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### **“BEHIND EVERY ABUSE IS A COMMUNITY” U.S./Mexico Border Report to the United Nations Human Rights Committee Regarding the United States’ Compliance with the International Covenant on Civil and Political Rights**



By

The Border Network for Human Rights

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# **“BEHIND EVERY ABUSE IS A COMMUNITY”**

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## **“BEHIND EVERY ABUSE IS A COMMUNITY”**

### **U.S./Mexico Border Report to the United Nations Human Rights Committee Regarding the United States’ Compliance with the International Covenant on Civil and Political Rights**

#### **INTRODUCTION**



The Border Network for Human Rights-BNHR is a partnership of many human rights based community committees on the U.S./Mexico border. The Border Network for Human Rights’ general purpose is to facilitate the education, the organizing and the participation of marginalized border communities to defend and promote human and civil rights; to the end that these communities work to create political, economic, and social conditions where every human being is equal in dignity and rights. Currently, BNHR’s work focuses on immigrant communities in the colonias of El Paso, Texas and Southern New Mexico with extended partnerships throughout the border region and the interior U.S.

In the last six years, the Border Network for Human Rights has coordinated community-based campaigns to document cases of abuse. Local residents are trained as Human Rights Promoters on how to identify and document possible labor and law enforcement abuse. More than 100 Rights Promoters from various border communities in the region have been the leading force in observing, educating, and documenting the status of human and civil rights in their communities. BNHR currently has a database with hundreds of testimonies from community members indicating violations of human and civil rights. The testimonies woven throughout this report are only a small sampling of reports received by our office. It is through the efforts of community members that BNHR is able to submit this report to the Human Rights Committee.

#### **BACKGROUND: THE BORDER AND THE OTHER REALITY**

U.S. communities that lie along the border with Mexico live a reality that is essentially different from the rest of the country. U.S. immigration policy, often created as a result of trade interests, has transformed the region into a militarized zone where the U.S. Constitution and international law are selectively applied. By failing to recognize and affirm the fundamental human right of mobility, U.S. immigration laws and efforts to “secure” the southern border have had dire human consequences, from the ever-increasing tally of migrant deaths on the border to the systemic violation of the civil and human rights of border crossers and those living in border communities. A combination of factors – the U.S. Immigration and Customs Enforcement’s (ICE) lengthy history of abuse and impunity, ICE’s recent rapid and dramatic expansion to three separate entities, and the passage and implementation of restrictive immigration laws that drastically curtail and criminalize the human right of mobility – have created rife conditions with the potential for increased violence against border residents and migrants alike, ultimately threatening the foundations of democracy in the United States.

Immigration matters now fall under the Department of Homeland Security, following a trend of immigration classifications subjected to political whim. Given the nation’s need for labor,

immigration initially fell under the Department of Labor. Later, when the U.S. economy was suffering, immigration matters were handed over to the Department of Justice, implying immigration as a criminal issue. Now, under the Department of Homeland Security, the implication is that immigrants are a threat to the nation's security, thus ignoring a rich history of the United States that owes its growth and expansion to immigrant communities.

***“This report is also a desperate cry from border communities for justice, human rights and peace.”***

Those families and individuals living along the U.S./Mexico border have become pawns in the political game of foreign and national policy; often leading to the erosion of rights guaranteed all human beings under the U.S. Constitution, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights (ICCPR). Civil and political rights violations have long occurred in our border regions, and have only increased with the pending federal immigration legislation and the debate over this legislation that has given rise to a dangerous anti-immigrant sentiment throughout the nation.

The Border Network for Human Rights, in its first report to the Human Rights Committee, seeks to bring the voice of the border communities, long ignored by the government of the United States, to international ears, and to raise to the forefront of discussion the concerns surrounding the United States adherence to the International Covenant on Civil and Political Rights along the U.S./Mexico border. This report is also a desperate cry from border communities for justice, human rights and peace.

## **I. Right to Life, Liberty, and Security of Person (ICCPR Articles 6&9)**

Nation-state regulatory schemes condition the mobility across borders for international migrants within a global class structure. Economic and political elites move without obstacles in this global arrangement. Immigration and border control policies in this global system have made it possible for a minority to become more and more mobile by providing the legal flexibility for the exit and entrance of government officials, business owners, executives, administrators, and support technical. At the same time, these policies limit the mobility of low-skilled labor and the internationally displaced who are poor – most of who are generally people of color. Current nation-state border control policies are shaped to ensure the inequality of mobility as a part of the maintenance of larger socio-economic inequalities on a national and international scale.

Erecting borders for international labor makes it difficult for large numbers of workers to leave areas considered “favorable” for the establishment and expansion of transitional production units such as the assembly plants. At the same time, this creates the legal mechanisms for the increased exploitation of international migrants in dynamic and expanding economic sectors in receiving countries. In this manner, border control is sought as a policy decision not so much to stop unauthorized migration, but to frame the conditions in which international labor participates in the economic, social and political spheres in countries of origin and receiving countries.



Sustaining regulatory schemes that guarantee the control and inequality of mobility are essential for the strategy of high profits and low wages. For that reason, the use of armed force, border policing agencies, including the military, and institutional violence are necessary aspects of the global economic structure to enforce compliance with immigration and border control policies. In fact, the combination of global economic development, military integration, and the denial of rights of displaced populations, domestically and internationally, reproduces a de facto system of slavery for marginalized economic and social sectors, particularly the international migrants.<sup>1</sup> It is not the existence of regulatory schemes which are of primary concern, but the enactment of current discriminatory and unequal controls, which currently exist, creating a path towards civil and human rights violations.

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No other border control policy better illustrates this complex global integration and the inequality of the movement of persons than that of the United States with respect to its border with Mexico.

In 1994, at the same time that the North American Free Trade Agreement was adopted, thus reducing barriers to trade between North American countries, barriers to the movement of labor and people increased significantly. The United States government began implementation of Operation Hold the Line in 1993, a border enforcement strategy conceptualized by the El Paso Sector Border Patrol Chief at the time, and Operation Gatekeeper in October of 1994. According to a Department of Justice Report, these operations were intended to create higher visibility of Border Patrol agents along the more populated and easily crossed areas of the U.S./Mexico Border. These operations began the current trend towards militarization of the border by providing larger resources for apprehension and deterrence of “would be crossers” including infrared technology, motion sensors, helicopters, all terrain vehicles and the erection of solid fencing at the border. According to the report, Border Patrol authorities in San Diego believed that high visibility in one region would reduce illegal entry to that area while also creating an overall reduction in illegal immigration to the east as this area “was so rugged and inhospitable, and so lacking in transportation facilities and other amenities, that few aliens would attempt entry there.”<sup>2</sup> The same strategy was adopted with Operation Hold the Line along the Mexican border with Texas and New Mexico, and Operation Safeguard in Arizona.<sup>3</sup> These operations resulted in the squeezing of migrants from urban centers to the dangerous and deadly terrain of the mountains and deserts.

