

# Nun, 3 Others Face Trial for Counseling Illegal Aliens

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**TUCSON**—Three federal anti-poverty agency workers and a Catholic nun face trial here Dec. 15 on federal felony charges of counseling illegal aliens in a case which one official said "could mean the end to every immigration counseling service in the country."

Defense and prosecution see the case as a test of basic interpretations of U.S. immigration statutes and a chance to determine the rights of aliens who unlawfully live in the United States while trying to legalize their status through "equity"—a child, spouse or relative who is a U.S. citizen or permanent resident.

Margo Cowan, 26, director of Tucson's westside Manzo Area Council, coworkers Cathy Montano, 20, and Margie Jauregui Ramirez, 22, and Panama-born naturalized citizen Sister Ann Gabriel Marcaicq, 45, of the Sisters of St. Joseph of Carondelet, have been indicted on 25 counts, all involving alleged violations of federal law in helping undocumented aliens to legalize their status.

The indictments charge the four with transporting illegal aliens, aiding and abetting aliens to elude inspection, knowingly aiding felons, entering false statements, unlawfully

copying citizenship papers and conspiracy.

Of these, Ms. Cowan is charged on all 25 counts, Ms. Montano on 13, Ms. Ramirez on 12 and Sister Ann Gabriel on three. Maximum penalties range from 77 years in prison and a \$98,500 fine for Ms. Cowan to 10 years' imprisonment and a \$15,000 fine for Sister Ann Gabriel.

The four work at the Manzo Council, one of seven Tucson area councils which provide services for the poor, including family counseling and child guidance. Manzo, serving Tucson's westside Chicano population, is the only one of the seven to offer immigration counseling.

There are many such counseling programs operating now in California, nine of them under the auspices of the federal Community Services

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Agency (CSA). Manzo director Cowan said her immigration project was not doing anything that CSA had not already approved for its California affiliates.

When the immigration counseling project was approved last January, neither Manzo nor its parent agency, Tucson's Committee for Economic Opportunity, sought opinion on its legality.

But CSA attorney Mario Lewis said he found "nothing unlawful" in Manzo's activities, as they were outlined in a May memorandum sent to him almost six months after the project began.

The memorandum said that Manzo had been offering counseling to, among others, "persons in this country who have no documents but who have some right to remain in the country because of equity."

And those are exactly the people Ms. Cowan says Manzo has counseled.

"The (undocumented) people we help here are people with equity (a citizen-relative who provides a legitimate channel to legalizing status in the U.S.)," said Ms. Cowan.

"If somebody comes in (for counseling) and they don't have any equity at all, all we can do is to say, 'Look, the law is really clear. The law says you ought to leave this country. If you don't fall into any of these categories (of equity), you can't legalize your status, and that's it.'"

Ms. Cowan and the others have strong feelings about the "appropriateness" of their efforts. All four have some background of social service, and Ms. Cowan and Sister Ann Gabriel both spent several years working for Cesar Chavez's farm workers in California.

Sister Ann Gabriel's religious order has a history of community involvement. One member, Sister Claire Dunn, was just reelected to the Arizona Legislature, and Sister Ann Gabriel said the Tucson Catholic diocese is "very supportive" of her in the case.

While there seems to be little disagreement about the humanitarian intentions of the Manzo four, government opinion is that Manzo, by its counseling, assumed the function of the federal immigration service—deciding who stays and who goes.

Ms. Cowan and other critics counter that the Immigration and Naturalization Service is arbitrary and so critically understaffed that its slow pace of paperwork could separate families for years.

Some contend that illegals who have a right to immigrate here legally—through spouse, child or other relative—should be allowed to stay until their paperwork is completed to keep from disrupting families, jobs and educational programs they began here as illegal aliens.

But federal officials in Tucson who enforce immigration law and prosecute its violators do not see it that way.

Their interpretation of the law, as shown by the indictments, is that, regardless of equity, nothing can be done

Morris Udall (D-Ariz.), said the board "definitely" knew Manzo would be counseling illegal aliens.

"There's nothing basically wrong about an immigration assistance project," said Morales, a past executive director of the CEO. "The people they assist are people who have equity. It's not a case of assisting someone who had just come across the border."

