

Finding a Coherent Policy on Migrants and Seasonal Farmworkers —

The First Step

by Charles Jeffress



Photo courtesy of N.C. Employment Security Commission

In June 1980, Dr. Joshua S. Reichert of Duke University submitted a report on migrant and seasonal farmworkers in North Carolina to the Division of Policy Development of the N.C. Department of Administration. Dr. Reichert found that North Carolina, when compared to the other major agricultural states in the country, “ranks last with respect to the existence of state laws and services designed to improve the conditions under which farmworkers live and work.” He recommended a host of changes to improve that situation.

Those changes will not be made in the 1981 session of the General Assembly. And they are not likely to be made in future sessions, either, unless a significant alteration occurs in the state policy regarding farmworkers. Currently, fourteen different state agencies, two federal agencies, and a host of local officials and private organizations have responsibility for serving the needs of migrant and seasonal farmworkers (see box on page 38). No central advocacy or coordinating office for farmworkers exists in North Carolina. No government official has the responsibility for ensuring that agencies are not duplicating efforts; none has a mandate to view the problems in a comprehensive way. No agency is assigned to review the effect of state laws on farmworkers, much less to propose any changes in such laws.

The term “farmworker” applies both to migrants, who follow the harvest from state to state, and to seasonal laborers, who work the fields close to home. Migrant farmworkers encounter special



Photo courtesy of N.C. Employment Security Commission

problems to which seasonal farmworkers may not be exposed, but both groups experience related problems of low income, poor health, lack of education, and lack of legal assistance. Within this general framework, however, various government and private agencies define "farmworker" in different ways. The U.S. Department of Labor, for example, considers anyone who works at least 25 days per year or earns at least \$400 in a year (provided 50 percent of total earnings comes from farm work) from farm labor to be a "seasonal farmworker." In this article, "farmworker" refers to persons — both migrants and seasonal workers — whose primary source of income are wages paid for field work.

In 1979, some 137,000 North Carolina residents worked as seasonal farmworkers. To help harvest the same year's crops, another 35,000 migrants flowed through North Carolina, three times more than had come just five years before. By the end of the 1970s, according to the National Association of Farmworkers Organizations, North Carolina ranked third, behind Texas and Florida, in total number of farmworkers. Migrant and seasonal workers harvest much of the fruits, vegetables, and tobacco produced in North Carolina, crops which together grossed almost \$2 billion in 1980.

Actions of the Hunt Administration

The problems of farmworkers are not new, and public attention has been directed to their conditions in North Carolina numerous times in

recent years.

- In 1975, Church Women United released findings that the "Fair Labor Standards Act is grossly and flagrantly violated in the North Carolina labor camps." Lucy Hancock, the author of the report, is now chief assistant to N.C. Secretary of Human Resources Sarah Morrow. Ms. Hancock wrote that "having visited migrant labor camps which were extremely overcrowded, structurally unsound, and which had unsanitary toilet and shower facilities, I cannot refrain from saying that this state has not come close to solving the problem of poor housing conditions in migrant labor camps."

- In 1977, the North Carolina Advisory Committee to the U.S. Commission on Civil Rights held a widely-publicized hearing in Raleigh on the enforcement in North Carolina of applicable state and federal laws pertaining to migrant and seasonal farmworkers. The report of the committee, issued in 1979, concluded that "farmworkers remain among the most deprived persons in the state. . . . Camp conditions are most often deplorable. Abuses in recruitment, in pay, and in the provision of adequate meals are common."

- Television and newspaper specials have dramatized the poor living and working conditions

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of migrant and seasonal farmworkers. WFMY-TV (Greensboro) in 1977 and WTVD-TV (Durham) in 1979 vividly portrayed migrant conditions. Tim Smith, a reporter for the *Fayetteville Times*, worked with migrants in Sampson and Johnston counties in 1979 and wrote a series of articles on his experiences. Steve Levin of the *Raleigh News and Observer* did a similar series in 1980.

In the summer of 1977, in response to a question by David Larsen of WFMY-TV, Governor Hunt indicated his concern for the improvement of migrant living conditions: "We've got to pull together and coordinate (our services)." But in the last three years, the response of the Hunt administration to calls for a coordinated policy on farmworker problems has been restrained at best. Various recommendations for coordination have gotten only "careful study and consideration," as Gov. Hunt wrote to one advocacy group.

In 1977, members of the migrant ministry of the North Carolina Council of Churches met with Arnold Zogry, director of the Division of Policy Development, and offered recommendations for state action to improve migrant conditions. Zogry assigned several policy analysts to investigate the area; a year later the Division reported that a recommendation for a migrant commission had been submitted to the Governor. Another year later, however, no overall policy had emerged from the administration, and the State Advisory Committee on Services to Migrants, an *ad hoc* group of

representatives of public and private agencies which provide services to migrants, wrote Governor Hunt recommending that a State Farmworker Advocacy Office be created. John A. Williams, executive assistant to the Governor, answered the Committee, explaining that because of a freeze on employment, the Governor's office could not "consider at this time your request that an Office for Farmworker Advocacy be established."