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<sup>1</sup> Jimenez, Maria. "Mobility, Human Rights and Economic Development: Lessons of the International Mexican Migrant Experience and United States Immigration Policies", In Motion Magazine, 2000. Also cited in From Global Capitalism to Economic Justice, Ed. Arjun Makhijani, (New York and London: The Apex Press: 1992) ; See also BNHR, A US/Mexico Border Report: The Status of Human and Civil Rights 2000-2003” available on-line at [http://www.bnhr.org/english/reports\\_2003.php](http://www.bnhr.org/english/reports_2003.php).

<sup>2</sup> Office of Inspector General, Background to the Office of Inspector General Investigation, available at <http://www.usdoj.gov/oig/special/9807/gkp01.htm>

<sup>3</sup> UCIS, INS’ Southwest Border Strategy, May, 1<sup>st</sup>, 1999 available at <http://www.uscis.gov/text/publicaffairs/factsheets/BPOps.htm>

### ***A. Border Enforcement Strategies Lead to Migrant Deaths and Increased Human Smuggling***

The inherent right to life protected under Article 6 of the ICCPR is severely jeopardized by United States Border Enforcement strategies mentioned above, which erect fences and walls in the more populated areas of the border region, forcing migrants desperate to cross in order to fulfill the basic necessities for life, into the dangerous terrain of mountains and the Arizona desert. As aforementioned, in 1994 the United States government began enactment of Operation Gatekeeper and Operation Hold the Line. Since the inception of these operations, more than 4,000 migrants have died crossing the U.S./Mexico border, having suffocated in the back of tractor-trailers, in trains, or dehydration in the desert. Dr. Bruce Parks, the Pima County Medical Examiner reported that the number of dead this year, 2006, already exceeds that of the past year, and the desert temperatures have yet to rise to their highest.<sup>4</sup>

As the difficulties in crossing increase, so too does the contracting of human smugglers or “coyotes”. While there are financial costs associated with smuggling, dangers also exist in forced servitude to pay off debts, rape, and in some cases death. Migrants have reported being locked in trailers along the U.S./Mexico border with little food or water until family members were able to pay off debt. In one of the most horrifying and famous cases, 19 migrants died from suffocation in the back of tractor-trailer packed with over 70 undocumented immigrants smuggled in an operation under the control of Karla Patricia Chavez.<sup>5</sup> Though Chavez is facing criminal charges, the capture and conviction of smugglers is not the norm, as smugglers often threaten immigrants with the lives of their families back home if information of their smuggling role is revealed. Women who cross the border with smugglers are often raped as part of their payment. With the current immigration policy being proposed, the price of human smugglers has increased and the majority of those seeking to flee economic oppression in their home countries are turning to smugglers as the only option for entry into the U.S. The United States has passed a series of legislation to curb smuggling and reduce risk to migrants, such as the Trafficking Victims Protection Act of 2000, but this has done little to offset the harsh border control policies which lead desperate migrants to this life-risking extreme.

### ***B. Militarization of the Border Threatens Life and Security***



While the very establishment of the U.S./Mexico border was the product of a U.S. military conquest, in recent years, the U.S. border has played host to a considerable expansion in the application of military logic in its domestic terrain. The expansion is evident in both the U.S. military’s direct and indirect involvement in areas of civil law enforcement and law enforcement agencies’ adoption of military strategy and characteristics.

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<sup>4</sup> Susan Carroll, AZCentral, Migrant Bodies Crowd Border Morgues, June 22, 2006 available at <http://www.azcentral.com/news//articles/0622bodies0622.html>

<sup>5</sup> Juan A. Lozano, *Alleged Smuggler Tells of Frantic Chase*, Boston Globe, February, 1, 2006 available at [http://www.boston.com/news/nation/articles/2006/02/01/alleged\\_smuggler\\_tells\\_of\\_frantic\\_chase/?rss\\_id=Boston.com+%2F+News](http://www.boston.com/news/nation/articles/2006/02/01/alleged_smuggler_tells_of_frantic_chase/?rss_id=Boston.com+%2F+News)

By deeming international drug trafficking a national security threat in 1986, then-President Reagan opened the door to the use of the U.S. military in domestic affairs. The U.S. Department of Defense formalized the military's involvement in drug interdiction in 1989 by creating the Joint Task Force-Six (JTF-6) with a mandate to provide military personnel for observation, reconnaissance, intelligence analysis and training. Quartered at Fort Bliss in El Paso, Texas, the JTF-6 would conduct more than 4,000 covert ground troop operations in the next eight years, eighty percent of these on the southern border. The majority of these operations were conducted at the request of the U.S. Border Patrol.

In several incidents, migrants and border residents encountered the JTF-6 coordinated troops with deleterious consequences for the civilians. In January 1997, a Green Beret exercise resulted in the wounding of a Mexican immigrant crossing into the United States via Texas' Rio Grande Valley; the troops justified their actions as one of self-defense. Five months later in May 1997, the death of Ezequiel Hernandez, a U.S. citizen shot by four Marines carrying out a similar covert operation, brought to light the degree of involvement of the military in policing domestic populations. While military patrols on the border were subsequently suspended, the door for continued direct military involvement on the border has not been closed.

Militarization of the border is not simply indicated by the presence of military personnel, but by the entire border enforcement strategy which utilizes military language, military training of civilian agencies, military technology and equipment to seek out undocumented immigrants at the border. Tim Dunn of the Resource Center of the Americas reports that the military conducted more than 4,300 missions with federal, state, and local police agencies between 1990 and 2000 without the public's knowledge. In his research, Dunn states: "Sandia National Laboratories, an Energy Department nuclear weapons facility in Albuquerque that works closely with the military, assessed border "security" for the INS in 1993, depicting all unauthorized crossers as "adversaries." A 1997 military intelligence mission for the Border Patrol designed a "threat assessment" for undocumented immigrants. At a higher level, the Pentagon's Center for the Study of Low Intensity Conflict helped design the Border Patrol's "Strategic Plan: 1994 and Beyond." The plan is almost entirely devoted to immigration enforcement, not the drug war."<sup>6</sup>

In May of this year, President Bush announced the deployment of over 6,000 National Guard troops to "assist" the U.S. Border Patrol along the border in California, Arizona, New Mexico, and Texas. Though state and federal officials deem that this is not a move towards the militarization of the border, and that the armed agents will be used only in a "support" fashion, past experience gives reason for community concern.<sup>7</sup> There are already 9,000 Border Patrol troops along the U.S./Mexico border. Some communities along the border, such as Douglas, Arizona, are overwhelmed with their presence. With a population of 14,000, the town is host to almost 500 Border Patrol agents, or one agent for every 30 people in the town. The proposed increase in U.S. Border Patrol agents and the deployment of 6,000 National Guard troops have filled the more marginalized immigrant communities along the border with terror. With over 6

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<sup>6</sup> Tim Dunn, *As the U.S. Military Melds with Civilian Police, The First Casualties are Immigrants*, Resource Center of the Americas, September 2000.

