

Michigan Civil Rights Commission
2010 Report on the Conditions of
Migrant and Seasonal Farmworkers in Michigan

Executive Summary

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Conclusion and Next Steps

Adopted March 22, 2010

MDCR Report on the Conditions of Migrant and Seasonal Farmworkers in Michigan

EXECUTIVE SUMMARY

“The seasonal labor system is fraught with problems for the migrant, the farmer and the local citizen. Farmers, who, because of the low prices received for their products...are reluctant to give the workers a high rate of pay. Housing, which may be used only a few months of the year, is an expense to farmers, though often the only kind of home a migrant has...Many of the problems associated with the seasonal labor force are inherent in the migrant movement of people and in the seasonal nature of agricultural employment.”¹

This quote is from *A Report on Migrant Labor in Michigan* prepared for the House and Senate Labor and Agricultural Committees in September of 1965. 45 years have passed since its release. In 2010, agriculture remains a very important part of Michigan’s economy.

Unfortunately the challenges faced by Michigan’s seasonal labor force remain as well.

Following its business meeting on June 22, 2009, the Michigan Civil Rights Commission held a public forum in Kalamazoo focusing on the rights of migrant and seasonal farmworkers. The Commission heard presentations from groups that work with, and advocate for, migrant farmworkers, as well as from farmworkers

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themselves. The Commission was moved by what it heard, and particularly concerned that people could be living in housing that was as bad as was described. Commissioners immediately determined that they not only wanted to hear more on the subject, they wanted to visit the migrant labor camps that were being described and see conditions for themselves.

¹ State of Michigan Legislative Service Bureau. *A Report on Migrant Labor in Michigan*. September, 1965, p. 2.

The Commission unanimously voted to investigate the allegations about conditions being faced by Michigan's migrant and seasonal farmworkers, and to report on what they discovered. The Commission did not set out to assess the overall conditions under which all of Michigan's migrant workforce labors, and this report should not be read as such. The Commission was disturbed to hear that some Michigan farmworkers and their families were being subjected to conditions that, if true, could neither be ignored nor tolerated. We set out to determine whether those describing such offensive conditions could both substantiate the allegations and establish that they were not unique isolated instances. This report describes what we discovered.

The reasons for undertaking this work were many. Simply put: Michigan must never idly tolerate discrimination against anyone. Nor can Michigan be known as a bad state to work in when we depend on so many hands to help us harvest our goods and support our economy. Migrant farmworkers are in demand by growers throughout the Midwest during the short harvest season. The workers know and learn which states and which growers provide safe and healthy accommodations and in which communities they are welcome. The best workers seek employment in those states and communities. In our current economic environment, Michigan cannot risk having crops rot in the fields due to a shortage of experienced farmworkers.

To gain a clear understanding of the concerns and challenges faced by migrant and seasonal farmworkers, the Commissioners felt it was essential to hear directly from farmworkers. To facilitate this, five public forums were scheduled in areas with high concentrations of migrant and seasonal farmworkers. The public was also able to submit comment and testimony directly to the department by email or mail. A Record of Concern form was created and then translated into Spanish (from English).

During this investigation, a number of problems were uncovered. First, families were often living in housing that was extremely substandard, including structural defects, lack of

clean running water, exposed wires, overcrowding, close proximity to fields (and thus pesticides) and poor sanitation. Because camps are typically inspected pre-occupancy, the most hazardous violations are often not apparent, or may not yet exist, when the inspector is present.

Second, the Commission heard testimony from many farmworkers describing discrimination that they had endured. Farmworkers related incidents of sex-based discrimination against women, sexual harassment, national origin discrimination and racial discrimination. The Commission received several reports of employers refusing jobs to U.S. citizens or to English-speakers, preferring instead to hire farmworkers who do not speak English and are thus believed to be less likely to know they have the right to be treated fairly or to complain about low wages or poor working conditions.

Third, the working conditions faced by migrant and seasonal farmworkers were often the topic of their testimony during the forums. Problems described included the lack of drinking water, portable toilets and handwashing facilities available in fields where the hand-harvesting various types of agricultural products is taking place. Some workers said they did not have access to water in the fields at all, while others stated their employer charged them for water. Some stated there were no bathrooms and no breaks offered. Other testimony during the forums described outright wage theft and established that the accepted industry practice of growers paying piece rates to workers often results in workers being paid less than the required minimum hourly wage.

Fourth, for many of Michigan's migrant farmworkers, language barriers present a substantial obstacle to accessing services. Although all organizations that receive federal funding are required to provide equal services for their Limited English Proficient (LEP) clients, many do not. The testimony outlined difficulties encountered when attempting to obtain drivers'

and marriage licenses at some Secretary of State's offices, in interaction with health care providers, county clerks' offices, the police, and with local hospitals.

Problems with state and local law enforcement were discussed by several individuals. Allegations included officers overreaching into the area of federal immigration law and stopping people without cause based on their appearance, a form of discrimination often termed racial profiling.

Child farmworkers not only have limited legal protections, they also face extremely hazardous working conditions. Several people testified that these conditions have had severe negative impacts on children and their future. Coupled with this, others spoke about the inability to procure childcare while working in the fields for long hours each day.

Finally, racism and other forms of mistreatment directed at farmworkers by people in the community were alleged. While some might discount some of this animosity as the result of a bad economy, this can not excuse the mistreatment of migrant and seasonal farmworkers who are contributing to Michigan's agricultural economy.

