AMERICAN CIVIL LIBERTIES FOUNDATION OF TEXAS, INC.

March 26, 1985

Bob McPherson Executive Assistant for Programs Office of the Governor Sam Houston Building (Room 2) Austin, Texas

600 West 7th Street
Austin, Texas 78701
(512) 477-5849

JAMES C. HARRINGTON

re: Project SAVE

Dear Bob:

We understand that Governor White will meet soon with the Commissioner of the Immigration and Naturalization Service about INS' desire to implement Project SAVE in Texas.

The purpose of this letter is voice our strong objections and request that Texas not accept Project SAVE.

Let me briefly outline the civil liberties concerns about implementing Project SAVE. They fall into four general areas.

As a matter of principle, we oppose any attempt to hook up one agency's computer information about individual persons with the computer of another government agency, particularly one that has as poor a record as does INS in enforcing constitutional safeguards in Texas. That violates any sense of privacy.

Further, Texas law on privacy may well prohibit a state agency from sharing its confidential information with an unrelated federal agency.

Secondly, INS' argument that the purpose of Project SAVE is to save money that would otherwise be expended for ineligible claimants is dubious at best.

Texas agencies already effectively implement mechanisms to verify that people in the United States without proper documentation or not otherwise under color of law do not receive benefits.

All the studies with which I am familiar indicate that persons without documentation do not apply for government benefits. It is illogical that they would because the potential of exposing their undocumented status and being deported is too great.



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Our fear is that, on the converse, Project SAVE may be used as a means to intimidate people away from the benefits to which they are otherwise entitled. Farm workers, for example, who are just now coming under the Unemployment Compensation Act, may well be too intimidated by the INS screening process that they will simply avoid one more tangle with an agency, given their generally unpleasant experience with other agencies. The purpose of the Unemployment Compensation Act is effectuated by encouraging people to take advantage of benefits and not discouraging them from doing so.

Project SAVE does not really save Texas money. Any savings would inure to the federal government and not to the State. On the other hand, the State would have to provide its own funds for the computer system and the personnel needed to effectuate the program.

Likewise, if there was any litigation attacking the project, it would be Texas that would pay the cost of litigation, as well as any retroactive benefits that were wrongly denied, either to an individual or to a class. The federal government would not reimburse those costs.

So, in terms of whatever financial gain there might be, and it would seem fairly small, that would benefit the federal government and expose Texas to administrative and litigative costs at a later date.

Third, my own experience, as well as what I have learned, confirms that the INS computer is not current and is often erroneous.

For example, a scenario could occur in which that a person with adjusted status would be entitled to unemployment compensation but a computer check, which was behind in the data, would reject that person for not having proper documentation. That would expose, of course, Texas to litigation -- apart from the obvious injustice.

An even more serious problem is that the INS computer does not show everybody who is in the United States under color of law. A number of people are in the country under color of law by virtue of a myriad of lawsuits (such as those who were protected by Silva awhile back). Those protected by court order are entitled to work in the United States. According to the INS computer, they would not have proper documentation. That would also be true of people who are parolees or asylum seekers and whose claims are in administrative/legal limbo because of lawsuits or just because of the agencies' inability to deal with the asylum

Bob McPherson March 25, 1985 Page 3

issues. This has been particularly true of situations with Haitians and with those from El Salvador, who comprise a large number of people here in Texas. It does not make any sense to keep those people from working and contributing to society while they are in the United States under color of law.

One simply cannot escape the conclusion that Project Save is being touted by the federal government for political reasons. The second inescapable conclusion is that INS is attempting to shift its own federal responsibility onto State people, having those folks enforce immigration laws at their expense and being able to blame them to the extent that INS is not able to enforce its own statutory obligations.

The potential civil rights and civil liberties abuses of Project SAVE are significant. It is clear that Project SAVE may discriminate against people who are in the United States under color or claim of law. Likewise, there are serious privacy concerns about the use of computers in our society, particularly when they interlock or interface one with another. The due process questions of erroneous computer infomation are substantial in that benefits are denied to people who are otherwise statutorily entitled to them.

We hope that you understand our concerns. We urge you to take whatever steps needed to assure that Project SAVE is not implemented in Texas. Project SAVE has no fiscal benefit to Texas. It is an effort by the federal government to shift its own responsibilities and costs to the State. Whatever its merit, Project SAVE raises the spectre of tremendous violations and abuse for those who, of all folks, work the hardest to make our society as strong as it is.

