initiation of water-side patrols that are part of the region's

plans for the first stage of detection and mitigation against improvised explosive device attacks along the Houston Ship Channel.

This will provide a first step towards inter-jurisdictional partnering within the region and assist with the implementation of regional security plans associated with the Port of Houston Authority, Port Strategic Security Council, regional industry partners, Houston Urban Area Security Initiatives and other homeland security-related plans. This important first step will lead to additional steps to raise the level of security along the Port. I certainly appreciate and encourage this Committee's continued work in helping local governments secure ports and other vulnerable infrastructure.

I will focus on three areas where you have requested information, the impact of illegal immigration on public school education, health care delivery and our law enforcement/criminal justice systems.

However, in preparing this testimony I have become increasingly aware that gathering information on the impact of illegal immigration and associated criminal activity and violence is made more difficult because citizenship status statistics are not gathered by most entities of local and state government.

For example, as standard practice, the Harris County Public Health and Environmental Services Department (HCPHES) conducts case investigations following notification of an occurrence of a reportable condition, including certain communicable diseases. These case investigations are intended to identify potential risks to the community and inform the development of disease control measures that may be needed to protect the community - that is, to ensure that others are not placed at risk.

Because a person's full participation and disclosure are critical during the investigation process, HCPHES must establish and maintain a high level of credibility and trust with participants. If a participant felt threatened in any way, he or she might choose to discontinue participation, thus impeding the investigation and, as a result, potentially putting others in the community at risk for exposure to the communicable disease.

Therefore, HCPHES collects only the information that is necessary to determine potential risks to the community and develop appropriate recommendations for disease control. Because knowledge of residency status does not contribute to these goals, HCPHES does not collect information related to residency status during case investigations for reportable conditions.

Recently, Paul Bettencourt, the elected Tax Assessor-Collector and Voter Registrar for Harris County, testified before the House Committee on House Administration about non-citizen voting and the Federal Election Integrity Act of 2006. In his testimony, he reminded the committee that the State of Texas amended its constitution in 1921 to require that voters be U.S. citizens.

He went on to say that there is no reliable database that he can check for proof of citizenship, but there could be at the federal level. A national citizenship data-base could be used by entities of local government, with sufficient safeguards in place to keep the data-base secure, that would assist their efforts in identifying correctly the citizenship status of individuals and better determine the impact of illegal immigration on community resources.

## **PUBLIC SCHOOL EDUCATION**

Texas has a system of independent school districts or ISDs and charter schools created by the Texas Legislature that have the primary responsibility for implementing the state's system of public education and ensuring student performance. Each are political subdivisions of the state, having an elected governing body and the authority to levy and collect taxes and issue bonds to build infrastructure and to pay operational expenses. Harris County has 26 ISDs wholly or partially within the county.

The Texas Education Agency (TEA), our state's department of education, is divided into 20 geographic regions, each served by an Education Service Center (ESC). Harris County is in the seven-county Region IV and Houston is its ESC. TEA keeps records on students, school districts and expenditures among other information and I can provide information for Region IV, but not easily for Harris County alone.

With so many of Harris County's population being younger than 18 years of age, 1,070,985 per the U.S. Census Bureau, one of the greatest challenges we face is to maintain an adequate number of classrooms and provide the classroom resources necessary to meet the needs of each student. We have to be able to predict where the families of school age children will be living in order to predict where classrooms will be needed and if schools must be built. We must be able to hire professional educators in sufficient numbers to maintain teacher-student ratios to both meet our state's requirements and provide the quality education our communities deserve.

In the State of Texas in the school year 2004-2005, there were 4,383,871 students in public schools from early childhood education at age 3 to grade 12. In Region IV there are 962,286 students. The ethnic break down of the students in Region IV is as follows:

African American	205,110	21.3%
Hispanic	400,271	41.6%
White	302,170	31.4%
Native American	1,622	0.2%
Asian/Pacific Islander	<u>53,113</u>	5.5%
	962,286	

Gathering statistical data on the impact of illegal immigration on education is almost impossible because ISDs are prevented by law from gathering and disseminating that information. The United States Supreme Court decided in *Plyler v. Doe*, 457 U.S. 202 (1982) that a Texas statute which allowed the state to withhold state funds from local school districts for the education of children who were not "legally admitted" into the United States, and which authorized local school districts to deny enrollment to such children, violated the Equal Protection Clause of the Fourteenth Amendment.

This ruling established the principle of "Don't Ask-Don't Tell" in public schools. Children cannot be denied an education because of citizenship status and therefore there exists no reason to ask the question and collect the data. There was a belief that children should not be punished because of the actions of their parents and therefore deserved the opportunity to receive an education and an opportunity to become productive members of society.