<sup>7</sup> Brandi Grissom, *Concerns Rise Over National Guard Troops on the Border*, El Paso Times (June 26, 2006) available at [http://www.elpasotimes.com/news/ci\\_3980233](http://www.elpasotimes.com/news/ci_3980233)

million people living on the U.S. side of the Mexico border, putting military patrols in their communities would place many people at risk. These soldiers are trained to kill, and are not properly trained in civilian affairs, particularly those related to the unique border region. Those families and individuals living within the boundaries of the U.S. should not be subjected to military-style stops, checkpoints, or other violations of their civil liberties.

### ***C. Civilian Vigilante Groups Promote Racism and the Erosion of Civil Liberties***

The militarization of the U.S./Mexico border has also given rise to a number of civilian militia groups whom immigrant communities refer to as “migrant hunters”. These groups, such as the Minutemen and the American Patrol, along with armed ranchers, have harassed immigrants crossing through the desert. The American Patrol, whose leader Glenn Spencer has been linked to white supremacist groups is listed as a hate group by the Southern Poverty Law Program, and Chris Simcox, co-founder of the Minutemen has allegedly referred to undocumented immigrants as a “throng of insects”.<sup>8</sup> In paragraph 282 of the Concluding Observations of the Human Rights Committee on the United States report, the Committee stated concern regarding the ease with which the public can obtain firearms and the “fact that federal and state legislation is not stringent enough in that connection to secure the protection and enjoyment of the right to life and security of the individual guaranteed under the Covenant.”<sup>9</sup> Many of the vigilante group members carry firearms. To date only a few cases have been documented in which individuals were threatened by the current vigilante groups with weapons, however, the American Civil Liberties Union reports that a records request revealed a disturbing number of incidents regarding vigilante activity on the U.S./Mexico border in which migrants reported being “shot at, bitten by dogs, hit with flashlights, kicked, taunted, and unlawfully imprisoned”.<sup>10</sup> On May 13, 2000, Eusebio de Haro, a Mexican immigrant, asked the wife of a rancher outside of Brackettville, Texas for water. Samuel Blackwood, the owner of the ranch, shot and killed the young migrant.<sup>11</sup> One month earlier Coy Brown shot at two migrants who were fleeing after he demanded that they leave his property.<sup>12</sup> The presence of border militias and armed ranchers at the border only serves to escalate the potential for violence, threaten community security, and propagate racism and hate.

On the week of June 23, 2006 the Border Action Network in Arizona filed a petition with the Organization of American States Inter-American Commission on Human Rights condemning the U.S. for failure to prosecute vigilante groups. The U.S. response was to encourage victims of abuse to seek justice in the local courts. Border Action Network states however, “when the local sheriff publicly praises vigilantes, justice can be hard to find.”<sup>13</sup>

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<sup>8</sup> James Reel, Men with Guns, Sojourners Magazine, July-August, 2003 available at <http://www.sojo.net/index.cfm?action=magazine.article&issue=soj0307&article=030720>

<sup>9</sup> CCPR/C/79Add.50/A/50/40, paras. 266-304 (Concluding Observations/Comments)

<sup>10</sup> ACLU, Creating the Minutemen: A Small Extremist Group’s Campaign Fueled by Misinformation (April 2006) available at <http://www.vigilantewatch.org/docs/CreatingtheMinutemen.pdf>

<sup>11</sup> Justin Torres, Texans: Border Violence, Tension Linked to Fed Bungling, CNS News Service, October 11, 2000 available at

<http://www.cnsnews.com/ViewPolitics.asp?Page=\Politics\archive\200010\POL20001011a.html><http://www.cnsnews.com/ViewPolitics.asp?Page=\Politics\archive\200010\POL20001011a.html>

<sup>12</sup> Resource Center of the Americas, Texas Ranchers Shoot Migrants, available at [https://www.americas.org/item\\_8732](https://www.americas.org/item_8732)

<sup>13</sup> Border Action Network, *Human Rights Petition Calling for an End to Vigilante Activities Proceeds*, June 23, 2006 available at <http://www.borderaction.org/news2.php?articleID=49>



#### ***D.Excessive Force by Authorities***

In paragraph 282 of the Concluding Observations of the Human Rights Committee, the committee states that it is “concerned at the reportedly large number of persons killed, wounded or subjected to ill-treatment by members of the police force in the purported discharge of their duties”<sup>14</sup> and the threat this brings to Articles 6 and 9 of the Covenant. For the past six years, Border Network for Human Rights has been documenting cases of abuse by authority (local and state police, Border Patrol, immigration officials, Sheriff, etc.). In the most recent report released in 2005, 43% of incidents reported involved abuse by local police or Sheriff’s Department, and 20% of cases reported were attributed to the Border Patrol.<sup>15</sup> The incidents range from pointing guns at immigrants, to making racist comments, to wrongful detention. There is great concern in communities with high numbers of enforcement officials regarding safety for themselves and their children. Though Border Patrol is trained to shoot only in life-threatening circumstances, the Border Patrol agents are outfitted with hollow point bullets which expand to 160% of their original size upon hitting the target, often causing vast internal wounds and resulting in death.<sup>16</sup> The following cases demonstrate the use of excessive force by authorities which has arbitrarily taken the life of immigrants.

- **November 1995:** A 12 year old girl in Pirtleville, Arizona was shot in the knee by a Border Patrol agent while camping in a tent in her own backyard. The agent reportedly stated that “he shot at them because he thought they were illegal immigrants or dogs”.<sup>17</sup>
  - **February 22, 2003:** 19 year old Juan Patricio Peraza Quijada was shot and killed by a Border Patrol agent on the streets of El Paso, Texas two blocks away from the migrant safe house where he was staying. Two plain clothes Border Patrol agents had stopped the youth while taking out the trash, asked for immigration status, and searched him for weapons. After finding nothing, Juan Patricio ran. Within a few minutes he was surrounded by 8-10 agents with guns drawn. The last agent on the scene fired. Witnesses taken to the local police department to give a statement were then ambushed by the Border Patrol who began active deportation. A Grand Jury subpoena was issued to protect the witnesses. The agent was deemed not guilty in a closed Grand Jury trial.<sup>18</sup>
- **June 4, 2003:** 22 year old Ricardo Olivares Martinez was shot five times in the chest by Border Patrol agent Cesar Cervantes while trying to climb back over the border fence, for reportedly throwing rocks at the agent. This was the sixth report since 1996 of immigrants being shot by Border Patrol agents for allegedly throwing rocks. A Freedom



<sup>14</sup> CCPR/79/Add.50/A/50/40, paras.266-304 (Concluding Observations/Comments)

<sup>15</sup> BNHR, *The Status of Human and Civil Rights at the Border 2004*, released 2/22/05

<sup>16</sup> Catholic Legal Immigration Network, CLINIC Opposes Use of Hollow Point Bullets by U.S. Border Patrol, January 17, 2003 available at <http://www.cliniclegal.org/InTheNews/pressreleases/hollow0103.html>