Thank you for your attention in this matter. If there is any other information we can provide, please let us know.

Sincer(ely,

James C. Warrington Legal Director

CORRALSAVE 1

March 26, 1985

Commissioner Marlin Johnston Department of Human Resources Box 2960 Austin, Texas 78769

re: Project SAVE

Dear Commissioner Johnston:

We understand that Governor White will meet soon with the Commissioner of the Immigration and Naturalization Service about INS' desire to implement Project SAVE in Texas.

We also understand that DHR has had a SAVE pilot program in place already for a period of time.

The purpose of this letter is voice our strong objections and request that Texas not accept Project SAVE.

Let me briefly outline the civil liberties concerns about implementing Project SAVE. They fall into four general areas.

As a matter of principle, we oppose any attempt to hook up one agency's computer information about individual persons with the computer of another government agency, particularly one that has as poor a record as does INS in enforcing constitutional safeguards in Texas. That violates any sense of privacy.

Further, Texas law on privacy may well prohibit a state agency from sharing its confidential information with an unrelated federal agency.

Secondly, INS' argument that the purpose of Project SAVE is to save money that would otherwise be expended for ineligible claimants is dubious at best.

Texas agencies already effectively implement mechanisms to verify that people in the United States without proper documentation or not otherwise under color of law do not receive benefits.

All the studies with which I am familiar indicate that persons without documentation do not apply for government benefits. It is illogical that they would because the potential of exposing their undocumented status and being deported is too great.

Marlin Johnston March 25, 1985 Page 2

Our fear is that, on the converse, Project SAVE may be used as a means to intimidate people away from the benefits to which they are otherwise entitled. Farm workers, for example, who are just now coming under the Unemployment Compensation Act, may well be too intimidated by the INS screening process that they will simply avoid one more tangle with an agency, given their generally unpleasant experience with other agencies. The purpose of the Unemployment Compensation Act, or of the Food Stamp Act which DHR administers, is effectuated by encouraging people to take advantage of benefits and not discouraging them from doing so.

Project SAVE does not really save Texas money. Any savings would inure to the federal government and not to the State. On the other hand, the State would have to provide its own funds for the computer system and the personnel needed to effectuate the program.

Likewise, if there was any litigation attacking the project, it would be Texas that would pay the cost of litigation, as well as any retroactive benefits that were wrongly denied, either to an individual or to a class. The federal government would not reimburse those costs.

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Marlin Johnston March 25, 1985 Page 3

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We hope that you understand our concerns. We urge you to take whatever steps needed to assure that Project SAVE is not implemented in Texas. Project SAVE has no fiscal benefit to Texas. It is an effort by the federal government to snift its own responsibilities and costs to the State. Whatever its merit, Project SAVE raises the spectre of tremendous violations and abuse for those who, of all folks, work the hardest to make our society as strong as it is.

Finally, we request that you make available to us as soon as possible all information which DHR has as to the SAVE pilot program(s), as well as any other information which DHR has about Project SAVE proposals.

Thank you for your attention in this matter. If there is any other information we can provide, please let us know.

Sincerely.

James C. Harrington Legal Director

CORR2/SAVE7

Texas Department of Human Resources

John H. Winters Human Services Center • 701 West 51st Street

Mailing Address: P.O. Box 2960 • Austin, Texas 78769



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THOMAS M DUNNING

- APR 2 2 1985

April 17, 1985

Mr. James C. Harrington Legal Director American Civil Liberties Foundation of Texas, Inc. 600 West 7th Street Austin, Texas 78701

Dear Mr. Harrington:

Subject: Project SAVE (Systematic Alien Verification for Entitlement)

This is in response to your letter of March 26, 1985 which documented your concerns regarding implementation of the Immigration and Naturalization Service (INS) proposed Project SAVE in Texas.

The Texas Department of Human Resources (TDHR) does not currently nor have we in the past conducted the SAVE pilot program. The TDHR Investigation Division does serve as the liaison with INS for receiving sensitive Food Stamp and AFDC documents confiscated during the deportation process. INS also provides a list of deportable individuals to TDHR for purposes of identifying potential welfare fraud cases. Historically these activities represent the extent of our relationship with INS to date.