While we cannot accurately quantify the impact that illegal immigration has on public education in Harris County, there is no way to deny that there is a substantial impact.

Based mostly on anecdotal evidence from administrators, teachers and students who tell of their experiences with over-crowding, security and discipline problems as well as substantial language barriers and cultural differences that distract from the quality of education received in the classroom, there is no way to deny that problems exist and have existed for generations.

There is also no way to deny that our continued effort to educate any and all students who want an education will enrich our county, our state and our country.

The starting point for providing an education is to overcome language barriers that exist when students are English language learners (ELL) in order to comprehend classroom instruction.

The goal of the state's Bilingual Education and English as a Second Language (ESL) Programs are to enable ELLs to become competent in comprehending, speaking, reading, and writing the English language and to succeed academically in Texas public schools.

There is no direct correlation between citizenship status and Bilingual Education/ESL Programs because children born in the United States are citizens by birthright granted in the 14<sup>th</sup> Amendment to our constitution, but they may be raised in a household where only Spanish or another language is exclusively spoken. However, these programs may provide an insight that will help approximate the impact that illegal immigration has on public education.

According to TEA in the school year 2003-2004 (the most recent data available), 631,534 or 14.4% of all students in Texas public schools were enrolled in Bilingual/ESL educational programs. Some 25,000 or 8.4% of all teachers were part of these programs and \$965,336,115 or 4.2% of all funds spent on public school education was spent on these programs.

In our TEA region, the numbers were slightly higher. Seventeen percent of our students in Region IV were enrolled in Bilingual Education/ESL Programs and 9.5% of teachers taught in these programs. Of all funds spent by ISDs in Region IV, \$332,600,000 or 6.8% was spent on these programs.

These numbers have been trending upward in the past decade. In the school year 1999-2000, 14.4% of Region IV students and 8.9% of teachers were part of the Bilingual Education/ESL Programs while \$176,676,005 or 6.3% of all funds spent on public school education was spent on these programs. In the school year 1994-1995, 12.3% of Region IV students and 7.8% of teachers were part of the in Bilingual Education/ESL Programs \$126,365,532 or, again, 6.3% of all funds spent on public school education was spent on these programs.

Again, these programs do not reflect the actual number of undocumented students in Texas or Region IV schools, but these statistics may assist the committee's efforts to begin to quantify the impact that illegal immigration has on public education in the United States. As we learned from the aftermath of Hurricane Katrina, any kind of rapid growth in our communities has a serious impact, whether that growth is from disaster relocation or a rapid influx of immigrants. In our schools planning for providing adequate resources for infrastructure, teachers and teaching materials, we must also provide additional security, transportation for students, breakfast and lunch programs and extracurricular activities. We must also provide the resources to deal with the special needs of students who have language and cultural differences that

prevent them from learning. While this is not a job too big for us, it is certainly a continuous challenge that is certainly exacerbated by illegal immigration.

## **HEALTH CARE**

Fortunately, I am able to provide better statistical data to you on the impact of illegal or undocumented aliens on our public health care delivery system in Harris County. On April 4, 2006 the Harris County Commissioners Court asked David Lopez, the President and CEO of the Harris County Hospital District to provide a report on the use of the Hospital District's facilities by undocumented residents of Harris County for the most recent four-year period. We also asked for information on the fiscal impact to the county for any uncompensated costs that the taxpayers of Harris County would be asked to pay to support the system. On June 9, 2006, Mr. Lopez provided the Commissioners Court with a report of an analysis for the years 2002 through 2005. I have included that report as an attachment to my testimony.

Briefly, I'll summarize the most important findings of the data analysis that went into that report. The Harris County Hospital District (District) is a political subdivision of the State and as such it has the authority to tax property within Harris County to generate necessary operational revenue. It is run by an appointed Board of Managers. The Harris County Commissioners Court approves the District's annual budget and sets the appropriate property tax rate to meet expenses.

This report looks at three cost centers to determine the total cost of services provided: undocumented inpatient care, undocumented outpatient care and undocumented pharmacy-only care. The term "undocumented" refers to all non-U.S. citizens who have failed to present appropriate documentation to establish U.S. citizenship when either presenting for emergency care or applying for Harris County Hospital District eligibility.

From 2002 to 2005 the District saw a 17.7% increase of **undocumented inpatients** served and a 50% increase in cost for services rendered. The total cost for undocumented inpatients for 2005 was \$82,240,000 with a four-year total (2002-2005) of \$272,600,000.

During that same time period the District received payments and reimbursements totaling \$106,600,000 leaving an unpaid balance of \$166,000,000 that had to be paid by Harris County taxpayers. Of the undocumented population discharged in 2005, 83% were persons from Mexico; 6% were from El Salvador and Guatemala; and the remaining 11% of the discharged were from either Britain, Canada, Haiti, India, Iraq, Iran, Nigeria, Nicaragua, Vietnam or "other."