Three months later, Border Patrol officials, acting on complaints of disgruntled U.S. citizen job-seekers, raided several Tucson businesses where illegal aliens were working.

Three of the illegals carried papers identifying them as Manzo clients, and on the basis of these and client statements, the Border Patrol used a search warrant April 9 to remove close to 600 files from Manzo's offices. Not all of these were related to the illegal alien question. Many irrelevant files were returned and court action is pending on the rest.

(As the indictments six months later indicated, the seized files apparently did not substantiate original suspicions that Manzo workers were securing food stamps and welfare for illegal aliens, which would have constituted fraud.)

The names and addresses in those files enabled the Border Patrol to find almost 150 undocumented aliens, but the files seizure has made even client-citizens reluctant to return to Manzo, said Ms. Cowan, and she plans to make client-counselor confidentiality an issue at the trial.

Southern California counseling centers are awaiting the outcome of the trial, in which some of their own practices and beliefs will be tested.

Even if the criminal case against the Manzo four fails, federal officials indicated they would pursue the principle of the matter in a civil case which could affect California

programs which have operated relatively unhampered for years.

"It's nonsense," declared one local counselor briskly. "We're just helping the government do its own job. And everybody knows that 'transporting' means bringing aliens across the border, not giving them a ride."

Al Juarez, director of Los Angeles' nonprofit One Stop Immigration Center, Inc., is not so optimistic.

"It could be a dangerous precedent," he said. "We're alarmed about the Tucson indictments, which grossly misrepresent the law as we understand it in relation to providing assistance to undocumented aliens."

The "climate in Tucson is obviously very backwards," added Juarez, "and raises serious questions. They are taking the letter of the law and grossly exaggerating and distorting it."

Besides, Juarez said, calling undocumented aliens "illegal" or "felons" until they have been adjudicated is a violation of the right to trial, and of the right to be thought innocent until proven guilty.

"Our obvious concern," Juarez said, "is that such an action could be taken in Los Angeles County."

## *The U.S. contends that giving an alien a car ride is illegal transporting.*

with an illegal alien except to send him or her back across the border until the paperwork is processed, which can take a year or more.

There are hardship exceptions, the officials believe, but the right to determine who can stay rests solely with the government.

"We bend over backwards to help," said Border Patrol agent Carl E. Judkins. "If the person has a legal avenue into the U.S., we try to help them find a way as hard as we try to deport illegals."

That these two viewpoints are at loggerheads is illustrated in one indictment involving transporting an illegal alien—a 15-year-old Mexican girl seeking to immigrate legally through her fiancé, a U.S. citizen.

Manzo-associated sources said the incident occurred when the girl (then seven months' pregnant and now the mother of a 4-month-old daughter, a U.S. citizen, was scheduled to appear in Tucson Juvenile Court for a judge's permission to marry below the state's 16-year-old minimum age requirement.

The girl, who speaks no English, had no way to get from her southside home to the downtown court, so Manzo workers gave her a ride to make her court date, the source said.

That, says Asst. U.S. Atty. William D. Vogel, is knowingly transporting an illegal alien, which is a violation of law.

"If anybody transports an illegal alien—I don't care if it's only 5 feet—if it's other than to take them to immigration officials, then it's in furtherance of their illegal entry and is in violation of the law," Vogel said.

And when illegal aliens who had been previously convicted or deported sought Manzo's help in filling out complex immigration forms, Manzo workers should have turned them over to immigration officials, explained Vogel.

Since they did not report the aliens, but helped them complete the forms, they concealed a felony, a federal crime punishable by as much as two years in prison and a \$10,000 fine, officials contend.

(That particular legal theory prompted one California immigration counseling specialist to worry that "in that case, we'd all have to close down.")

The prospects of a confrontation between these two concepts began last January when the federally funded CEO permitted Ms. Cowan to set up the counseling project, funding it not with federal monies—Manzo's \$25,000 annual share goes largely to salaries—but with community contributions.

And there was "never any question," emphasized Ms. Cowan, that Manzo workers would be counseling undocumented aliens.

"Most of our clients are people who have been here for some time. They own homes, they are into steady employment, their kids are in the public school system," she said.

"It's just that they never knew how to legalize their status, so they began to come in and ask us for assistance."

The project had the majority support of CEO's 27-member board of directors.

Board member Hector Morales, a consultant to Rep.