



Hispanic Advocacy and Community Empowerment through Research

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**MIGRANT FARMWORKER ENUMERATION ESTIMATES AND THE ASSESSMENT OF
MIGRANT LEGAL SERVICES NEEDS IN MINNESOTA AND NORTH DAKOTA**

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Background

Southern Minnesota Regional Legal Services (SMRLS) contracted with HACER to assess the accuracy of available migrant enumeration counts, and to propose a protocol to better assess migrant legal services needs in Minnesota and North Dakota. Specifically, HACER was asked to conduct a review of the current literature on migrant enumeration and examine available population estimates to assess the accuracy of these numbers and report limitations and uncertainties found in the data. Moreover, HACER was asked to develop a survey instrument and a key-informant interview protocol to assess the legal services needs of migrants in Minnesota and North Dakota.

This report should serve as a basis for further discussion regarding the need for legal services among migrant workers and their families. It is a preliminary review of existing data on the enumeration of migrant workers and families in Minnesota and North Dakota. In this report we discuss existing studies and interviews conducted by HACER in order to assess the accuracy of migrant counts, identify areas where more information is needed, and suggest a research protocol to assess current needs for legal services among migrants.

Methodology

This report surveys the current literature on migrant enumeration estimates as it relates to migrant counts in Minnesota and North Dakota, and presents information gathered through key informant interviews. It also evaluates available enumeration data to assess whether current estimates say anything about the need for legal services among migrant workers and their families. The report presents preliminary findings and recommendations for further research. It also includes a survey and interview protocol to better assess legal services needs among migrant workers and their families.

The findings and recommendations in this report were drawn from several sources. First, the authors surveyed the literature on migrant enumeration. Second, we analyzed and compared migrant enumeration estimates for Minnesota and North Dakota as reported by federal and state agencies. Third, we interviewed several key informants who work in the migrant community to determine the extent to which available counts overestimate or underestimate the migrant population in either state. These interviews posed four main questions: how many sites does your organization operate that serve migrant and seasonal farmworkers, how many migrant and seasonal farmworkers has your organization served in the last five years, who is responsible for keeping track of those records, and are the records reflective of the actual population of migrant and seasonal farmworkers in that area.

The following agencies were selected because of their importance in providing services to migrant and seasonal farmworkers in either or both states: Migrant Health Services, the Minnesota Department of Economic Development, the North Dakota Department of Labor, the Minnesota Migrant Education Program, the North Dakota Migrant Education Program, the Minnesota Department of Human Services, and the North Dakota Department of Human Services. Although most agency representatives were willing to provide documentation of their programs, some hesitantly provided estimated figures during the interviews. The lack of information available about the number of migrant workers and families that come to the state each agricultural season makes any assessment of legal services needs from secondary data difficult.

Migrant Farmworkers Enumeration Data

There are several studies that contain data on the numbers of migrant farmworkers at the national and state levels. Due to the difficulties inherent in counting these workers, and the different definitions and methods used by different studies, estimates vary greatly, even at the national level (Owen, et al., 2004). Two oft-cited sources of information on the number of migrant workers and their families are the US Migrant Health Program's "Atlas of Migrant and Seasonal Farmworkers" and the Migrant Enumeration Project estimates by Larson and Plascencia. Whereas the Atlas reports that close to 4.2 million migrant *and* seasonal farmworkers and family members were present throughout the US in 1990 (Migrant Health Program, 1990), Larson and Plascencia (1993) estimate the number of migrant farmworkers and dependents to be slightly above 3 million just three years later. Another, more dated, study estimates there were approximately 800,000 migrant workers and dependents nationwide by 1980 (InterAmerica Research Associates, 1980; *cited in* Housing Assistance Council, 1996).

It is important to note that the Atlas estimated the number of migrant *and* seasonal farm laborers and their families throughout the United States in 1990. It compiled information from 41 states and Puerto Rico. Its purpose was to provide estimated numbers of workers and dates of activity to facilitate planning for services and to evaluate the extent to which Migrant Health programs are reaching their target population. In doing so, the Atlas used a set of definitions set forth in Section 329 of the Public Health Service Act (PHSA) to calculate aggregate estimates. The PHSA defines a migrant farmworker as an individual whose principal employment is in agriculture on a seasonal basis, who has been so employed within the past 24 months and who establishes a temporary place of residency for the purposes of that employment. A seasonal agricultural worker is an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker. Agriculture is interpreted to exclude those working in the fishing, lumber, dairy, cattle or poultry industries and those working in food processing unless the processing is performed on a farm in conjunction with production, cultivation, growing and harvesting of a commodity grown on the land. The Atlas estimates include both seasonal and migrant workers without distinction.