<sup>17</sup> Border Action Network, Justice on the Line: The Unequal Impacts of Border Enforcement in Arizona Communities, available at <http://www.borderaction.org/resources.php>

<sup>18</sup> Louie Gilot, *Grand Jury Clears Agent in Slaying of Immigrant*, El Paso Times available at <http://www.nbpc.net/news/archive/mayjune2003/slaying.htm>

of Information Act request by the Arizona Daily Star to get copies of a videotape and the autopsy report were denied.<sup>19</sup>

- **September 23, 2004:** Two women and a teenage girl drown in the Rio Grande in Eagle Pass, Texas. After having crossed the river, Border Patrol agents began yelling at the migrants, six total, to return to the other side. The agents allegedly began throwing rocks, forcing the migrants back into the strong undercurrent of the river, resulting in the death of the three women.<sup>20</sup>
- **December 30, 2005:** 20 year old Guillermo Martinez Rodriguez was shot and killed by Border Patrol Agent Faustino Campos near the San Ysidro port of entry in San Diego. The man, having noted Border Patrol agents, was fleeing back to Mexico when he was shot in the back. He immediately sought care at the Red Cross in Tijuana where he died a few hours later. According to the Border Patrol spokesperson, the agent “fired in self defense”, claiming Rodriguez had been throwing rocks.<sup>21</sup>

## **II. Security of Person and Arbitrary or Unlawful Interference (ICCPR, Articles 9&17)**

Since the attacks on the World Trade Center on September 11<sup>th</sup>, 2001 a series of legislation has been passed by the United States Congress under the guise of the “War on Terrorism” which severely stifles the civil and political rights of those living within the boundaries of the United States. On March 9<sup>th</sup>, 2006 President Bush signed the reauthorization of the USA Patriot Act, which originally passed within days of the attacks. This bill provides the federal government and its agents with extensive authority to interfere in the private lives of those within United States boundaries.<sup>22</sup> The Clear Law Enforcement for Alien Removal Act, H.R. 2671 (CLEAR Act), proposed in June of 2003 would require state and local enforcement agencies to enforce civil federal immigration law.<sup>23</sup> The Homeland Security Act of 2003, S. 1906 holds similar provisions. While this legislation is still under debate, the consequences of the proposed legislation and previously adopted legislation have already been detrimental to border communities, where racial profiling, wrongful detention, public transportation and workplace raids, the interference into the private home and family lives of immigrant communities are conducted under the guise of National Security. The result is an erosion of community security and extended hardship for families now frightened to leave their homes to take their children to school, to health clinics, and even to the store to purchase food. Without community security, national security is not possible.

### ***A. Border Patrol Activities Lead to Private Interference and Community Insecurity***

In the border city of El Paso, Texas, the Border Patrol has a history of conducting raids in churches, schools, and social service institutions such as shelters. In 1993, the Border Rights

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<sup>19</sup> Luke Turf, *Border Agent Cleared in Death of Rock Thrower*, Tucson Citizen, October 25, 2003 available at [http://www.tucsoncitizen.com/print/local/102503b3\\_bps shooting](http://www.tucsoncitizen.com/print/local/102503b3_bps shooting)

<sup>20</sup> Mike Ahlers and David de Sola, *Border Patrol Accused in Immigrants’ Death*, CNN, September 29<sup>th</sup>, 2004 available at <http://www.cnn.com/2004/US/09/28/border.incident/>

<sup>21</sup> Americas.Org, *Border Patrol Kills Migrant*, Immigration News Brief, Vol. 8 (53) available at [http://www.americas.org/item\\_24219](http://www.americas.org/item_24219)

<sup>22</sup> ACLU, <http://aclu.convio.net/reformthepatriotact/>

<sup>23</sup> Texas Lawyer’s Committee, *Immigration Policy Brief: CLEAR Act*, August 2004, available at <http://www.txlawyerscommittee.org/policy/PB110.clearact.html>

Coalition (from which the BNHR evolved) sued the federal government because of a series of raids in a public high school resulting in the deportation of students. As these raids threatened the security and education of children, the courts passed an injunction declaring that the Border Patrol be prohibited from entering area schools for the purposes of immigration raids. Following the aforementioned shooting death of Juan Patricio Peraza Quijada, resulting from an arbitrary detention of the young migrant on the private property of an area shelter without a warrant, El Paso area organizations, churches, and community members issued a statement asking for an end to the policy of harassment adopted by the United States Border Patrol in their communities.<sup>24</sup> Immigrant advocates in San Diego faced similar threats to civil liberties between 2002 to 2004 when the Border Patrol conducted immigration sweeps on public transportation in the poorest neighborhoods known to have high numbers of immigrants. On August 8, 2003, the San Diego Sector Border Patrol Chief William T. Veal issued a memorandum reiterating the “long-standing policy” prohibiting Border Patrol from “conducting random or reactive ‘area control’ operations in residential neighborhoods.” The memorandum went on to say that “Border Patrol Agents are not authorized to conduct any ‘interior enforcement’ or ‘city patrol’ operations in or near residential areas or places of employment”.<sup>25</sup> Despite promises, however, the very existence of large numbers of Border Patrol agents in border communities has caused a great deal of fear and raids and a policy of intimidation continue. Interviews and testimonial documentation taken from communities give voice to these realities.



- American Friends Service Committee reports received over forty complaints since November of 2003 and the Mexican Consulate in San Diego received fifty similar accounts indicating home and work raids by immigration officials under “Operation End Game”. Often the agents were wearing plain clothes or clothes of other enforcement agencies, issued I-200 warrants *after* conducting home raids, and used coercive and at times forceful tactics to have victims sign documents during the raid without making them aware of the contents.<sup>26</sup>
- One young woman in San Diego was stopped by Border Patrol agents on public transportation while traveling to school. To intimidate the young girl into providing personal information, the agents threatened to follow her to school and detain her in front of her classmates. The principal of the school reported that the young woman no longer attended classes.
- January 15, 2005 a woman called the offices of BNHR stating that an immigration official was at her home in an unmarked car and plain civilian clothes asking family members for their “immigration documents”. The agent drove his vehicle onto the victim’s property and started taking family members away. The agent then entered the home without a search warrant.<sup>27</sup>

The creation of the Department of Homeland Security, and within it a new organizational structure, has led to confusion with regards to roles of the various bodies housed under DHS and often leads to the inability of family members to locate a loved one taken into custody. With regards to these raids AFSC states, “Home raids not only perpetuate the problems associated with the old INS guard, such as separation of families, physical and psychological abuse and trauma,

<sup>24</sup> Annunciation House, Community Response to Shooting Death of Teenager Juan Patricio Peraza Quijada, February, 2002 available at [http://www.annunciationhouse.org/jp\\_response.html](http://www.annunciationhouse.org/jp_response.html)

<sup>25</sup> AFSC, *San Diego: A Case Study on the Impact of Enforcement on Border Communities*, January 2005

<sup>26</sup> AFSC, *San Diego: A Case Study on the Impact of Enforcement on Border Communities*, January 2005

