



**American Civil Liberties Union (ACLU) Statement on:**

**Human Rights Violations on the United States-Mexico Border**

**Submitted to Office of the United Nations High Commissioner for Human Rights  
Side Event on  
“Human Rights at International Borders”**

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The following statement is submitted on behalf of the American Civil Liberties Union<sup>1</sup> (ACLU), a non-partisan, non-profit, nation-wide organization that has worked daily in courts, communities and legislatures across the United States since 1920 to protect and preserve the fundamental rights and liberties of individuals set forth in the Bill of Rights of the U.S. Constitution, ratified treaties, federal and state law. The ACLU is committed to ensuring that the fundamental protections of due process, equal protection and the rights to human dignity, physical integrity and freedom from abuse and lethal use of force by authorities are extended to every person in the United States or subject to its effective control or power, regardless of immigration status.

These rights, among others, are not only guaranteed to individuals without discrimination in accordance with international law and treaties ratified by the United States, but they are further protected for all persons under the Bill of Rights of the U.S. Constitution. While the federal government has the authority to control our nation’s borders and to regulate immigration, it must do so in compliance with national laws and international legal obligations.

In the last decade, the United States has relied heavily on enforcement-only approaches to address migration, using deterrence-based border security strategies to control its borders. The U.S. government has expanded the powers of federal authorities by creating “Constitution-Light” or “Constitution-Free” zones within 100 miles of land and sea borders and has increasingly criminalized unauthorized migration by expanding criminal prosecution of individuals who violate federal immigration laws rather than relying on the extensive federal civil enforcement scheme. The creation of an “exceptionalized” space along the border and criminalization of migration have served to justify the militarization of the U.S.-Mexico border and the promulgation of border security policies and practices that lead to extensive civil and human rights abuses, including the deaths of more than 5,600 unauthorized border crossers. In addition, at least 18 individuals have died since January 2010 as the result of alleged excessive use of force by U.S. Customs and Border Protection (CBP) officials, including six who were under the age of 21 and five who were U.S. citizens. At least two other individuals survived serious injuries inflicted by CBP officers in the same timeframe.

Given this reality, the ACLU commends the U.N. High Commissioner for Human Rights for her leadership in convening this important and timely event, and we thank both the High Commissioner and other esteemed members of this expert panel for the opportunity to detail specific areas of concern and recommendations, many of which find commonality with concerns identified in the March 2012 expert consultation, “Human Rights at International Borders: Exploring Gaps in Policy and Practice.”<sup>2</sup>

### **Militarization of the U.S.-Mexico Border**

In the early 1990s, the U.S. government’s introduction of “Operation Hold the Line” and “Operation Gatekeeper” institutionalized “prevention through deterrence” as the national strategy to curb unauthorized migration through the border with Mexico. These programs held as a guiding principle the notion that if crossing the border without authorization became too difficult, dangerous and risky, individuals would no longer make the attempt.

In response to the tragic events of September 11, 2001, the U.S. government incorporated 22 government agencies to create the U.S. Department of Homeland Security (DHS), making it the third-largest cabinet-level federal department. DHS holds as its primary objectives protecting Americans “from terrorist threats,”<sup>3</sup> and protecting the border, which is carried out by DHS’s most visible agency tasked with border security, Customs and Border Protection (CBP).

Since the creation of DHS, the federal government has increasingly invested unprecedented resources to secure the U.S.-Mexico border to advance its objectives of deterrence and counter-terrorism. Specifically, the U.S. Border Patrol (BP), part of CBP, reported 21,444 agents on duty in FY 2011, more than double the 9,212 agents from FY 2000 and more than five times the 4,028 agents on duty in FY 1993.<sup>4</sup> Of the over 21,000 BP agents currently employed, approximately 18,500 are tasked with patrolling the Southwest border, amounting to approximately 9.4 agents per linear mile.

The significant rise in BP agents does not include 21,063 CBP officers, many of whom staff ports of entry along the Southwest border, nor does it include representatives of other federal agencies deployed to the U.S.-Mexico border, including one-fourth of all Immigration and Customs Enforcement (ICE) personnel and thousands of agents of the Drug Enforcement Agency (DEA), the Federal Bureau of Investigation (FBI), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The significant numbers of personnel dedicated to securing the border utilize numerous technologies and substantial infrastructure, including mobile surveillance systems, ground sensors, mobile X-ray technology, a fleet of six Predator B unmanned aerial drones,<sup>5</sup> and 652 miles of border fencing.