Ironically, at the same time the Governor's office was encouraging Dr. Reichert with his study of farmworker conditions in the state. In June 1980, Reichert submitted this report to the Division of Policy Development, outlining "the most critical problems currently faced by farmworkers in North Carolina." Two months later, the Division declined to release Reichert's report to the N.C. Department of Labor. In March 1981, an analyst in the Division said that Reichert's recommendations were "being considered." Later that month, Secretary of Administration Joe Grimsley told the State Advisory Committee that Gov. Hunt would ask the 1981 General Assembly to appoint a commission to study further the needs of migrants.

Diffusion vs. Coordination

Various state offices have responded to the needs of farmworkers in different ways, but no comprehensive approach to improving migrant living conditions has been formulated. No agency

Reichert Report

Below is an excerpt from "The Agricultural Labor System in North Carolina: Recommendations for Change," a report submitted to the Division of Policy Development, N.C. Department of Administration, by Dr. Joshua S. Reichert of Duke University. The 51-page report includes proposed changes in eight areas of law that affect migrants. In each section, as illustrated below, Reichert first summarizes a problem and then lists the proposed changes in the law. In addition to Wage and Hour Regulations (section shown below), the report contains sections on Workers' Compensation, Unemployment Benefits, Child Labor, Recruitment and Employment of Agricultural Workers by Labor Contractors, In-patient Health Services to Migrants, Migrant Education, and Labor Camp Housing. Through a point system, Reichert ranks the 20 states with the largest farmworker populations according to farm wage rates as well as to the quality of state labor statutes

designed to protect agricultural workers. In the summary tabulation, North Carolina ranks last.

For further information on the report, contact Patricia Yancy at the Division of Policy Development, N.C. Department of Administration.

WAGE AND HOUR REGULATIONS

Problem:

The North Carolina Wage and Hour Act which exists for the purpose of protecting the rights of workers in the state and ensuring that they are adequately compensated for their labor specifically excludes agricultural employees. In an ideological sense, this serves to perpetuate, indeed reinforce, self-serving employer myths regarding the inferiority of farmworkers — myths which contribute to their continued exploitation. In an actual sense, it denies them equal benefits under the law and allows widespread labor abuses by growers and crew leaders alike.

Recommendations:

1. Section (2) of Article 95-25.14(a) of the North Carolina Wage and Hour Act which specifically



Photo courtesy of N.C. Employment Security Commission

exempts persons employed in agriculture from provisions related to Minimum Wage (G.S. 95-25.3), Overtime (95-25.4), Youth Employment (95-25.5) and Record Keeping (95-25.15(b)) should be deleted, thereby providing agricultural workers full protection under the articles of the Act.

2. Moreover, due to the highly seasonal nature of farmwork combined with unique problems stemming from the labor contractor system, the following provisions, specifically applicable to agricultural workers, should be written into North Carolina's Wage and Hour legislation:

a. Agricultural workers employed directly by a farm operator must receive their pay at least twice a month. Those working for a farm labor contractor or crew leader must be paid at least once a week.

b. Whenever an agricultural worker quits his job, he must receive final pay within 48 hours of the end of work, or at the time of quitting if he gave at least 48 hours prior notice of his intention to quit. Also, whenever a worker is fired or laid-off, he must receive final pay immediately.

c. No employer may make any deduction from a worker's pay unless the deduction

is authorized by law or authorized in writing by the worker.

d. Each time an agricultural worker is paid, his employer must provide him with a written statement showing the dates for which payment is being made, the wage rate, the number of hours worked or the units of production, any deductions from the worker's pay and the purpose of each deduction, the net amount of pay, the name of the worker, and the name and address of the employer.

3. Finally, it is necessary to realize that any wage and hour legislation designed to protect agricultural workers will be virtually meaningless unless rigorously enforced. Consequently, the General Assembly should provide the N.C. Department of Labor with *adequate* funds to:

a. Print and distribute copies of pertinent state wage and hour regulations to all farm operators and labor contractors in North Carolina, and

b. Hire additional personnel whose job it will be to monitor complaints and conduct random field checks on farm operators and labor contractors throughout the state.

has the authority to examine migrant and seasonal farmworker problems from a broad perspective. Until 1978, no state agency had so much as compiled a listing of known migrant camps within the state.