During the public forums and site visits we also met a substantial number of wonderful people who are committed to helping Michigan's migrant farmworkers and their families. We also met with growers who have developed deep relationships with two or three generations from the same families of workers who return season after season. Even these growers expressed deep concern about the future of hand-picked crops as the ability to guarantee the availability of workers for each subsequent season becomes more difficult and the market price for hand-picked crops either has no growth or in some cases is declining.

This executive summary presents only a brief synopsis of the Commission's efforts, its observations and findings. We encourage you to refer to the full report for greater detail.

CONCLUSION AND NEXT STEPS

The Michigan Civil Rights Commission (MCRC) recognizes that this report is being released during a very difficult economic time. State government faces the necessity of greatly scaling back its expenses, even when it results in the elimination of important services. Agricultural growers, who are a vital part of Michigan's economy, also face serious economic challenges that in some cases threaten the ongoing viability of multi-generational family farms.

MCRC appreciates Michigan growers who employ seasonal migrant farmworkers in a humane and responsible way, and we are impressed by those who do even more to ensure the people who harvest Michigan's agricultural bounty feel welcome in our great state. We respect, admire and thank the many advocates and service providers who tirelessly assist seasonal migrant workers in ways too numerous to mention. We are no less appreciative of the considerable work being done by many State employees, even in the face of dwindling resources.

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The Commission hopes that nothing in our report is misconstrued as an attack on the efforts or compassion of those who are doing their best to ensure the rights of migrant farmworkers and their families are protected and respected.

To be sure, the Commission does hope that our report sends a strong and clear message about the deplorable working and living conditions of migrant workers in Michigan. This must change. This report is a first and necessary step.

In spite of the many fine programs we learned about, and the many good people we encountered, we also observed living conditions that were unacceptable and heard of abuses that are intolerable. During our on-site visits, Commissioners personally witnessed appalling living conditions in labor camp after labor camp. We heard testimony that should shock the conscience of all Michigianians.

In addition to being unconscionable in its own right, such abuses also hurt Michigan in economic ways. Mistreatment of today's migrant workers makes it more difficult to recruit needed workers in the future. Michigan must be seen as hospitable to migrant laborers or they will go elsewhere and crops will rot in the fields. Additionally, responsible growers are competitively disadvantaged when even a small number of growers are able to cut expenses by exploiting their workforce.

Therefore, while MCRC recognizes that the budgetary restrictions faced by all State agencies make increasing the protections and support provided our seasonal migrant workforce difficult, we assert that it must be done. All of the State agencies involved must work more collaboratively, and they must work with federal and non-governmental organizations wherever possible, to ensure Michigan's migrant workforce is treated fairly in all respects.

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The Michigan Civil Rights Commission therefore directs that the Michigan Department of Civil Rights work intensely with the DHS Interagency Migrant Service Committee, other State departments and agencies, and appropriate non-governmental entities to:

- 1) Identify ways to improve migrant labor housing inspections. This includes both ensuring that present inspection levels are maintained and finding ways to inspect housing after occupancy to ensure that it is not allowed to fall below minimum legal requirements while in use, ensuring enforcement of maximum occupancy limits for individual units, preventing minors from living in a unit with unrelated adults, or any other changes that can be identified to better protect the occupants of such housing. The percentage of total seasonal migrant labor housing that is inspected must be maintained, or even better, increased.
- 2) Ensure swift, certain, systemic and sufficient fines for housing, health and/or other violations as a deterrent to bad conduct.
- 3) Ensure migrant seasonal farmworkers are not paid less than the required minimum wage due to insufficient 'piece rates' or other reasons.

- 4) Build upon the efforts of the Interagency Migrant Service Committee to coordinate the actions of State agencies who deal with migrant farmworker programs, growers, migrant support service providers and other community leaders with the continuing goal of improving services to all parties, avoiding duplication of effort, and improving the living and working conditions of migrant farmworkers and their families.
- 5) Work with the Interagency Migrant Service Committee to determine whether the goal of improving the living and working conditions of migrant farmworkers and their families could be better met by reassigning specific functions from one department/agency to another.
- 6) Identify how, and where necessary implement, cross-training of State employees working on site with growers and/or farmworkers in one area of expertise, to also function as additional observers on behalf of other departments and agencies. Particularly when violations of state or federal law can be observed, they must always be reported.
- 7) Ensure workers, growers and crewleaders are regularly informed about the legal rights of farmworkers including, but not limited to, the right to drinking water, handwashing facilities and bathrooms in the fields.
- 8) Work with Michigan State Police to clarify, and to inform both the public and law enforcement agencies about, the laws and regulations effecting the enforcement of immigration laws by police officers.
- 9) Identify specific amendments to Michigan law that could be made to address concerns raised in the report.
- 10) Find funding for and conduct an Enumeration Study to update the 2006 information.
- 11) Work with the Secretary of State to clarify the documentation and status requirements for both drivers' and marriage licenses and ensure uniform enforcement by all county clerks.
- 12) Eliminate any illegal use of child labor in agriculture.
- 13) Increase the number of State employees working with seasonal migrant farmworkers who speak Spanish and provide tools to facilitate communication between non-Spanish speaking State employees and non-English speaking workers.
- 14) Solicit recommendations from organizations with expertise on farmworker issues for ways these next steps may be accomplished, and provide submitted suggestions to the Commission, and the Interagency Migrant Service Committee.
- 15) Designate an employee of the Department as the Commission's liaison on protecting migrant seasonal farmworkers, and assign this person with the duty of coordinating the above efforts with the Interagency Migrant Service Committee and reporting back to this Commission on progress.