Contributing to the intensification of border security resources has been a lack of political will to create a common-sense immigration system that acknowledges the economic and cultural contributions of immigration and prioritizes the human right to family unity. Instead, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, the most recent federal legislation to reform the U.S. Immigration and Nationality Act, accomplished the opposite by expanding the categories of immigrants, including those with legal status, who could be mandatorily detained and deported from the United States.

To block consideration of pragmatic immigration policies, elected officials have developed a national narrative around immigration that emphasizes criminality, using buzzwords such as “spillover violence,” and “illegal” or “criminal aliens.”<sup>6</sup> This language ignores FBI statistics<sup>7</sup> showing border communities to be some of the safest in the nation, and academic studies<sup>8</sup> showing recent immigrants commit crimes at rates far lower than the native born. More importantly, the promulgation of an inaccurate national narrative as it relates to border communities and immigrants to justify disproportionate investment in enforcement-only approaches has contributed to increased human and civil rights violations and a culture of near impunity.

### **Criminalization of Immigrants**

Nowhere is the criminalization of immigrants more apparent than in U.S. federal courthouse proceedings along the U.S.-Mexico border, in which apprehended immigrants are charged with illegally entering or re-entering the United States and subsequently sentenced to federal prison prior to being repatriated. Known generally as “Operation Streamline,” but implemented differently by region along the border, this joint CBP/Department of Justice (DOJ) program was first piloted in Del Rio, Texas, in 2005.

Following the logic of deterrence, the main goal of this “zero tolerance” program was to file criminal charges against individuals apprehended by CBP officials in order to introduce more punitive consequences for entering the country without proper documents, thus discouraging individuals from attempting to re-enter the United States. Under the program, individuals that meet certain criteria (for example, being apprehended by CBP agents in a certain geographic area) are charged with illegal entry, a misdemeanor punishable for up to 6 months in a federal prison, or illegal re-entry, a felony offense that could result in being sentenced to a federal prison for up to 20 years when combined with another aggravated felony conviction.

The program has created a mass assembly-line justice system where individuals are apprehended, handed over to U.S. Marshals, placed in county jails to await trial at a federal courthouse, sentenced in a matter of hours or days, sent to a Federal Bureau of Prisons facility to serve their sentence, and then handed over to ICE for removal proceedings.

During trial proceedings, 40 to 80 men and women, shackled hand and foot, are shuffled into federal courtrooms every day. While individuals are assigned federal public defenders or a Criminal Justice Act attorney because they face criminal charges, the time they spend discussing their case with an attorney is limited, sometimes meeting their counsel 20 minutes prior to the start of proceedings.

These individuals form part of the so-called “criminal alien” category that DHS has placed on their list of priority individuals for deportation. Contrary to the somewhat misleading national narrative of criminality associated with “criminal aliens,” which seeks to portray vast numbers of immigrants as threats to society, these individuals have committed no violent crimes. In fact, by overwhelming federal courthouses in the Southwestern border with defendants charged with illegal entry or re-entry, “Operation Streamline” often diverts judicial resources away from addressing serious crimes such as drug and arms trafficking. Instead, the program criminally prosecutes migrants who spend time in prison at an incredible cost to U.S. taxpayers—

approximately \$1.02 billion annually according to Grassroots Leadership<sup>9</sup>—for committing the crime of looking for the opportunity to support their families or reunite with family members already living in the United States. Operation Streamline has led to unprecedented mass incarceration of Hispanics and Latinos, who in the last year of available statistics were the majority of those sent to federal prison despite constituting only 16 percent of the population.<sup>10</sup>

### **Abuse and Impunity for U.S. Customs and Border Protection (CBP)**

The United States' focus on deterrence-based border security strategies, criminalization of undocumented immigrants by means of "Operation Streamline" and other policies, and reluctance to create a common-sense immigration process has created a deadly situation on the U.S.-Mexico border. Rights advocates have long documented the rising numbers of migrant deaths. In 2009, the ACLU of San Diego and Imperial Counties released a joint report<sup>11</sup> with Mexico's National Human Rights Commission to document the human impact of "Operation Gatekeeper" 15 years after its implementation. The report estimated that 5,600 migrants had died trying to cross the border as a result of deadly enforcement-deterrence policies that intentionally force unauthorized persons crossing the border into environmentally dangerous areas of the border. The U.S.-Mexico border death toll is equivalent to one death a day and an estimated 7 to 11 percent of the dead are children.<sup>12</sup>