Looking at **undocumented outpatients** served by the District, outpatient clinical activity grew from 177,981 visits in 2002 to 272,067 in 2005, representing a 52.8% increase during that time period. In 2005, undocumented outpatients generated approximately 18% of District total outpatient visits. The costs for outpatient clinical services grew from \$19,600,000 in 2002 to \$38,400,000 in 2005, representing a 96% growth rate.

Payments and reimbursements fell by \$600,000 during that period, leaving a growth in net cost of 111% for a total of \$103,100,000 in net costs for undocumented outpatient services rendered. Of the undocumented population that sought District outpatient services in 2005,

86% were from Mexico; 4.5% from El Salvador and Guatemala; and 9.5% were from Britain, Canada, Cuba, Haiti, India, Iraq, Iran, Nigeria, Russia, or “other.”

**Outpatient pharmacy-only** visits are visits during which a patient does not have an encounter with a provider and receives services only at the pharmacy, e.g., prescription refills. Annual pharmacy-only visits for the undocumented grew from 75,611 in 2002 to 156,637 in 2005 representing an increase of more than 100%. Costs grew at a rate of 145% from \$3,100,000 to \$7,600,000 for a four-year total of \$19,600,000.

Payment and reimbursement for that period was \$2,100,000, resulting in a net cost of \$17,500,000 for the 4-year period. Of the undocumented population that sought District “pharmacy only” visits in 2005, 86% were from Mexico; 4.5% were from El Salvador and Guatemala; and 9.5% were from Britain, Canada, Cuba, India, Iran, Iraq, Nigeria, Russia, Vietnam or “other.”

The total cost to the District for undocumented inpatient, outpatient and pharmacy-only care for the year 2005 was \$128,400,000. The District received payments and reimbursements that amounted to \$31,000,000 for a total net cost of \$97,300,000.

For the four-year period covered in the report, costs were \$403,500,000 while payments and reimbursements totaled \$116,900,000 resulting in net costs of \$286,600,000 that Harris County taxpayers paid in the years 2002-2005 to provide health care services to undocumented residents through the District.

In addition to the net costs that were borne by Harris County taxpayers, \$99,140,000 or 84.9% of the \$116,900,000 in payments and reimbursements the District received from 2002-2005 came from Type Program 30 (TP30) a Federal Medicaid program for emergencies. Those funds are, of course paid by federal taxpayers so part of that comes from Harris County taxpayers as well.

Another finding that may be pertinent to your investigation is how the \$27,000,000 in Emergency Medicaid reimbursements was used in the year 2005. Of the 11,000 births performed by the District, 7,900 were to undocumented mothers. That represents 71.8% of all births and more than 80% of the Emergency Medicaid reimbursements to the District.

To put these costs into perspective, the entire budget for the District in the years 2002 through 2005 was \$2,636,000,000 total uncompensated care was \$1,364,797,000 or about 51.7%. Total net costs for undocumented patients of the District for that period was \$286,600,000 or 20.9% of the total uncompensated care for the four- year period. That figure for uncompensated care for undocumented patients of the District as a percentage of the total uncompensated care it provides has remained relatively constant over the past 4 years, that is right around 20%.

## **LAW ENFORCEMENT/CRIMINAL JUSTICE**

I will defer to the others on this panel to provide you with most of the information on Law Enforcement and Criminal Justice since this is their area of expertise. But I do want to give you my perspective on criminal activity and violence attributable to illegal immigration. The most dramatic increase in violence occurs with the formation and proliferation of gangs in Harris County. Large metropolitan areas make assimilation easier and greater numbers of victims to

prey upon. We continue to be concerned about what gangs are doing to the quality of life in our county and vigilant in our effort to prevent this kind of activity.

The James A. Baker III Institute for Public Policy at Rice University here in Houston is studying the most violent of these gangs and provides the following information:

Harris County is a hub of activity for “Mara Salvatrucha – 13” (MS-13) and reportedly a favorite area of operation for its leader Eber Anibal Rivera Paz, aka “El Culiche,” aka Franklin Jairo Rivera-Hernandez, aka Lester Rivera Paz. Rivera Paz was arrested and tried in Houston. He received less than two years for his illegal entry into the United States. Unfortunately, when released from federal prison for deportation, Honduran authorities were not notified, and he is again at large.

MS-13 is more than a street gang. Honduras considers MS-13 as its top national security threat, and President Ricardo Maduro of Honduras has framed the struggle against MS-13 and other gangs as a fight for the life of his nation. Authorities say the gang plotted to assassinate Maduro and kill the president of Honduras' Congress with a grenade, and the gang did kidnap and murder Maduro's son.

