

Supporting Documents

**Breaking the
Border-Immigration-Criminal
Enforcement Nexus:
A View from the Border**



**Border Network for Human Rights
El Paso, Texas—Southern New Mexico
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Table of Contents

Introduction	3-4
Section 1—The U.S.-Mexico Border as a Place of Criminality: How We Got Here	5-7
Section 2—Ongoing Intersections of Border/Immigration Enforcement and Criminalization	8-17
Section 3—Decriminalizing Immigrant Communities by Building an Accountable Border	18-23

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Introduction

We are at a moment of an intensifying interaction between border enforcement, immigration enforcement, and the criminal legal system. It pairs an enduring xenophobia in American society with a growing national security apparatus in the U.S.-Mexico borderlands. This distinctive regional process of criminalization threatens the rights and well being of the 7.3 million residents of U.S. border counties, who are heavily Latina/o, relatively poor, and often socially and geographically marginalized. It is critical that border people themselves be empowered to achieve human rights and well-being in the face of these criminalizing forces. This must involve fundamental social, political, and legal changes laid out in this document.

Throughout the twentieth and twenty-first centuries, but particularly from the 1970s forward, public discourse has treated the U.S.-Mexico border as a place of lawlessness in comparison to an orderly and lawful U.S. interior. When the border is portrayed as the opposite of lawful, it becomes implicitly criminal. This justifies building fences, posting agents, deploying arms. Border communities become similarly impugned. It doesn't matter if El Paso is consistently one of the safest communities in the country, because why would it be packed to the gills with police from dozens of agencies if there weren't some active criminality or threat? Confusion of migration and travel with imagined wars such as the 'War on Drugs' or 'War on Terror' reinforce this criminalization of the border, as border crossers are seen first as potential smugglers or terrorists, and only second as visitors, shoppers, workers, tourists, or businesspersons.

This thinking justifies the militarization, paramilitarization, and securitization of the borderlands, such as repeated federal and state deployments of the National Guard and

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

concentrated state police operations. This thinking justifies the separation of immigrant families, turnbacks of asylum seekers, and criminalization of Dreamers and TPS holders. More, it has pervaded, with varying degrees of aggression, the policies and practices of all administrations over the past 25 years toward the border and migrants. The federal enforcement apparatus has expanded relentlessly over the past two decades and counting, at the cost of hundreds of billions of dollars for quintupling the Border Patrol, hundreds of miles of border fence-wall, drones and other aircraft, detention centers, sensors, and so forth. Finally, criminalization of the border region has allowed the erosion of constitutional rights, in ways we detail later, to the concern for millions of border region residents and that portends weaker protections in criminal and administrative proceedings across the country.

Moreover, criminalization of migrants has fostered a mindset where this massive border enforcement apparatus described above is treated with broad impunity. Bad behavior—ranging from verbal and sexual harassment to racial profiling, violations of constitutional protections, and physical abuse—is justified as an ancillary effect of public safety. Waste and fraud are rampant, but efforts to insist on accountability go nowhere when they challenge the de-facto clients of this enforcement bureaucracy—a mix of racists, private contractors, and agency unions. Allegations of criminality on the part of migrants are constantly and loudly asserted, even when utterly false, while real crimes committed by/within these enforcement agencies are quickly marginalized, explained away, and swept under the rug. Resultantly, oversight and complaint mechanisms are insufficient and ineffective to regulate the behavior of 60,000+ border and immigration enforcement agents, but there is minimal will in Congress to address these problems.

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

Disturbingly, this criminalization also allows the American public to dehumanize migrants. Refugee children fleeing Central American violence become MS-13 gang members invading the U.S. and Mexican workers displaced after NAFTA become human traffickers and drug runners. In each case, because of this criminalization, ordinary people end up seen as inhuman and unworthy of crossing the border regardless of need or legal process. Sadly, this dehumanization also makes them unworthy even of life in the eyes of many in the public and policy-making circles. Dehumanization, born of criminalization, justifies and trivializes migrant deaths that happen as a direct and intentional effect of border enforcement policy and practice. Over the past 25 years more than 10,000 people have perished as a result.

The current situation facing border communities, and the U.S. writ large, is one then where a criminalization of migrants fuels and facilitates a number of destructive anti-immigrant/anti-border rhetorics and practices. Drawing from, and also reinforcing that criminalization, are concomitant forces dehumanizing migrants (criminality makes migrants sub-human, a view reinforced by the overwhelming and unchecked response of the state against migrants), paramilitarizing enforcement (criminality paired with dehumanization justifies not just a carceral, but a military response on the part of the state with minimal effort to actually achieve any stated public safety ends), and treating the enforcement apparatus with impunity (people so thoroughly criminalized and dehumanized cannot be meaningfully abused). These four prongs—criminalization, dehumanization, paramilitarization, and state impunity—are mutually supporting and reinforcing; interconnected in ways that make efforts to address the problems of any one issue, by itself, nearly impossible. This is especially important because

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

while each of these prongs has materializations in policy and practice, they are more fundamental for how they shape the public perception of the issues and practices at hand.