Moreover, CBP agents systematically use excessive force, including deadly and lethal force, and these abuses are subject to minimal oversight and accountability. Since January 2010, 20 individuals have died or been seriously injured by CBP officials in use of force incidents.<sup>13</sup> Fatal Border Patrol shootings have occurred with alarming frequency; cases reported extensively by the U.S. and Mexican media include the killings of 16-year-old Jose Antonio Elena Rodriguez (fatally shot seven times in the back October 10, 2012, when a CBP agent from Nogales, Arizona, fired across the border at a group of rock throwers in Mexico), Guillermo Arévalo Pedroza (killed September 3, 2012, by a bullet fired from a U.S. Border Patrol boat while picnicking with his wife and two young girls on the south side of the Rio Grande, near Laredo, Texas), Juan Pablo Pérez Santillán (near Brownsville, Texas on July 7, 2012), U.S. citizen Carlos Lamadrid, 19 (shot in the back four times while allegedly fleeing to Mexico near Douglas, Arizona on March 21, 2011), and 15-year-old Sergio Adrián Hernández Guereca (near El Paso, Texas on June 7, 2010).

PBS's "Need to Know" television program documented the killing of Anastasio Hernández Rojas by CBP agents.<sup>14</sup> After 18 years of residence in the U.S., Anastasio was deported from the United States and separated from his wife and five U.S.-born children, who remained in San Diego. Border Patrol detained Anastasio when he attempted to re-unite with his family by entering the United States without authorization. On May 28, 2010, instead of deporting him back to Mexico, CBP officials beat and electroshocked Anastasio to death at the San Ysidro port of entry near San Diego, California, allegedly after he sought to grieve an abusive pat down by a CBP official. PBS obtained eyewitness video that shows CBP officers administer five electroshocks to Anastasio while he was handcuffed and surrounded by about a dozen agents, one of whom appears to have his knee on the man's neck. The words "quit resisting" are heard over the prone man. CBP's version of events described a "combative" person, and CBP alleged that force was needed to "subdue the individual and maintain officer safety." The San Diego coroner's office classified Mr. Hernández Rojas's death as a homicide, noting in addition to his

heart attack, “several loose teeth; bruising to his chest, stomach, hips, knees, back, lips, head and eyelids; five broken ribs; and a damaged spine.”

Deeply concerned by the revelations of the PBS special, 16 members of Congress submitted a letter demanding an investigation to DHS Secretary Janet Napolitano,<sup>15</sup> DHS Acting Inspector General Charles K. Edwards,<sup>16</sup> and Attorney General Eric Holder.<sup>17</sup> It took two years—and PBS’s broadcast of the video—for a grand jury to be convened.<sup>18</sup> The grand jury investigation remains pending.

The case of 15-year-old Sergio Hernandez-Guereca, who was shot and killed by a Border Patrol agent on June 7, 2010, apparently went similarly uninvestigated until the U.S. Department of Justice conducted its own inquiry, which it concluded with an announcement of its findings on April 27, 2012. The announcement marked the first publicly-concluded investigation of a recent case of lethal use of force by CBP officials. DOJ concluded that the agent who killed Hernandez-Guereca, “did not act inconsistently with CBP policy or training regarding use of force,” affirming CBP’s practice of justifying use of lethal force in response to rock throwing. Moreover, DOJ problematically concluded that grounds for civil prosecution were lacking, stating, “a prosecution under the federal criminal civil rights statutes would be barred because the investigation determined that Hernandez-Guereca was neither within the borders of the United States nor present on U.S. property.”<sup>19</sup> In an amicus brief filed on July 2, 2012, in a civil suit appeal filed by the family of Hernandez-Guereca, the ACLU challenged the DOJ’s conclusion that civil jurisdiction does not apply.<sup>20</sup> The ACLU argued that any action taken by a U.S. law enforcement official standing within the jurisdiction of the United States must be held accountable to constitutional limitations on the use of force, and DOJ’s findings set a dangerous precedent that the United States would give law enforcement free rein to shoot and kill individuals across international borders without constitutional scrutiny. The Government of Mexico also filed an amicus brief raising similar arguments.<sup>21</sup>

Of the 18 cases in which individuals died due to alleged excessive force used by CBP officials, eight cases involve agents responding to individuals alleged to be throwing rocks, and six cases involve individuals who were killed while standing on the Mexican side of the border. Sergio Hernandez-Guereca’s case remains the only case in which federal investigation has been concluded.