Recently INS introduced Project SAVE to the Department as an initiative designed to prevent payment of entitlement benefits to aliens illegally in the United States. The program affords agencies who manage entitlement programs the ability to screen clients by Alien Registration Number on the INS computer and provides training in recognizing fraudulent INS alien identification documents. Per your request I have attached an overview of the proposed SAVE program which was provided to us by INS.

Although we have no immediate plans to implement the SAVE program as proposed by INS, a pilot for validating alien verification documents provided by Food Stamp Program applicants is under discussion. There are several points regarding this proposal that I would like to emphasize.

1. A computer match between the TDHR and INS computers would not occur. Currently questionable information must be verified prior to determining eligibility for food stamp benefits. In the pilot area, if questionable alien verification were presented, the Alien Number would be dispersed to the District INS office for computer inquiry. INS would then share the available information on record for the individual assigned to this Alien Number. This would be with the full consent and knowledge of the applicant.

Mr. James C. Harrington, Legal Director April 17, 1985 Page 2

2. I share your concerns regarding the rationale used by INS to project cost-savings. The Department supports initiatives which ensure that only eligible applicants receive benefits and takes all statutory and regulatory precautions to prevent program abuse. However, effective preservation of program integrity is important for ensuring that benefits and services can be maintained for those individuals who are legally entitled to receive them. I agree that the INS proposal could deter eligible recipients from applying.

It is also true that any cost-savings resulting from implementation of Project SAVE in the Food Stamp Program would be realized in terms of federal dollars only. Likewise state dollars could be at risk from potential lawsuits as well as Quality Control and/or federal audit exceptions.

3. Finally, your point regarding the INS computer data is also an issue with TDHR. Its availability is questionable in terms of substance and currency and is not sufficient for TDHR to impose adverse action.

The Governor has not made a decision regarding the feasibility of implementing Project SAVE in Texas. However, TDHR does not intend to embark upon any initiative which would compromise the civil rights or privacy of the citizens served by our agency. Because of the concerns noted above and our interest in preserving program benefits for entitled individuals, TDHR prefers to test a modified system for validating verification provided by applicants during the normal application process. This pilot would be conducted in a restricted controlled area, would follow prescribed federal statutes and regulations and would allow us to determine cost savings using our own methodology. Should TDHR decide to proceed with a pilot involving INS or use of their data, the project plan will be shared with you in advance of implementation.

If additional information is required please contact Mr. Gordon Hardy at 450-4210 or Mrs. Diane Bottoms at 450-3463.

Sincerely,

Marlin W. Johnston

THE SAVE PROGRAM

The SAVE Program (Systematic Alien Verification for Entitlements) has been developed by the Immigration and Naturalization Service (INS) to increase the level of cooperation between INS and federal, state, and local entitlement benefit disbursing agencies. The objective of the program is to prevent payment of entitlement benefits to aliens illegally in the United States.

The SAVE program will enhance control of illegal immigration by reducing the ability of illegal aliens to remain in the United States. The program will also ensure that the limited funds available in entitlement benefit programs will be preserved for those who are legally entitled.

Several INS offices have already initiated programs with state agencies to identify alien applicants for entitlement benefits. These programs have resulted in significant cost avoidance for the state agencies at a minimal cost. These local efforts have served as prototypes for the SAVE Program.

The SAVE Program operates through the use of INS records by state agencies. INS automated record terminals are placed in facilities under the control of the state with appropriate safeguards to protect the integrity of INS records. State agencies have direct access to INS records to verify the immigration status of aliens who apply for entitlement benefits. If there is no record, or a questioned record appears, the applicant is referred to INS for formal status verification. Pilot projects in three states have proven the effectiveness of this approach. (See attached flow chart of the process.)

In each case a number of procedural or political hurdles were encountered and eventually overcome. While problems varied from state to state, they were of the following types:

- o Equipment and other resource limitations prevent direct access to INS records. This may be resolved through the lease of INS equipment.
- o Legal issues relating to privacy and administration of state records prevent the disclosure or exchange of information. These may require a legislative remedy, or the revision of state regulations after public notice.
- o Some local entitlement agency officials are reluctant to act as 'law enforcers' with respect to illegal aliens. The answer is the realization that the distribution of entitlement benefits is in fact an enforcement of federal and state legislation, and employees have a fiduciary responsibility to ensure that benefits are not unlawfully distributed.