<sup>27</sup> BNHR, *The Status of Human and Civil Rights at the Border 2004*, February 22<sup>nd</sup>, 2005

and civil and human rights abuses, but new methods for conducting raids integrate techniques that verge on police-state tactics.”<sup>28</sup>

Border Network for Human Rights also receives reports of wrongful detentions and the stripping away of due process rights of immigrants, a right guaranteed under Article 9 of the Covenant. Community members report being coerced or forced via intimidation tactics to sign Voluntary Deportation forms, thus abdicating their right to appear before an immigration judge. People report signing the forms after an agent threatened to return to the immigrant’s home and deport the entire family. BNHR received a report of a young man who signed a Voluntary Deportation form despite the fact that he was legally present in the United States because the agents threatened to bring him to the Immigration Detention Center and he was frightened. In another case of wrongful detention, a woman and her two sons were returning to El Paso after spending time in Cd. Juarez. The woman was stopped by an agent at the Port of Entry and taken to an office where she was asked to take off her clothing for an inspection. Though the woman asked for a reason and expressed that she did not want to do it, eventually after a few more orders from the agents, she removed her clothing and was subjected to a body cavity search. Finding nothing, she was simply told that she fit the description of a drug runner and was told to leave.<sup>29</sup>



Arizona/Mexico border communities also lack a sense of security. Border Agents have overwhelmed their communities often driving onto private property, speeding through the streets of communities, and threatening the safety of children. On July 10<sup>th</sup>, 2003 18 year old Bennett Patricio was walking home on the Tohono O’odham reservation when he was struck and killed by Border Patrol agent Cody Rouse. The agent was not convicted.<sup>30</sup> In the communities of Pirtleville, Naco, Nogales, and Douglas, Arizona, 19%, 27%, 32%, and 43% of residents respectively, have been stopped, questioned or harassed by the Border Patrol. The Border Action Network, a non-governmental organization working for human and civil rights stated in a recent report:

*From conversations with more than three hundred families, we found that many of the fundamental values that typically hold families together, like trust, safety, and accountability have been devastatingly eroded. This report reveals that border communities feel less safe, that Border Patrol has broken communities’ trust, that residents are made to feel suspect simply because of their appearance and that the agency has no system of “checks and balances”.~Border Action Network, AZ*

### ***B. Local Law Enforcement Activities Lead to Private Interference and Community Insecurity***

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<sup>28</sup> AFSC, *San Diego: A Case Study on the Impact of Enforcement on Border Communities*, January 2005

<sup>29</sup> BNHR, *The Status of Human and Civil Rights at the Border 2004*, February 22<sup>nd</sup>, 2005

<sup>30</sup> Kim Smith, Agent Who Ran Over, Killed Teen on Reservation Cleared, Arizona Daily Star, 2/18/06 available on <http://www.azstarnet.com/sn/printDS/116456>

Article 9 of the Covenant is threatened by proposed legislation such as the Clear Law Enforcement for Alien Removal Act of 2003 and the Homeland Security Act of 2003, which require local law enforcement agencies to take on the task of federal civil immigration law. Local law enforcement agents are tasked with the job of protecting community security against criminal violations. When these agencies begin crossing over to the enforcement of civil immigration law, community safety is jeopardized. Recently, in the communities of East El Paso in Texas, community members have reported repeated harassment by the County Sheriff's Office as part of a federally funded program called Operation Linebacker. Operation Linebacker, initiated in 2005 by the Texas Border Sheriff's Association with funding provided by Governor Perry, was created in order to increase resources for border area law enforcement. It is our understanding, however, that Operation Linebacker does not give local enforcement agencies authority to conduct federal immigration tasks and to detain individuals on the basis of race. Operation Linebacker initially was intended to increase patrol visibility in the more rural outskirts of border cities and in areas known to have high criminal activity. The idea is that the Sheriff's Department would be the second line of defense in catching drug smugglers and potential terrorists able to get through the first line of defense, the Border Patrol.<sup>31</sup>

Since the year 2005, the BNHR has received several reports that the Sheriff's Department has been conducting immigration raids in community stores and homes, and immigration checkpoints outside of schools and in community streets. Community members indicate that the numbers of such incidents have increased significantly since the exposure of immigration on the larger political scene with the current debated legislation and the rise in immigrant marches and mobilizations throughout the country. Those detained for minor traffic violations are reportedly then asked for proof of immigration status. Some reports indicate that deputies have not only called immigration, but have personally driven victims to immigration detention centers or directly to ports of entry for return to Mexico. Other community members reported having been stopped by the sheriff without reason while driving or walking. These community members feel that they were stopped simply for "appearing" undocumented due to their outward physical appearance. According to one testimony, a deputy of the Sheriff's Office reportedly commented to four men stopped while driving that he had detained them solely for having a "suspicious attitude". Some testify that the Sheriff's deputies destroyed personal property and insulted the individuals and their culture.

***Location of the Incident: El Pasito Market, Desert Meadow Road, Montana Vista***

***Date of the Incident: March 2006***

*The victim, Mr. Raymundo V., was walking to El Pasito Market on Desert Meadow Road with his cousin from his home on Big John Street in Montana Vista when the sheriff stopped them, asked them for their papers, and asked where they were going. Mr. V. responded that they were headed to the store. The sheriff told Mr. V. and his cousin to get into the car. The sheriff then took the two young men directly to the Rojas immigration detention center. On the drive he insulted them, saying that Mexicans only came here (to the U.S.) to have their children and maintain them with government money. Both men were deported.*

Fear and suspicion have silenced the larger part of the community from sharing specific experiences, though all with whom BNHR has spoken in the communities of East El Paso under

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<sup>31</sup> Office of the Governor, Rick Perry, Border Security Plan for Texas available at [http://www.governor.state.tx.us/priorities/other/border/border\\_security/](http://www.governor.state.tx.us/priorities/other/border/border_security/)

the jurisdiction of the Sheriff indicate a climate of abuse that has enveloped their communities with tension, separated families, and left some completely immobilized and self secluded in their homes for fear of crossing paths with the Sheriff's Department. The negative repercussions of a community frightened to call upon those whose job is to protect them in the case of a crime, domestic violence, or an emergency are huge.<sup>32</sup>

Similar accounts have appeared in reports issued by non-governmental rights organizations in San Diego and Arizona. The Major Cities' Chiefs Association, consisting of some of the largest police agencies in the country, created a nine-point position statement highlighting their concerns in being required to enforce federal immigration law and the threat this places on the security of communities. They state that such policies as proposed in current legislative debate would undermine the trust necessary for meaningful police and community cooperation, open the departments to civil liabilities, and lead to an eventual increase in crime and insecurity.<sup>33</sup>



### **III. Equality Before the Law/Everyone Shall Have the Right to Recognition Everywhere As a Person Before the Law (ICCPR, Article 16 & Article 26):**