The frequency and regularity of CBP’s use of lethal force is alarming and demands a comprehensive, independent investigation of CBP policies and practices, as requested by members of Congress, the Inter-American Commission on Human Rights, the United Nations High Commissioner for Human Rights,<sup>22</sup> and the Southern Border Communities Coalition of 60 non-governmental organizations, including the ACLU. In response to these calls for investigation, the DHS Office of Inspector General launched a pending investigation into CBP’s use-of-force protocols and practices. A permanent, arm’s-length, independent oversight commission for CBP must also be created, in addition to the DHS’s pending internal review.

In addition to the use of excessive force, including deadly force, the ACLU receives frequent complaints of other abuses by CBP agents, including sexual abuse, unwarranted and invasive personal searches, unjustified and repeated detention based on misidentification, and the use of coercion to force individuals to surrender their legal rights, citizenship documents, or property.

On May 9, 2012, the ACLU filed an administrative complaint with the DHS Office of Inspector General and Office for Civil Rights and Civil Liberties documenting 11 cases of such abuse that occurred at ports of entry along the U.S.-Mexico border.<sup>23</sup> The cases represent a pattern of abuse by CBP at ports of entry against individuals of varying immigration statuses, including many U.S. citizens.

In one case documented in the ACLU's May 2012 administrative complaint and also highlighted by PBS's "Need to Know" program, a Border Patrol agent allegedly sexually assaulted a woman, "Jane Doe," at a checkpoint north of Las Cruces, New Mexico.<sup>24</sup> In a second meeting intended to conduct an investigation into the assault, Ms. Doe was intimidated by CBP officials at a port of entry in El Paso, Texas, who insisted she be subjected to a private pat-down before meeting with investigators despite protests from a state police officer who was investigating the case and an ACLU representative. Re-traumatized by the ensuing search and questioning by CBP officials, Ms. Doe requested that the criminal investigation be dropped.

Inadequate oversight and unenforceable custody standards have contributed to cruel, degrading and other ill-treatment of individuals detained and held in the custody of CBP personnel at ports of entry or short-term holding facilities along the U.S.-Mexico border. Non-governmental organizations have extensively documented systemic abuses of migrants in CBP custody. No More Deaths, a non-profit humanitarian organization in Arizona, has conducted two detailed investigations into BP abuse, the most recent of which included 4,130 interviews and resulted in their report *A Culture of Cruelty*, which documented thousands of incidents of abuse from Fall 2008 to Spring 2011.<sup>25</sup> No More Deaths submitted the results of this investigation to the Inter-American Commission on Human Rights on March 27, 2012.<sup>26</sup> Amnesty International also recently released a report documenting abuses by CBP against migrants in CBP custody.<sup>27</sup> In addition, a coalition of migrant shelters and human rights centers on Mexico's northern border with the United States, called the Northern Border Initiative Bi-national Advocacy and Defense Program, have been working together to document testimonies of abuse from recently repatriated Mexican nationals.<sup>28</sup>

These reports point to a pervasive culture of abuse by CBP against migrants in their custody, including: denial of food and water; overcrowding in holding rooms that may also be unreasonably hot or cold; denial of medical care for acute or chronic conditions; verbal abuse ranging from profanity to racial slurs and sexual harassment; physical abuse that borders on torture with individuals forced to remain in prone positions for extended periods of time; psychological abuse often paired with threats or intimidation to coerce individuals into signing legal documents they do not understand; confiscation of personal belongings prior to repatriation, including critical identity documents and currency; and excessive use of force, including deadly force, through beatings, Tasers or firearms.