THE SAVE PROGRAM

Currently, the most productive entitlement cost avoidance program is in California where estimated payments in excess of \$96 million will be avoided in FY 1984. This avoidance is achieved by performing automated record checks and referring "no record" and "questioned records" to INS personnel for status verification interviews. In FY 1984 over 21,900 unentitled aliens are expected to be identified and removed from Food Stamps, AFDC, Medicaid and Unemployment Compensation programs in the State of California alone. (See the California model in appendix A2) Smaller, but equally effective programs are operational in Colorado and Illinois. (See appendix A1 & A3)

Direct computer access to INS alien records is essential for successful long-term operation of the SAVE program. A uniform requirement of all benefit-disbursing agencies is timely and accurate information to avoid delay or denial of benefits to eligible applicants. When the pilot programs were started as manual operations INS personnel were quickly overwhelmed by the volume of record checks, backlogs grew, and it was difficult to provide the timely responses needed by other agencies. To prevent similar problems as the SAVE Program expands, INS is prepared to provide access to the Alien Status Verification Index and facilitate the linking of state computer systems, where they exist, to the INS system.

PROJECTED TIMETABLES

Time tables include initial active liaison at the State and agency head-quarters level to elicit participation and support throughout chains of command. Within two months a formal Memorandum of Understanding can be signed to implement the program. Installation of hardware can be completed within nine months from initial contact by INS. However, this time frame is dependent on the availability and accessibility of hardware, and the resolution of policy and privacy concerns which may exist at the state level.

PROJECTIONS OF POTENTIAL COST AVOIDANCE

The total potential cost avoidance with all fifty states and federal agencies active in the program is at least 11 billion dollars per year. Estimates of potential cost avoidance for an individual state are based on population. The following table outlines a range of estimated potential savings for states falling in three general categories based on population size.

AMERICAN CIVIL LIBERTIES FOUNDATION OF TEXAS, INC.

April 26, 1985

Dr. Hector García GI Forum 1315 Bright Corpus Christi, TX 78405

600 West 7th Street Austin, Texas 78701 (512) 477-5849

JAMES C. HARRINGTON

re: Project SAVE

Dear Dr. Garcia:

We understand that Governor White is getting closer to deciding whether Texas will implement Project SAVE as requested of him by the Immigration and Nationalization Service.

I have met with various state officials about the potential of Texas assisting INS in this matter.

Our concerns are three-fold.

First is our traditional fear of expanding computer hook-ups between government agencies, particularly unrelated state and federal agencies.

Secondly, because the INS computers are notoriously inaccurate and do not show people with legitimate status in the United States under court order, cross checks with the INS computer are going to make it more difficult for people to obtain benefits when they do so under court-protected status (such as the earlier Silva case, the Haitian cases, and the like). This problem is augmented because often times class members do not always know that they are entitled to protection and could be removed from that protection by being deported under the INS computer.

Third, the publicity generated by INS on its own initiative whenever programs like these are implemented have the effect of scaring people away from benefits because of their desire not to tangle with a bureaucracy in order to obtain benefits. This would be particularly true of farm workers just now coming into the unemployment system who perhaps have only arranged legal status in the last 10 years and would fear having that status jeopardized by applying for benefits. Even if that fear maybe unfounded, the general overall negative thrust by INS would have the potential of scarring people away.

Dr. Hector Garcia Page 2

At the present time, only the Texas Employment Commission (Bill Grossenbacher, Executive Director) and the Texas Department of Human Resources (Marlin Johnston, Commissioner) are considering implementation of Project SAVE. Enclosed is some of our correspondence with them.

Your help would be a boost in staving off one more INS attempt.

Sinderaly,

James C. Harrington Legal Director

CORR/GARCIA4

Dr. Hector García 1315 Bright Street Corpus Christi, Texas 78405

Dear Dr. García:

Thank you for your interest in my late husband's work. You were always his valued friend; I never forget that.

As I mentioned in our recent telephone conversation, George's papers, publications, other writings, correspondence and collection of books have all been turned over to the Latin American Collection at the University of Texas at Austin. There are very few things still here and I am sending a copy of what I have. I hope this material, limited as it is, will be of some use to you. The person at the University with whom you might correspond in regard to George's writings is Ms. Laura Gutierrez-Witt, Benson Latin American Collection, Sid Richardson Hall 1.108, The University of Texas at Austin Austin, Texas 78712-7330.

It was very good to hear from you. Best wishes.

Sincerely,

Luisa G. G. Sanchez

File: Letters Novo 4/29/85