MS-13 is marked by its viciousness, brutality – initiation rights, assassinations, and dismemberment – as well as its paramilitary tactics. The gang participates in trafficking drugs, arms and humans, with two primary criminal enterprises being auto theft and weapons. Although originating in Central American barrios of Los Angeles, MS-13 flourished in Central America, and many gang members from Central America enter the U.S. illegally.

The gang shows no fear of law enforcement and is known to booby trap stash houses with anti-personnel grenades. Local law enforcement have been involved in intense shootouts with MS-13 and recovered advanced weapons, such as AK-47s. During Operation Community Shield in 2005, 14 MS-13 members were arrested in Houston. The Zetas also are believed to have a presence in Houston. Hopefully Houston will not become a future battle ground between MS-13 and Los Zetas, as Nuevo Laredo has been.

MS-13 is a far more dangerous gang than previous or current rivals because of its large numbers and complex member network. Members are typically more brazen than those from other gangs because if they become wanted in the U.S. their gang can arrange for their transportation across the border and relocation in a 'friendlier' country, while additional members are smuggled across the border.

MS-13 has now begun to target and fire upon U.S. border patrol from the Mexican side. In El Salvador, Honduras, Guatemala and Mexico members are known to threaten officials who interfere with their business, typically with a verbal threat to kill that official or their family.

The governments of these countries have been unable to effectively defend themselves against this gang, and in return this gang has been able to gain considerable political power. This strategy of hi-jacking governments is now being used against federal, state,



and local governments in the United States. In 2005 Los Angeles was investigating the gang, who, in retaliation left a bullet on the lead detective's door.

The Harris County Pretrial Services Department provides services that support informed, accountable pretrial release and detention processes while neither unduly restricting a defendant's liberty nor compromising the safety of the community. In performing this mission the department interviews nearly 9 out of 10 defendants in the county court system.

Pretrial Service workers are instructed to collect information about citizenship status, because Harris County's bail schedule has provisions for higher bail if a defendant is an illegal alien. It is very likely that if illegal aliens are released without sufficient bail, they would simply leave the area in order to avoid trial. The defendant report may be the only source a magistrate or judge has to make bail determination and to take proper preventative steps to assure the defendant appears for trial.

In the past four-year period an average of 19% of Misdemeanor Defendant Interviews were with non-U.S. Citizens. While 48.8% were legal residents or legally permitted to be in the U.S., 51.2% were undocumented and therefore illegally in this country. Of the total Misdemeanor Defendant Interviews, 10.2% were with illegal aliens. The number of illegal aliens who are defendants in misdemeanor cases in our courts have been trending upward by about 2.16% per year.

Looking at Felony Defendant Interviews in that same time period, 11.5% of all interviews were with non-U.S. citizens of whom 52.82% were undocumented, so that interviews with illegal aliens represented 6.7% of all such interviews. Felony Defendant Interviews with illegal aliens have also been trending upward by the same 2.16% per year.

Of all defendants of both misdemeanor and felony trials who were non-U.S. citizens, 60.4% were born in Mexico, with 67% of those from Mexico being in Harris County illegally. Most likely, those who were in Harris County illegally entered from our southern border.

While there is no real correlation between the number of legal and illegal aliens in the general population and those who are defendants in the civil justice system, we could take a rather simplistic look at our population of 3.69 million and calculate that about 310,000 might be here illegally. Some estimates put the population of illegal aliens in our region in 2005 at between 400,000 and 430,000 and those estimates are up 30,000 from the year 2000. Absent any formal or official way of knowing who is in the U.S. illegally, we must rely on best-guess efforts to determine that number.

If there were a national citizenship data base I would urge the federal government to authorize local governments to have the power to decide when and where that data base should be used. In determining citizenship status of a defendant in a trial or for a voter in elections it would be an extremely valuable tool. However, as I described in our public health area, using such a database might inhibit or prevent the proper investigation of the courses of communicable diseases in our community. I believe that we at the local level can best determine when to apply citizenship status and when it would not be in our best interest.

Mr. Chairman and members of the committee, I want to thank you again for allowing me to discuss our experiences and concerns regarding criminal activity and violence along our

southern border as well as the impact of illegal immigration on our community. I will be delighted to respond to any questions and I will continue to work with you and this committee to mutually serve our constituents in any way possible.

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TOPICAL OUTLINE of TESTIMONY

1-Opening

- Explanation of Texas county government
- Statistics on Harris county
- Port of Houston-a gateway to the Gulf of Mexico
- Difficulty finding citizenship statistics
- Public Health
- Elections

2-Public School Education

3-Health Care

4-Law Enforcement/Criminal Justice

5-Closing