CBP agents have also been found to engage in other types of criminal misconduct. In testimony provided on May 16, 2012 before a U.S. House Committee on Homeland Security, Subcommittee on Oversight, Investigations, and Management hearing, Deputy Commissioner Thomas Winkowski stated, "Since October 1, 2004, 138 CBP employees have been arrested or indicted for acts of corruption including drug smuggling, alien smuggling, money laundering,

and conspiracy. During this same period more than 2,000 CBP employees have been charged in other criminal misconduct.”<sup>29</sup>

Rights advocates from border communities have long sought to engage CBP in dialogue regarding concerns of abuse, often seeking to meet with leadership in both local sectors and at their federal headquarters in Washington, DC, to present documentation of abuse and provide concrete recommendations addressing areas of concern. While this dialogue has at times been welcomed, it has consistently left advocates skeptical of what follow-up steps, if any, are taken by the agency to change a culture of systemic abuse that calls for improved training, greater oversight, and increased accountability.

### **Conclusion and Recommendations**

In response to the U.S. Department of Justice’s decision to close the case of Sergio Hernandez-Guereca without taking criminal or disciplinary action, the UN High Commissioner for Human Rights called upon the United States to thoroughly investigate reported deaths of Mexican migrants at the hands of CBP officers.<sup>30</sup> Today, the ACLU stands before the United Nations to echo the High Commissioner’s call for the United States to transparently and thoroughly investigate these abuses and bring those responsible to justice.

The militarization of the U.S.-Mexico border that has ensued under enforcement-only approaches to regulating migration and deterrence-based border security strategies has created a pervasive culture of abuse and impunity in Customs and Border Protection, the United States’ largest law enforcement agency.

The concerns outlined within the *OHCHR-GAATW Expert Consultation on Human Rights at International Borders: Exploring Gaps in Policy and Practice* reflect the realities rights advocates document daily as they support victims of abuse on the U.S.-Mexico border.<sup>31</sup> Often referred to as a “Constitution-Light” or “Constitution-Free” zone, the U.S.-Mexico border is often considered by the U.S. government as a space of “exceptionalism,” where the criminalization of migration justifies the use of disproportionate force and harsh responses to unauthorized migration. In this space, unenforceable standards and inadequate training paired with ineffective oversight or accountability allow agents to abuse fundamental human rights with impunity. The result is a persistent disregard for the United States’ obligations under international law to respect and ensure the rights of migrant populations, including the right to life, right to liberty and security of person, right to family unity, and the strict ban on torture and cruel, inhumane or degrading treatment.

The ACLU is deeply concerned by these systematic abuses. It is essential that the United States launch a comprehensive external investigation to examine CBP’s policies and practices. To address the abuses documented in this submission, the ACLU makes the following policy recommendations:

- Border Patrol and CBP agents should be held accountable for human rights abuses at the border, which should include the adoption of a zero-tolerance policy for abuses and publicly-released investigations and disciplinary actions for agents who commit lethal and non-lethal abuse.

- CBP should reform its use-of-force training and policies, including the incorporation of de-escalation techniques commonly used as best practices by police departments in the United States and the provision of defensive equipment that reduces the need to use force.
- CBP should implement mechanisms to prevent Border Patrol and CBP agents from engaging in tactics that coerce individuals into giving up their rights to challenge removal, such as ensuring interpreters and immigration attorneys are available to verify that apprehended individuals understand the documents they are signing and the consequences of signing those documents.
- The U.S. Congress should establish a permanent external, independent oversight commission that is charged with investigating and responding to complaints about CBP abuses.
- DHS should issue enforceable standards governing how CBP agents interact with individuals in short-term custody and in secondary inspection areas at ports-of-entry and interior checkpoints, in order to prevent abuse and ensure constitutionally-guaranteed and humane conditions of confinement and due process.
- DHS should implement video or audio recording mechanisms to record encounters between CBP agents and individuals in short-term custody or in secondary inspection areas at ports-of-entry and interior checkpoints. In addition, dashboard cameras should be installed on CBP's roving patrol vehicles and unmarked cars (including BP), as well as officer-mounted cameras for recording away from vehicles.
- Individuals apprehended by immigration officials should not face criminal charges of illegal entry or illegal re-entry. Instead, the U.S. government should refer these individuals to civil immigration proceedings.
- Victims of CBP abuse should be ensured access to information about investigations and the right to judicial and administrative remedies to recover damages, especially in deadly-force incidents.

The ACLU thanks the High Commissioner for Human Rights and her staff for convening government officials, experts and members of civil society to explore the state of human rights at international borders, and we urge the international community to scrutinize the United States' record of ignoring the basic rights of individuals at our international borders.