The Migrant Enumeration Project, on the other hand, was a study conducted for Migrant Legal Services by Dr. Alice C. Larson and Dr. Luis Plascencia in 1993. Migrant Legal Services (MLS) was interested in the number of workers and dependents in each location so as to allocate resources appropriately. The MLS Migrant Enumeration Project defined a migrant as anyone who, while employed in seasonal agricultural labor during the year prior to the study, could not return to his/her normal residence at night, regardless of whether the worker's normal residence were located in the same state, in another state, or in another country. Seasonal agricultural labor included hand labor; grading, sorting, packing or processing agricultural produce; working in nurseries or greenhouses; and tree panting and thinning operations. It did not include work in fisheries or dairies, or with eggs, poultry or other animals. A migrant dependent was anyone in the same residence who relied on the migrant worker's income. Family members who did not accompany the migrant worker to the seasonal residence were excluded (Larson and Plascencia, 1993).

Another source of migrant enumeration data is the U.S. Census. The decennial Census of Population and Housing conducted by the U.S. Bureau of the Census is intended to be a complete national enumeration of persons and households, including migrant and seasonal farmworkers. The Census, however, severely undercounts the number of migrant and seasonal farmworkers. Its efforts to count these workers and their families are hampered by the transient nature of migrant work, temporary and unconventional housing arrangements, overcrowded dwellings, language barriers and distrust of outsiders, specially government representatives (U.S. Government Accounting Office, 2003). Moreover, the Census collects information on income and employment only from a small sample of respondents (about 17 percent) and only about income and employment on the week immediately before Census Day, April 1. Since that is a low point in the agricultural season, many of the workers are either doing some other work or out of the country at Census time and they are thus not counted as agricultural workers (Housing Assistance Council, 1996).

Disparate estimates exist on the relative proportions of migrant and seasonal workers in farm labor as well. The National Agricultural Workers Survey (NAWS) provides information on the characteristics and work patterns of all crop workers, including seasonal, migrant and permanent farm laborers. It is the only survey that focuses on this population. NAWS draws its information from a stratified probability sample of over 2,000 farmworkers representing 12 USDA-designated agricultural regions. In 1994 and 2002, the NAWS report analyzed the migrant worker portion of the sample. On both occasions, it defined migrant worker as a person who traveled more than 75 miles to obtain a job in agriculture, without regard to specific crossing of geographic boundaries. Data gathered 2002 indicates that migrant farmworkers comprised 42 percent of all crop workers in the U.S. (U.S. Department of Labor, 2002). In contrast, the Department of Agriculture's quarterly Farm Labor Survey reports, under a different set of definitions, the proportion of migrant workers between 7.7 and 11.5 percent of all hired agricultural workers (National Agricultural Statistics Service, 2002).

To complicate matters further, there seems to be no agreement as to the actual number of farm laborers – migrant and non-migrant – that work in the U.S. Estimates place the figure between 757,000 (Current Population Census, 1999) and 2.5 million (Commission on Agricultural Workers, 1992).

Estimates specific to Minnesota and North Dakota show similar discrepancies. Larson and Plascencia (1993) estimate that in 1993 there were 53,145 migrants and dependents in Minnesota, and 30,745 migrants and dependents in North Dakota. (According to their study, the combined number of migrant farmworkers and dependents in the two states amounts to 2.75 percent of the national migrant population.) In contrast, the Migrant Health Program (1990) estimates that in 1990 there were merely 13,344 migrant and seasonal farmworkers and family members in Minnesota. The latter study provides no estimate for the migrant population in North Dakota.

More recently, a study by the Wilder Research Center, estimates the number of migrant farmworkers in the state of Minnesota to be between 2,015 and 16,549 in 1993, and

between 1,246 and 10,235 in 2003 (Owen, et al., 2004). It is important to note, however, that the figures in the Wilder study do not include food processing or horticultural occupations such as vegetable canning, nursery work and landscaping. Both of these occupational categories are thought to include large number of migrant and seasonal workers. Moreover, unlike the Migrant Health Program and the Larson and Plascencia studies, the Wilder study does not include dependents or family members accompanying migrant farmworkers.