#### ***A. Racial Profiling***

The United States ratified the Convention on the Elimination of All Forms of Racial Discrimination October 21<sup>st</sup>, 1994, a positive step towards eliminating discrimination in the U.S. and adhering to Article 26 of the Covenant. Unfortunately, since the terrorist attacks on September 11<sup>th</sup>, such tactics as racial profiling have occurred with frequency. On the northern border with Canada racial profiling has led to the detainment of individuals based on their Arab appearance. Here on the Southern border, racial profiling continues to terrorize brown immigrant communities. Standard license checkpoints that often result in the questioning of drivers for immigration status occur throughout the border region with greatest frequency in poor immigrant communities, with little occurrence in the more affluent white neighborhoods. The "trans-checks" in which Border agents conduct public transportation sweeps, also only occur in areas with high numbers of Latino immigrants in more impoverished areas where individuals are more likely to necessitate the use of public transportation. In a survey conducted with over 300 families in Arizona border communities, the Border Action Network found that a startling majority of residents (41% in Pirtleville, 66% in Naco, 70% in Nogales, and 77% in Douglas) felt that Border Patrol Agents stopped people for simply having brown skin. One resident stated, "My son doesn't look like me-he has darker skin-and they accused me of kidnapping him."<sup>34</sup> An article written by Josiah Heyman, professor of Sociology at the University of Texas at El Paso indicates that federal Border Patrol agents often use national stereotypes of immigrants and outward appearance for covert classification and interrogation. He states, "INS officer state three covert

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<sup>32</sup> BNHR, *Preliminary Report: Status of Human & Civil Rights Abuse by Local and State Enforcement Agents at the Border*, June 2006.

<sup>33</sup> Major Cities Chiefs Association, *M.C.C. Immigration Committee Recommendations for Enforcement of Immigration Laws by Local Police Agencies*, June 2006 available on <http://www.houstontx.gov/police/nr/2006/nr060806-1.htm>

<sup>34</sup> Border Action Network, *Justice on the Line: The Unequal Impacts of Border Enforcement In Arizona Border Communities*, available on <http://www.borderaction.org/resources.php>

categories-moral worth, national stereotypes, and apparent social class-with selected factual and legal points to create on-the-spot interpretations of the immigrants who face them.”<sup>35</sup>

Individual immigration law enforcement practice reflects the discriminatory nature of border control policy. Although immigration stops based solely on race are generally prohibited, the U.S. Supreme Court’s legal endorsement of the consideration of race coupled with other factors as the basis to initiate questioning results in widespread racial discrimination against persons of Mexican origin. Despite the fact that only half of immigrants unlawfully residing in the U.S. are Mexican nationals, the profile of the undocumented person as one with “Mexican appearance” still stands and is applied daily by immigration law enforcement agents.<sup>36</sup>

In El Paso County, the Sheriff’s Department has been known to stop individuals without reason for simply “appearing undocumented”. In one case reported to BNHR, the sheriff stated to four men that he had stopped them for having a “suspicious attitude”. The men said nothing. The sheriff asked Mr. C’s brother for his license and registration, which Mr. C’s brother produced. However, while looking for the registration, the sheriff noted a number of traffic tickets in the car. He made Mr. C’s brother get out of the car and placed him into the patrol unit. The sheriff returned to the car and said to Mr. C. and the other two men, “Did you know that I have the power to turn you in to immigration? Did you know that?”<sup>37</sup>

***“Everyone shall  
have the right to  
recognition  
everywhere as a  
person before the  
law.”***

These incidents of racial profiling unfortunately are not isolated incidents but occur in border communities every day.

### ***B. The Language of Hate and Racism***

Again, in agreement with the Committee’s comments in paragraph 273 in the Concluding Observations of the Human Rights Committee, the U.S. ratification of the Convention on the Elimination of All Forms of Racial Discrimination in 1994 was a positive aspect toward the U.S. commitment to eradicate racial discrimination.<sup>38</sup> One has to question, however, the commitment to this international human rights instrument based on the language utilized to name immigration sting operations and to refer to immigrants themselves. This past month, 2,179 immigrants were rounded up in an operation named “Operation Return to Sender”, essentially placing a federal post office stamp upon human beings.<sup>39</sup> Other operations have included, “Operation Game Day” (01/2003) and “Operation Predator” (07/2003), implying a game or a hunt in apprehension of

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<sup>35</sup> Josiah Heyman, (2001) Class & Classification at the U.S./Mexico Border, *Human Organization*, Vol. 50 (2)

<sup>36</sup> BNHR, A US/Mexico Border Report: The Status of Human and Civil Rights 2000-2003, released on December 10<sup>th</sup>, 2003 available at [http://www.bnhr.org/english/reports\\_2003.php](http://www.bnhr.org/english/reports_2003.php)

<sup>37</sup> BNHR, *Preliminary Report: Status of Human & Civil Rights Abuse by Local and State Enforcement Agents at the Border*, June 2006.

<sup>38</sup> CCPR/C/79/Add.50/A/50/40, paras. 266-304 (Concluding Observations/Comments)

<sup>39</sup> U.S. Immigration & Customs Enforcement, Operation Return to Sender: National Interior Enforcement, May 26-June 9, 2006 available on [www.ice.gov/doclib/pi/investigations/operation\\_return\\_sender](http://www.ice.gov/doclib/pi/investigations/operation_return_sender)

immigrants. In legislation, immigrants have been referred to as “alien”, “criminal”, “illegal”, and on the line by Border Patrol agents as “tonks” (for the sound a flashlight makes when it hits an immigrant’s head), pollos, wetbacks, mojados, etc. The language used by both the federal government and the agents of the federal government serve to dehumanize immigrants and immigrant communities, allowing abuse of civil, political, and human rights to be more easily performed. The current anti-immigrant rhetoric in the federal government and adopted by the media, have fueled a great deal of hate, scapegoating, and suspicion of all categories of immigrants in the country. Words are simply words, but the larger meaning behind the words and the ability to strip one of his humanity with language, implicate the potential mistreatment of said person if they in fact can be perceived as less than human or not human at all. Article 16 of the Covenant states: *Everyone shall have the right to recognition everywhere as a person before the law*<sup>40</sup>. The current language of hate and racism on the level of government, the press, and the public threatens this Article and raises large concerns about the potential for a widespread lashing out against immigrant communities in the near future.