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<sup>1</sup> ACLU statement was drafted by the ACLU Human Rights Program and the ACLU of New Mexico's Regional Center for Border Rights with contributions from the ACLU border affiliate offices of San Diego and Imperial Counties, Arizona, and Texas, as well as the ACLU Immigrants' Rights Project and Washington Legislative Office (WLO).

<sup>2</sup> OHCHR, *Expert Consultation of Human Rights at International Borders: Exploring Gaps in Policy and Practice*, 22-23 March 2012, available at <http://www.ohchr.org/EN/Issues/Migration/Pages/OHCHRExpertconsultationExploringGapsinPolicyandPractice.aspx>.

<sup>3</sup> Department of Homeland Security, *About DHS: Mission: Prevent Terrorism and Enhance Security*, <http://www.dhs.gov/prevent-terrorism-and-enhance-security>.

<sup>4</sup> Customs and Border Protection Agency, *United States Border Patrol: Border Patrol Agent Staffing by Fiscal Year (Oct. 1<sup>st</sup> through Sept. 30<sup>th</sup>)*,

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[http://www.cbp.gov/linkhandler/cgov/border\\_security/border\\_patrol/usbp\\_statistics/staffing\\_92\\_10.ctt/staffing\\_92\\_11.pdf](http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/staffing_92_10.ctt/staffing_92_11.pdf).

<sup>5</sup> *U.S. Adds Surveillance Drone on Mexico Border*, Reuters, Edition U.S., Dec. 27, 2011, available at <http://www.reuters.com/article/2011/12/27/us-usa-mexico-drone-idUSTRE7BQ17220111227>

<sup>6</sup> Gabriel Thompson, *How the Right Made Racism Sound Fair—and Changed Immigration Politics*, ColorLines, Sept. 13, 2011, available at [http://colorlines.com/archives/2011/09/how\\_the\\_right\\_made\\_racist\\_rhetoric\\_sound\\_neutral--and\\_shaped\\_immigration\\_politics.html](http://colorlines.com/archives/2011/09/how_the_right_made_racist_rhetoric_sound_neutral--and_shaped_immigration_politics.html).

<sup>7</sup> Christopher Wilson, *Crime Data and Spillover Violence along the Southwest Border*, Woodrow Wilson International Center for Scholars: Mexico Institute, Oct. 14, 2011, available at <http://mexicoinstitute.files.wordpress.com/2011/10/border-violence-brief-10-14-2011.pdf>.

<sup>8</sup> *Immigrants and Crime: Are they Connected?*, Immigration Policy Center, Oct. 25, 2008, available at <http://www.immigrationpolicy.org/sites/default/files/docs/Crime%20Fact%20Check%202012-12-07.pdf>.

<sup>9</sup> Alistair Graham Robertson et al., *Operation Streamline: Costs and Consequences*, Grassroots Leadership, Sept. 2012, available at [http://www.grassrootsleadership.org/files/GRL\\_Sept2012\\_Report%20final.pdf](http://www.grassrootsleadership.org/files/GRL_Sept2012_Report%20final.pdf).

<sup>10</sup> U.S. Sentencing Commission, 2011 ANNUAL REPORT, Chapter 5, available at [http://www.uscc.gov/Data\\_and\\_Statistics/Annual\\_Reports\\_and\\_Sourcebooks/2011/2011\\_Annual\\_Report\\_Chap5.pdf](http://www.uscc.gov/Data_and_Statistics/Annual_Reports_and_Sourcebooks/2011/2011_Annual_Report_Chap5.pdf).

<sup>11</sup> Maria Jimenez, *Humanitarian Crisis: Migrant Deaths at the U.S.-Mexico Border*, ACLU of San Diego & Imperial Counties, and Mexico's National Commission of Human Rights, Oct. 1, 2009, available at <http://www.aclu.org/files/pdfs/immigrants/humanitariancrisisreport.pdf>.