Some state agencies in Minnesota and North Dakota track the number of migrant workers and dependents served through their programs. HACER collected data from state agency reports and conducted key informant interviews with selected personnel. We observed through the course of our investigation that state agencies used quite different definitions of migrant status. For instance, the Migrant Education Program defines a migrant as a person that has moved across intra- or inter- state school district boundaries for the purpose of securing employment in agriculture or fishery within a period of 36 months. In contrast, the Migrant Health Services follow the definition provided by the PHSA which establishes a qualifying window of 24 months.

Moreover, to the extent that the data provided by these agency merely tracks the number of individuals with whom the agency has had contact or to whom services were provided, it cannot be consider an estimate of the migrant population in either state at any given time. Nonetheless, the numbers may evince trends that cannot be gleaned from other enumeration data.

State Agency Statistics: Minnesota

The Minnesota Department of Employment and Economic Development (DEED) offers employment services to migrant farmworkers. The agency reports that it received 2,598 applications from migrant farmworkers in 2003, 3,482 in 2004, and 3,948 in 2005. The number of applications received is different to the number of individuals served by the

agency. According to a Migrant Labor Representative for DEED, the number of farmworkers served throughout the agency's nine workforce centers were 2,222 in 2002, 2,857 in 2003, and 3,112 in 2004 (interview with Edel Fernández).

The Minnesota Department of Education identified 9,876 children as eligible for Title I Migrant Education Programs throughout 28 participating school districts across the state of Minnesota in 2000-2001, 9,168 in 2001-2002, 8,933 in 2002-2003, 8,021 in 2003-2004, and 5,589 in 2004-2005 (derived from MIS data provided to HACER by the Minnesota Department of Education). In addition, the U.S. Department of Education (2001) reports that the total MEP participant count for 2000-2001 in Minnesota was 6,029, of which 3,324 took part of the summer program.

Migrant Health Service Inc., reports that in the years 2004 and 2005 an average of 7,200 patients were seen in the 9 health centers throughout Minnesota, with well over 20,000 migrant and seasonal farmworkers and family members registered each year. In 2003, Migrant Health served approximately 5,700 patients with close to 20,000 migrant and seasonal workers and family members registered (interview with Joan Altenbernd, Executive Director).

The Minnesota Department of Human Services reports that it provided food assistance to 3,608 individuals (1,051 cases) in 2004; 3,089 (938 cases) in 2005. The top five counties in terms of the number of migrant food assistant cases for 2004 were Renville (124), Mcleod (91), Wilkin (88), Clay (68), and Olmstead (66). The top five counties with the highest amount of migrant individuals receiving food assistance in 2004 were Renville (445), Wilkin (313), Clay (250), Olmstead (238), and Stearns (213). The top five counties with the highest number of migrant cases for 2005 were Renville (110), Mcleod (85), Olmsted (76), Wilkin (75), and Brown (59). The top five counties with the highest amount of migrant individuals receiving food assistance in 2005 were Renville (379), Wilkin (286), Olmstead (258), Brown (224), and Clay (210) (interview with Jill Hiatt, Food Assistance Representative).

State Agency Statistics: North Dakota

The North Dakota Department of Labor's Labor Exchange Agricultural Reporting System reports that for the year 2004-2005, state employment services staff had contact with 275 migrant seasonal farmworkers through three centers on the eastern side of the state (137 in Grafton, 71 in Fargo, and 67 in Wahpeton). This number is not a total count of migrant farmworkers served by the centers as the number of migrants is thought to be underreported and the figure does not include the other 13 sites throughout North Dakota. In fact, according to Job Service Monitor Advocate Gary Lee Hoffman, the North Dakota Department of Labor estimates that 1,200 to 1,500 migrant and seasonal farmworkers come to the state during the agricultural season (estimate based on past history and other organizational contacts records).

The North Dakota Migrant Education Program (MEP) reported that in 2002, 519 students attended their program of 532 that had enrolled. In 2003, 538 students attended, 613 had enrolled. In 2004, 624 students attended, 699 had enrolled. And in 2005, 633 students attended, 668 enrolled. Between 2002 and 2003, the MEP summer programs at Cavalier and Wahpeton closed due to low enrollment. The U.S. Department of Education (2001) reports that there were 408 MEP participants in the summer of 2001 of which 656 stayed year round. According to a key informant in North Dakota MEP, roughly 200 students stayed throughout the 2004-2005 school year (interview with Sandy Peterson, MEP Administrator).