#### **IV. Future Threats to Life, Liberty, and Security of Person: *Failed Immigration Reform***

In December of 2005 the House Resolution 4437, commonly known as the Sensenbrenner Bill was passed in the House of Representatives. A largely enforcement only bill, H.R. 4437 held several concerning provisions, among them the criminalization of all of the estimated 11-12 million undocumented immigrants living within the boundaries of the United States, the criminalization of churches and social service agencies working with undocumented immigrants, the building of 700 more miles of fencing, indefinite detention for immigrants, and severe restrictions on acceptance of refugees. The Senate Bill S. 2611 passed on May 25<sup>th</sup> of this year is also extremely restrictive, limiting the possibility of legalization to those undocumented immigrants who have been in the country for 5 or more years, with impossible to reach fines, a guest worker program that will not provide enough visas for the workers needed and does not provide extensive labor protections, and roughly the same intense border enforcement strategy as offered in the House Resolution.<sup>41</sup>

While the federal government fights over immigration policy and fails to create a fair and just reform, state governments have been attempting to pass their own, often more restrictive, legislation. This year 461 proposals have been introduced in 43 states related to immigration and mostly aimed at limiting undocumented immigrant access to public benefits such as health care, education, and social services.<sup>42</sup> Though nothing significant has passed, the current anti-immigrant sentiment could give rise to more proposals such as Proposition 200 which passed in the state of Arizona in 2004 denying “state and local public benefits that are not federally mandated”. Such services could include domestic violence services, elder abuse prevention, meals on wheels programs, higher education, firefighting services, and non-emergency medical services. The denial of such services to undocumented immigrants could have a reverse effect on families and children by causing fear and reservation for seeking services which are still allowable such as emergency medical services and education for their children. The constitutionality of the proposition was challenged, but on December 22, 2004 United States District Judge David C. Bury affirmed the law’s constitutionality and lifted the restraining order

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<sup>40</sup> ICCPR, Article 6

<sup>41</sup> Comparison of Immigration Proposals, 6/5/06 available at [www.nationalimmigrationproject.org](http://www.nationalimmigrationproject.org)

<sup>42</sup> Julia Preston, *State Proposals on Illegal Immigration Largely Falter*, N.Y Times, May 9, 2006



for the law to be immediately implemented.<sup>43</sup> The passage of more state proposals such as this could have detrimental effects on the civil rights of immigrants as agencies, in an effort to protect themselves from loss of funds may engage in racial profiling and discriminatory practice, while also denying basic human necessities to immigrants.

***CONCLUSION: AN APPEAL FROM BORDER COMMUNITIES TO THE UNITED NATIONS HUMAN RIGHTS COMMITTEE***

Though the Second and Third Periodic Report of the United States of America to the UN Committee on Human Rights concerning the International Covenant on Civil and Political rights submitted on October 21<sup>st</sup> of 2005 raises some concerns for the Border Network for Human Rights and other non-governmental human and civil rights organizations, it is perhaps what is not said which raises the most concern. Each passing year witnesses reversal of legislation protecting the civil and political rights of those within the State Party boundary and the adoption of legislation which severely restricts and threatens these rights. The current immigration debate has only served to fuel anti-immigrant sentiment and create an oppressive backlash against immigrant communities. Proposed legislation severely threatens the civil and human rights of immigrant communities throughout the United States with particular concern on the U.S./Mexico border through criminalization, militarization of the border, and restrictions on access to public benefits necessary for the development of human potential. Proposed border enforcement strategies threaten the inherent right to life.

The Border Network for Human Rights and members of the U.S./Mexico border communities, through this report, make a desperate appeal to the United Nations Human Rights Committee to implement a comprehensive strategy to observe the development of the US-Mexico border policies and practices, to measure the impact of those policies in border communities, and to find the right mechanisms to hold the United States government accountable for upholding the rights entitled to all persons under the International Covenant for Civil and Political Rights, the Universal Declaration for Human Rights and other international treaties and conventions.



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<sup>43</sup> Immigration On-line: A Century Foundation Project, Arizona's Proposition 200, available at <http://www.immigrationline.org/feature.asp?issueid={19AAAD22-5EEF-4523-90FB-F8738D74BABD}>

## **Guidelines for Alternative Border Enforcement Policies and Practices**

By the Border Community Alliance for Human Rights\*

U.S. communities that lie along the border with Mexico live a reality that is essentially different from the rest of the country. U.S. immigration policy has transformed the region into a militarized zone where the U.S. Constitution and international law are selectively applied. By failing to recognize and affirm fundamental civil and human, U.S. immigration policies and efforts to “secure” the southern border have had dire human consequences, from the ever-increasing tally of migrant deaths on the border to the systemic violation of the civil and human rights of border crossers and those living in border communities. A combination of factors – the lengthy history of abuse, impunity, and lack of accountability associated with border enforcement; the recent rapid and dramatic expansion to three separate entities (Customs and Border Protection, Immigration and Customs Enforcement, Citizenship and Immigration Services currently under the Department of Homeland Security) and the passage and implementation of restrictive immigration laws that drastically curtail and criminalize immigrants – have created rife conditions with the potential for increased violence against border residents and migrants alike, ultimately threatening the foundations of democracy in the United States.

An initial and very important step open the discussion on current border enforcement strategies will be to hold to Public Hearings regarding those and their impacts on Human and Civil Rights in border communities.

### **Accountability**

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In considering recommendations to prevent civil and human rights violations along the border, is critical to keep in mind that all people in the U.S./Mexico border, regardless of their ethnicity or legal status, should have their basic rights respected. Policies that criminalize migrants can lead to human rights abuses if law enforcement officers and agencies are not held accountable for their actions and operations.

- To establish an Independent Review Commission (a Human Rights Commission) that operates on both federal and regional levels to oversee the activities of federal agencies at the border and during immigration enforcement activities and hold legal authority. Primarily, this commission must address possible civil and human rights of specific agents and review common policies and practices. Commission will make recommendations on community relations and community security issues and report back to federal and local governments, enforcement agencies and communities on a regular basis.
- Human Rights Certification of Local and Federal Agents. Immigration Agents, Border Patrol Agents, police officers and other law enforcement officers working on the border region should receive ongoing training in ethics, civil rights, human rights and community relations.
- Greater Oversight of Complaint Review Process. Improve the internal complaint process so that it is accessible, transparent and adequately staffed to investigate alleged citizen's complaints regarding possible civil and human rights violations by individual agents (ICE, Customs, local law enforcement agencies, etc). Many

hesitate to make complaints against the law enforcement agencies because of fear of retaliation. A study conducted by BNHR found that many Immigration officers (from 30-70% of those interviewed) were uninformed about the complaint process. Need for independent auditor to review complaint process and make recommendations. Greater supervision of the supervisors and hold them responsible for repeated violations by staffers.

- Internal operations of the Border Patrol and ICE must be regulated in order to prevent the profiling of entire communities.
- Community Education Programs to teach members of border communities about civil and human rights. People should learn how to file a complaint against INS agents and other law enforcement officers as part of this training. This will facilitate in denouncing and preventing the human rights abuses that take place on the border. The education program must be coupled with improvements in the internal complaint and review process of the Department of Homeland Security.
- To encourage the formation of local citizens' committees to monitor the activities and complaint review processes of the law enforcement agents and agencies.