<sup>12</sup> In his March 2009 report of his mission to Mexico, UN Special Rapporteur on the Human Rights of Migrants Jorge Bustamante noted that the border crossing of irregular migrants from Mexico has become more dangerous because of the United States' border control policies, including erecting a wall along its Southern border with Mexico, carrying out radar surveillance, and increasing its technical and human capacity to do roundups and arrest and detain undocumented migrants. Bustamante further noted that the high number of deaths of migrants, equivalent to about one death a day during the last decade, "directly relates to the need for would-be migrants to undertake increasingly high-risk routes, which are often longer and involve traversing rough terrain in extreme temperatures." Special Rapporteur on the Human Rights of Migrants, *Rep. on the Human Rights of Migrants, Mission to Mexico*, Human Rights Council, U.N. Doc. A/HRC/11/7/Add.2 (Mar. 24, 2009) (by Jorge Bustamante).

<sup>13</sup> Jorge A. Solis, 28, shot and killed, Douglas, AZ (Jan. 4, 2010); Victor Santillan de la Cruz, 36, shot and killed, Laredo, TX (Mar. 31, 2010); Anastasio H. Rojas, 32, tased and beaten to death, San Ysidro port of entry, CA (May 28, 2010); Sergio Adrian H. Huereca, 15, shot and killed, Ciudad Juarez, Mexico (June 7, 2010); Juan Mendez, 18, shot and killed, Eagle Pass, TX (Oct. 5, 2010); Jesus E. Castro Romo, 30, survived shooting, near Nogales, AZ (Nov. 16, 2010); Ramses Barron Torres, 17, shot and killed, Nogales, Mexico (Jan. 5, 2011); Roberto Pérez Pérez, beaten while in detention and died due to lack of proper medical care, San Diego, CA (Jan. 13, 2011); Alex Martinez, 30, shot and killed, Whatcom County, WA (Feb. 27, 2011); Carlos La Madrid, 19, shot and killed, Douglas, AZ (March 21, 2011); Jose Gutierrez Guzman, 41, tased into a comatose state, San Luis port of entry, AZ (Mar. 30, 2011); Jose Alredo Yañez Reyes, 40, shot and killed, Tijuana, Mexico (June 21, 2011); Hugo Veytia, 47, survived shooting at San Diego port of entry (Sept. 25, 2011); Gerardo Rico Lozano, 20, shot and killed, Corpus Christi, TX (Nov. 3, 2011); Byron Sosa Orellana, 28, shot and killed, Sells, AZ (Dec. 6, 2011); Alexander Martin, 24, death in vehicle explosion possibly caused by Border Patrol taser, near San Diego, CA (Mar. 15, 2011); Charles Robinson, 75, shot and killed, Jackman, ME (June 23, 2012); Juan Pablo Perez Santillán, 30, shot and killed, near Matamoros, Mexico (July 7, 2012); Guillermo Arévalo Pedroza, 36, shot and killed, Nuevo Laredo, Mexico (Sept. 3, 2012); Valeria Tachiquin-Alvarado, 32, shot and killed, Chula Vista, CA (Sept. 28, 2012); and Jose Antonio Elena Rodriguez, 16, shot and killed, Nogales, Mexico (Oct. 10, 2012).

<sup>14</sup> *Crossing the Line*, PBS Need to Know (Apr. 20, 2012), available at <http://www.pbs.org/wnet/need-to-know/video/need-to-know-april-20-2012-crossing-the-line/13640/>.

<sup>15</sup> Congressional Sign-on Letter to Secretary Janet Napolitano (May 10, 2012), available at <http://serrano.house.gov/sites/serrano.house.gov/files/DHSletter.pdf>.

<sup>16</sup> Congressional Sign-on Letter to Acting Inspector General Charles K. Edwards (May 10, 2012), available at <http://serrano.house.gov/sites/serrano.house.gov/files/DHSIGletter.pdf>.

<sup>17</sup> Congressional Sign-on Letter to Attorney General Eric Holder, (May 10, 2012), available at <http://serrano.house.gov/sites/serrano.house.gov/files/DoJLetter.pdf>.

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<sup>18</sup> Elliot Spagat, *Grand Jury Probes Anastasio Hernandez Border Death*, Associated Press, July 12, 2012, available at <http://www.kpbs.org/news/2012/jul/12/grand-jury-probes-border-death/>.

<sup>19</sup> Press Release, “Federal Officials Close Investigation into the Death of Sergio Hernandez-Guereca.” Department of Justice, Office of Public Affairs, April 27, 2012. available at <http://www.justice.gov/opa/pr/2012/April/12-crt-553.html>.