According to Executive Director Joan Altenbernd, Migrant Health Services, Inc., is the primary provider of health services for migrant and seasonal farm workers and their families in North Dakota. With one location in Grafton, North Dakota, Altenbernd estimated that they see between 900 and 1,000 patients each year with anywhere between 5,000 and 7,000 migrant farmworkers and dependents registered for services at any given time. Altenbernd mentioned that the Montana Migrant Health Service Program may be servicing MSFWs on the western side of the state (interview with Joan Altenbernd, Executive Director, Migrant Health Services, Inc.).

The North Dakota Department of Human Services reported that there were 389 food assistance cases for migrant and seasonal farmworker families in 2004, 338 in 2005. No individual assistance data was provided. The top five counties in 2004 were Walsh (234), Traill (63), Pembina (30), Grand Forks (28) and Cass (17). The top five counties in 2005 were Walsh (184), Traill(50), Richland(29), Grand Forks(25) and Pembina (23). The top 5 counties for 2004 and 2005 are located along the eastern border of North Dakota with Minnesota (interview with Arlene Dura, Food Assistance Director).

Discussion

The farmworker enumerations available through national studies and state agencies offer a limited understanding of the presence of migrant farm laborers and families in the area, and their particular legal services needs in Minnesota and North Dakota. Disparate definitions of migrant status, the difficulties inherent in counting migrant farm laborers, and lack of recent enumeration data are but some of the limitations.

Most statistics on migrant farmworkers and dependents are produced by federal and state agencies for a variety of purposes. Several state agencies, for instance, keep track of migrant farmworkers for the purpose of allocating funds to local programs that service the migrant community. These agencies and programs have definitions of migrant status which are used to determine eligibility. Since there are so many agencies and programs that serve farmworkers and their families in any given state, the definition of migrant status varies considerably. These definitions vary in terms of mobility criteria, fields of qualifying work, duration of employment, distance and purpose of move, time elapsed since move, age and educational level, and income level (Owen, et al., 2004). Moreover, the counts and estimates of any one agency may include individuals who are not typically considered migratory workers, such as seasonal farm laborers who permanently reside in or around the worksite. Thus, some studies included information about family members or dependents who do not engage in farm work, while others considered migrant farm laborers only. For instance, whereas the Migrant Health Program's Atlas maps the population of seasonal *and* migrant workers and families, the Larson and Plascencia study *only* estimates the presence of migrants and their dependents. Furthermore, some programs that provide statistics on migrants are provided for persons who are citizens and/or documented workers and thus exclude undocumented workers or those with temporary admission to the U.S. (Housing Assistance Council, 1996). As a result, the estimates available through the various studies and statistics available today are, for the most part, incommensurable.

In addition, all available estimates to date either undercount or overcount the presence of migrant workers at all geographical scales, from the local to the national. As stated

above, the Census of Population and Housing severely undercounts migrant workers due to the timing of the decennial survey (early in the agricultural season), the transient nature of migrant work, language barriers, informal housing arrangements, and distrust of outsiders. Studies based on crop labor demand—namely, the Atlas and the Larson and Plascencia study—intentionally overestimate the number of migrant individuals because the studies are intended to estimate the number of workers needed in multiple locations, without consideration to the fact that migrant workers follow the crops, so to speak, from state to state. And the statistics available from state agencies are not meant to reflect the actual number of migrant individuals present in a particular location at any one time. These statistics rather track the number of migrant individuals contacted or serviced by the agency. For instance, while the North Dakota Department of Labor reports that for the year 2004-2005, state employment services staff had contact with several hundred migrant and seasonal farmworkers, the Department estimates that 1,200 to 1,500 migrant and seasonal farmworkers come to the state during the agricultural season.

Finally, the existing data available on migrant individuals is mostly dated. The three most comprehensive studies that attempt to enumerate migrant individuals nationwide and by state were conducted more than a decade ago: the National Farmworker Housing Study (InterAmerica Research Associates, 1980), the Atlas of Migrant and Seasonal Farmworkers (Migrant Health Program, 1990), and the Migrant Enumeration Project (Larson and Plascencia, 1993). More recent estimates rely heavily on the data and methodologies of these anterior studies. For instance, a 2004 Wilder study uses figures from the 1994 and 2003 Farm Labor Survey reports and the 1993 Larson and Plascencia study to estimate the number of migrant workers in Minnesota in 2003. Unfortunately, the Wilder estimate has two significant flaws: (1) Owen, et al. (2004) use figures provided in the Larson and Plascencia study, which include migrant farmworkers and dependents, to compute the ratio of migrant to seasonal workers in the state and derive a figure for 2003 from the estimates in the 2003 Farm Labor report, which only include the farmworkers themselves and not their dependents; and, (2) they assume that the ratio of migrant to seasonal workers remained the same over the ten year period between 1993

and 2003, a period that has seen tremendous changes in the nature and geography of agricultural work.