There are some advantages to a diffusion of responsibilities. Professionals can deliver services in their areas of expertise — educators may provide educational services, sanitarians can check sanitary conditions, and social workers are able to provide

AGENCIES WHICH SERVE FARMWORKERS IN NORTH CAROLINA

FEDERAL AGENCIES

U.S. Department of Agriculture

Farmers Home Administration
(provides loans for construction housing)

U.S. Department of Labor

Wage and Hour Division
(enforces the Farm Labor Contractor Registration Act and the Fair Labor Standards Act)

STATE AGENCIES REPORTING TO THE GOVERNOR*

Department of Human Resources

Division of Mental Health Services
Local Mental Health Centers
(standard community services)

Division of Social Services, County Social Service Agencies
(administers food stamp, AFDC and other social welfare programs)

Division of Vocational Rehabilitation
(provides services to the disabled)

Migrant Health Program
(outpatient health counseling & medical care; short term in-patient care as funds permit)

Sanitation Branch
County Sanitarians
(enforces the state law regulating the sanitation of agricultural labor camps)

Department of Commerce

Employment Security Commission
Rural Employment and Training Service
(places farmworkers with growers)

Department of Administration

Human Relations Council
(promotes equality of opportunity; assists in resolution of human relations complaints)

Department of Natural Resources and Community Development

Division of Employment and Training
(training opportunities to disadvantaged persons through CETA; covers 86 counties)

State Economic Opportunity Office
Local Community Action Agencies
(technical assistance to 35 community action agencies)

STATE AGENCIES INDEPENDENT OF THE GOVERNOR**

Department of Labor

Occupational Safety and Health Division
(enforces OSHA standards in migrant labor housing)

Department of Public Instruction

Migrant Education Section
(educational services to children of migrants)

Board of Community Colleges

Local Community Colleges
(provides training opportunities)

University of North Carolina

NCSU Agriculture Extension Service
(information and training on production, marketing and labor relations)

Department of Agriculture

Food Distribution Division
(surplus food and price support programs)

The amount of state funds and staff time devoted solely to farmworker concerns is impossible to determine. With the exception of the Migrant Health Program and the Migrant Education Section, all of the above programs are designed to serve far broader constituencies than just farmworkers.

* The Governor appoints the heads of the departments grouped in this category.

** The heads of the agencies grouped in this category are either elected by the public (Labor, Agriculture, and Public Instruction) or appointed by a Board, a majority of whom are elected by the General Assembly.

family services. Potentially more resources are available to serve farmworkers through a diversity of agencies than would be the case if a single agency had all the responsibilities, and by spreading these responsibilities among many agencies a greater awareness of the problems of this population group may be generated.

A few interagency agreements have been signed to effect more efficient administration of some laws. At one point, for example, four agencies — two state, one federal, and one local — had responsibility for inspecting housing conditions for migrants, and among these agencies there were three different sets of standards. Recognizing the problem this posed for growers, crew leaders, and migrants, the four agencies attempted to coordinate their activities. Three of them — the N.C. Employment Security Commission (ESC), the federal Wage and Hour Division (U.S. Department of Labor), and the N.C. Department of Labor — adopted the standards of the Occupational Safety and Health Administration (OSHA), which in North Carolina is administered by the state Department of Labor. But the fourth agency, the local county sanitarians, was required by statute to enforce a different set of standards. They have been encouraged, nevertheless, to inform growers at the time of their inspections of the OSHA requirements.

Despite efforts to adopt uniform standards and to sign interagency agreements, coordination remains a tough problem. Efforts to enforce health and safety standards illustrate the difficulties involved. Requests by North Carolina OSHA to have local sanitarians report on inspections which they conduct have been met by demands for reimbursement. In 1978, OSHA paid \$50 for each report on a migrant camp inspection submitted to OSHA by local sanitarians in Sampson, Johnston, and Nash counties. This arrangement enabled the N.C. Department of Labor to target its OSHA inspections to those camps in the worst conditions. Since 1978, however, funds have been unavailable to meet the asking price of \$75 per report. Despite this lack of assistance from the local sanitarians, during the 1977-79 period the Department of Labor was able to inspect all inhabited migrant camp housing. Commissioner of Labor John C. Brooks, however, often points out that compliance with OSHA standards only means that the camp meets minimum requirements for safety and health. The housing may still appear to be a slum dwelling.



Photo courtesy of Raleigh News and Observer

Comprehensive Policy Needed

For the state to enforce laws pertaining to farmworkers effectively, agencies must continue to find ways to cooperate with one another. Numerous interagency agreements, however, are no substitute for a comprehensive policy which directs resources where they are most needed. With the diffused responsibility for farmworkers that currently exists, their concerns rarely rate a high priority for any state agency. Without a comprehensive state policy, neither new legislation nor additional funds can be expected to be directed toward problems of farmworkers. No agency has the authorization or political support to seek statutory changes or to pursue funding needs.

The size and importance of our farmworker population, the variety of needs that exist within this population, and the current diffusion of responsibility all demand serious attention. In the last decade, the General Assembly has established commissions and advocacy councils for a broad range of groups — women, youth, the elderly, Indians, veterans, exceptional children, the mentally ill, the blind, the hearing impaired, and persons with sickle cell syndrome. No such effort has been made on behalf of farmworkers despite overwhelming evidence of problems among this group of people. Until such an effort is taken, farmworkers will continue to be perhaps the most abused group in North Carolina. As U.S. Congressman Charles Rose (D-N.C.) puts it, "Their destitution seems to bring out the most unholy traits in people." □