<sup>20</sup> Press Release, ACLU, ACLU Border Affiliates Weigh In to Support Family of 15-year-old Shot by Border Agent (July 6, 2012), available at <http://www.aclu.org/immigrants-rights/constitution-protects-all-people-unjustified-deadly-force-border>.

<sup>21</sup> Press Release, Ministry of Foreign Affairs, Support of the Mexican Government for the Appeal in the Sergio Hernández Guereca Case, available at [http://www.sre.gob.mx/en/index.php?option=com\\_content&view=article&id=1594:support-of-the-mexican-government-for-the-appeal-in-the-sergio-hernandez-guereca-case&catid=27:archives&Itemid=64](http://www.sre.gob.mx/en/index.php?option=com_content&view=article&id=1594:support-of-the-mexican-government-for-the-appeal-in-the-sergio-hernandez-guereca-case&catid=27:archives&Itemid=64).

<sup>22</sup> The U.N. High Commissioner for Human Rights recently condemned “excessive use of force by the U.S. border patrols while they are enforcing the immigration laws” and urged “the U.S. and Mexico to redouble their efforts to investigate promptly and transparently these incidents.” Stephanie Nebehay, *U.S. uses excessive force along Mexican border: U.N.*, Oct. 18, 2012, Reuters, available at <http://www.reuters.com/article/2012/10/18/us-mexico-un-rights-idUSBRE89H13F20121018>.

<sup>23</sup> ACLU Administrative Complaint, Complaint and request for investigation of abuse of power, excessive force, coercion, and unlawful confiscation of property by Customs and Border Protection at ports of entry along the U.S.-Mexico border (May 9, 2012), available at [http://www.aclu.org/files/assets/aclu\\_2012\\_cbp\\_abuse\\_complaint\\_2.pdf](http://www.aclu.org/files/assets/aclu_2012_cbp_abuse_complaint_2.pdf).

<sup>24</sup> *Crossing the Line, Part 2*, PBS Need to Know (July 17, 2012), available at <http://www.pbs.org/wnet/need-to-know/video/need-to-know-july-20-2012-crossing-the-line-part-2/14271/>.

<sup>25</sup> *A Culture of Cruelty: Abuse and Impunity in Short-term U.S. Border Patrol Custody*, No More Deaths (2011), available at <http://www.nomoredeathsvolunteers.org/Print%20Resources/Abuse%20Doc%20Reports/Culture%20of%20Cruelty/CultureofCrueltyFinal.pdf>.

<sup>26</sup> *Human Rights Situation of Detained and Deported Migrants along the Southern Border of the U.S.*, Southern Border Communities Coalition (Mar. 27, 2012), available at <http://soboco.org/human-rights-situation-of-migrants-iachr/>.

<sup>27</sup> Amnesty International, *In Hostile Terrain: Human Rights Violations in Immigration Enforcement in the US Southwest* (2012), available at [http://www.amnestyusa.org/sites/default/files/ai\\_inhostileterrain\\_final031412.pdf](http://www.amnestyusa.org/sites/default/files/ai_inhostileterrain_final031412.pdf).

<sup>28</sup> *Violaciones a derechos humanos de migrantes mexicanos detenidos en los Estados Unidos*, Programa de Defensa e Incidencia Binacional (Jan. 2012), available at <http://www.lawg.org/storage/documents/Mexico/informe-violaciones-derechos-humanos-pdib-27marzo12.pdf>.

<sup>29</sup> Written testimony of CBP Acting Deputy Commissioner Thomas Winkowski to the U.S. House Comm. on Homeland Security, *Department of Homeland Security: An Examination of Ethical Standards* (May 17, 2012), available at <http://www.dhs.gov/news/2012/05/17/written-testimony-us-customs-and-border-protection-house-homeland-security>.

<sup>30</sup> *United States Urged to Probe Deaths of Mexican Migrants at Border*, U.N. Radio (May 29, 2012), available at <http://www.unmultimedia.org/radio/english/2012/05/united-states-urged-to-probe-deaths-of-mexican-migrants-at-border/>.

<sup>31</sup> OHCHR-GAATW Expert Consultation, *Human Rights at International Borders: Gaps in Policy and Practice*, Mar. 23, 2012, available at <http://www.ohchr.org/Documents/Issues/Migration/Events/Informalsummaryconclusions2012.pdf>.