Despite the discrepancies and flaws of extant estimates and enumerations of migrant individuals in North Dakota and Minnesota, the data available provides important information about migrant farmworkers and their families (see Huang, 2002). The figures available indicate a decline in the number of migrant farmworkers present in North Dakota and Minnesota. Statistics provided by government agencies in North Dakota and Minnesota show a marked decrease in the number of migrant individuals contacted and/or served by these agencies. This perceived decline, it must be pointed out, may be due in part to factors unrelated to the actual presence of migrant individuals in either state. The decline in the number of individuals serviced and/or contacted by state agencies in Minnesota and North Dakota may be due in part to budgetary cuts to migrant service and outreach programs. Additionally, albeit the data available certainly reflects a decline in the demand for migrant workers on the field (due to the increased use of pesticides and mechanized harvesting methods), migrant workers are increasingly employed in agricultural and non-agricultural jobs (such as produce and meat packing and processing and construction) that are too often overlooked by migrant enumeration statistics.

Implications for assessing migrant legal services needs

It is tempting to assume the demand or need for social services in migrant communities can be gleaned from enumeration data. As discussed above, however, extant enumeration estimates and tracking statistics do not, and are often not intended to, accurately reflect the actual number of migrants in a particular place at a particular time. Most national studies use labor demand formulas that provide an estimate of migrant labor demand, not migrant workers. Agricultural surveys, such as NAWS and the quarterly Farm Labor reports, provide an estimate of the proportion of farmworkers that are migratory as well as their demographic characteristics. Yet, these surveys do not

provide accurate estimates of migrant populations in absolute numbers. The decennial Census severely undercounts migrant workers. And state agency statistics reflect on the agency's ability to identify, contact and serve migrant individuals. These numbers, therefore, provide a limited picture of the current demand for migrant social services needs in Minnesota and North Dakota.

In fact, Owen, et al. (2004) found that needs for social services in the migrant community cannot be adequately assessed from population estimates alone. It is our opinion that the needs for migrant legal services cannot be adequately measured from extant enumeration estimates and tracking statistics from state agencies either. Migrant farmworkers have special legal needs that can only be met through specialized delivery systems. Barriers that affect migrant farmworkers access to legal services include, among others, isolation in remote areas, inability to travel to a regular legal services office, cultural isolation, lack of familiarity with local agencies and resources, and dependence on employers and vulnerability to retaliation and intimidation (Stohl, 2003). These barriers have been the basis for justifying separate funding for migrant legal services. Funding of regional and state legal services is based on the 1993 state distribution estimates by Larson and Plascencia. As stated above, the Larson and Plascencia estimates only reflect demand for labor, not the actual number of migrant individuals in a particular geographic area, and it relies on assumptions that may have been reasonable back in 1993, but that may not reflect the current geography of migrant work.

The demand for migrant legal services in a particular geographic area, moreover, cannot be accurately assessed from the Larson-Plascencia distribution formula (currently, LCS estimates the demand for legal services in each state to be 70% of the Larson-Plascencia number for that state). The landscape of migratory work has changed significantly over the last decade. Changes in work and immigration regulation, demographic shifts in the migrant worker population, and changes in the nature and geography of migratory work may have resulted in substantial shifts in legal services needs that may not be palpable in population estimates and tracking statistics.

Recommendations

To assess the current and foreseeable needs for legal services among migrants in the region SMRLS should conduct surveys and key-informant interviews to ascertain the legal needs of migrants in the region (see attachments). The survey should target two groups: (1) migrants who seek legal services in the regional offices of SMRLS; and (2) migrants randomly-selected from the communities in which they live and work. The data collected from the former group will allow SMRLS to ascertain what factors induce migrants to seek legal services; the data from the latter group will allow SMRLS to assess the legal needs of migrants in the region, regardless of whether they seek or not available legal services. Attorneys, paralegals, and other legal services providers in both states should be interviewed as well so as to collect their expert opinion on legal services needs in the migrant community. The information collected would provide a more accurate assessment of migrant legal services needs than extant enumeration estimates.

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