#### **Reviews of Border Operations, Technology and Infrastructure**

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- As noted in several reports (i.e. Center for Immigration Studies - University of Houston, the GAO), border operations such as "Hold the Line" and others force people to cross the border in dangerous and isolated (desert and mountains) regions where the chances of dying of hypothermia and heat exhaustion increase dramatically. Because these operations have failed to stop immigrants from entering the country, increased and professionalized smuggling operations, fostered civil and human rights violations, these operations should be suspended with immediate attention given to developing new strategies that would provide orderly, legal crossing along the border, confront other national security threats, and redefine border enforcement priorities so that immigration and immigrants are separated from criminal activities.
  - Local and regional government officials take serious and effective steps to disband border vigilante groups. Officials that are promoting, aiding and/or protecting these groups should be held responsible and accountable for any and all impacts of vigilantism.
  - Border enforcement practices and operations should be guided by criteria that actively minimize their impacts on border residents. Concerns for quality of life, noise and light pollution, and environmental degradation should be factored into new border operations. For example, twenty-four hour stadium style lighting in neighborhoods would be determined an unacceptable cost.
  - Guidelines and ongoing training that ensures border agents' responses are commensurate with the level of threat posed. Border patrol must implement the use on non-lethal force when detaining migrants.
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## **Port of Entries**

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When the Department of Homeland Security took over the administration and enforcement at the nations land ports, border crossers have noted a dramatic increase of border waits as well as an increment of abuse of authority complaints by border crossers against Customs and Border Protection (CBP) agents. US Citizens have complained that CBP officials target US Citizens of Latino descent while entering through the POE, complaints range from verbal abuse, physical abuse, sexual harassment, arbitrary detentions, destruction of documents, and denial of entry

According to a recent study developed by the San Diego Association of Governments, over sixty million trips are made annually on both directions in the three Ports of Entry located in San Diego County. The study released on June of 2005 also states that the average border crossing lasts 45 minutes. The economic impact that long border delays has on the Tijuana/San Diego border area alone is astonishing: "over 3 million potential working hours in San Diego County are spent in delays at the border, averaging about 45 minutes per work trip, which may result into \$42 million in wages lost. The overall impact at the State level, given that 5% of the trips are headed outside the San Diego region, is over \$1.32 billion in addition to the \$44.3 million in income loss for work trips." The San Diego example can likely be generalized and extended to describe all ports of entry spanning the border.

- DHS must invest in improving infrastructure at the Ports of Entry in order to expedite border crossings, SENTRI Lanes and Carpool lanes must be increased.
- CBP must respect current policies regarding the sort of documents a US Citizens must present when returning home from México via a Land Port.
- CBP must post mission statement and complaint process at the Primary Inspection booths advising all who enter the United States about complaint process against any CBP official.

## **Border Fencing**

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The US-Mexico Border fencing projects that been erected along the southern border urban corridors, are unlike any others on Earth. The two nations that share this border region are not at war with each other, in fact Mexico and the US enjoy an economic partnership without precedent in the nations turbulent relationship, however it can be easily stated that the US-Mexico border region is the most militarized international border between two countries that are not engaged in violent conflict.

- The current fencing projects must be analyzed by an independent governmental entity in order to determine effectiveness, environmental impact and degradation of border communities.
- Any new fencing project must respect the environment, indigenous peoples' rights and must be done in consultation with border communities.
- A Congressionally mandated commission must be established in order to review future decisions made by DHS when ordering the construction of fencing projects, to

determine effectiveness, fiscal responsibility, environmental impact, impact on border communities as well as to ensure that fencing projects do not infringe upon the Human Rights of undocumented workers.

- Review the constitutionality of key provisions of the REAL ID, particularly exemptions for border fence construction.

### **Unlinking immigration policies from criminal policies**

Immigration is rooted in economic disparities in the region. It is a social problem that cannot be resolved by criminalizing it. The debate over immigration must be centered within the debate over trade agreements rather than security concerns.

- Refer to immigration as an administrative issue, not a criminal issue.
- The collaboration between local law enforcement agencies (police, sheriff) and immigration officers should be discontinued, in particular, when local police agents assume the role of immigration agents. Such collaboration creates a dangerous climate in which people are afraid to call the police in any type of emergency.

### **Military at the Border**

- Reaffirm and strengthen the Posse Comitatus Act, prohibiting the use of military on domestic soil and review cases where the military, under the pretext of fighting the war on drugs, has been under the supervision of immigration agencies and enforcing immigration laws.
- Refer to immigration as an administrative issue, not a criminal or war issue. --no justification for military presence.
- Only agents who have been thoroughly trained in immigration law, ethics, civil and human rights should be enforcing US immigration and customs laws.
- Review the constitutionality of direct military operation at the US/Mexico Border, specifically, the purpose, role and activities of the Joint Task Force North.

### **Community Security**

As the debate over immigration continues to intensify, local, state and federal elected officials must insure that the debate does not degenerate to xenophobic and violent expressions. At the same time, community security must also be considered an integral part of both national and border security.

- A sensible and inclusive debate must include the voices from border communities and immigrant communities.
- Congressional delegations need to invest time and effort with border and migrant communities in order to discuss the impact that immigration laws and the enforcement of those laws has on daily life for border and migrant communities.

- The federal government must ensure that the enforcement of immigration law remains within the jurisdiction of federal law enforcement.
- Local governments must ensure that the Human Rights and Civil Rights of their cities' residents are respected by prohibiting local police to engage in racial profiling while utilizing the guise of Homeland Security as a pretext.
- Steps must be taken in order to prevent the notorious Border Patrol sweeps that were conducted in the border region in the recent past.
- Border Patrol and ICE enforcement operations should also prioritize the safety of communities in which they operate in order to prevent gross violations of Human Rights. Special attention must be given to high- speed chases when intercepting vehicles loaded with migrants, the use of public spaces to train new Border Patrol agents, the implementation of indiscriminate operations and check points by Border Patrol and ICE agents.
- The cycle of violence at the border can only be stopped if the government recognizes the Civil and Human Rights of Border Communities, any legislation or policy that fails to recognize those fundamental rights is destined to fail and undermines the basic premise of security for the country.

### **Detention and Deportation**

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- Impart a due process that is respected and guaranteed for migrants involved in detention, deportation or removal procedures.
- Restore discretion to immigration judges.
- Review statute of mandatory detention provisions contained in IIRIRA section 236.
- Reevaluate and modify deportability of minor crimes. For example, the removability for minor offenses such as drug possession and shoplifting.
- Ensure that detention facilities keep parents and children together.
- Establish a process to review lifetime bars for reentry to the United States.
- Implement procedures to enforce 90- and 180-days custody review processes.
- Reduce the use of private facilities and county jails for the detention of migrants.
- Enforce detention facility standards and uphold basic legal rights, such as medical and mental health care and attorney access, especially at private facilities.
- Create an Immigration Hotline for defense attorneys and public defenders for advise on immigration consequences in criminal proceedings.

\* The Border Community Alliance for Human Rights is a newly formed network of organizations across the US-Mexico border that brings together community organizations situated in that under-resourced and often silenced part of the country. The Alliance is comprised of the American Friends Service Committee, US/Mexico Border Program (California), the Border Action Network (Arizona), the Border Network for Human Rights (Texas and New Mexico), and the Latin America Working Group Education Fund (Washington, DC). The Alliance is driven by a mission to build the voice and power of immigrant and border communities, and to bring these voices to politically charged, national and international debates around border regions, security, immigration, and community safety.