The nexus of criminalization, dehumanization, paramilitarization, and state impunity that has built up around border and immigration enforcement is immensely hardened and resistant to public critique. It has built over decades, with inputs and encouragement from across the political spectrum. It places the problem at the U.S.-Mexico border, even though its practices and effects are happening throughout the United States. Deconstructing this nexus will be an immensely difficult task, especially compared to alternatives both of idle calls for 'abolition' that offer no alternative to the status quo, and milquetoast reforms that do not address this quartet of underlying problems. This is especially important because while each prong of this nexus has materializations in policy and practice, taken together they are more important and more fundamental for how they shape the public perception of border and immigration issues. The task before us then is to develop community-driven solutions that systematically wipes away this nexus, offers a new way of thinking about immigration and the U.S.-Mexico border and that gives practical solutions the foundation in the mind of the public to actually take hold and work.

This document has three parts. We lay out: 1) How we got here through social processes that portray the border as criminal and the institutions built up around this depiction; 2) Specific instances of intersection between border/immigration enforcement and the criminal justice system; and 3) A discussion of what deep solutions might look like, that draw on the diverse experiences and perspectives of border and immigrant communities to change both policies and the ways that migrants and the U.S.-Mexico border are talked about.

Section 1—The U.S.-Mexico Border as a Place of Criminality:

How We Got Here

Fundamentally, we are living in a condition of what law professor Juliet Stumpf calls ‘cimmigration’, a blending of the enforcement of immigration and criminal law that has totally upended the former. Immigration violations, which have a long history of being treated under administrative law are a leading component of all Federal criminal prosecutions. We have seen a huge build-up of the immigration enforcement apparatus over these past two decades between increases in the number of INS/ICE agents, and programs like Secure Communities, now the Priority Enforcement Program, that have brought immigration enforcement directly into local jails. And state and local governments are rushing to reinforce this melding of criminal and immigration enforcement. Communities of unauthorized immigrants in the U.S. interior increasingly live in a state of fear that an everyday encounter with law enforcement, such as a traffic ticket, will end in deportation. All of this presents a huge challenge—immigration reform must go hand in hand with criminal justice reform. Still, looking only at the intersection of immigration enforcement and criminal law enforcement misses a key component: border enforcement. Policies, practices, trends, and perspectives that drive border enforcement quickly intertwine with immigration enforcement and criminal law enforcement not only in the borderlands, but quickly thereafter in the interior.

The history of the ramped-up enforcement that has marked the nexus of immigration, the criminal justice system, and border controls starts 24 years ago in El Paso, with Operation Blockade. Since then the Border Patrol has gone from 4000 agents to more than 21,000, and hundreds of miles of fencing, thousands of electronic sensors, and multitudes of air and land

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

vehicles have been added to the government's arsenal. According to DHS publications, even approximately one-fourth of Immigration and Customs Enforcement personnel, typically thought of as carrying out immigration enforcement in the interior, are posted in communities at or very near the U.S.-Mexico border, and the agency's budget has boomed in recent years. All of this reflects the border's status as a political totem for xenophobes, an idealized division between outside and inside that must be upheld. This, of course, cannot be produced in real-life, and so we become the dog chasing its tail, making border enforcement ever more important and central with more manpower and resources, and becoming ever more upset at the inability to achieve the unachievable. The border is seen as a site of lawlessness that must be made lawful.

Blame for the failure to live up to this ideal then gets effectively laid at the feet of those who cross the border, legal or illegal. Communities that live real lives around the border, communities that are heavily Latin@ and which often live extremely marginalized economic lives, become tainted. Immigrants become marked as a sign of imperfection and failure to be expunged from the national body politic. Rather than normalizing the patterns of the real lives our society lives, we increasingly criminalize actions in the hope this will make them go away. Unauthorized crossing becomes a felony. Persons crossing legally through ports-of-entry, or even just living in border communities, sacrifice fundamental civil protections, even to pass through checkpoints to go to the interior. Criminal law enforcement is increasingly focused on the border. The deployment of armed helicopters, boats, drones, and more to both securitize and militarize the border is normalized in the name of law-enforcement and by intentional

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

efforts to cast migrants as ‘hordes’ of ‘invaders’. Of course, all of this fails to change actual ongoing behaviours and so the loop repeats and intensifies.

Moreover, the criminalization of migration and militarization of the border has been accompanied by a dehumanization of migrants and a culture of impunity around the government agencies conducting border and immigration enforcement. Examples of the former are widespread, particularly notable in popular portrayals of cartels and gangs as essentially monsters—simultaneously superhuman in strength and subhuman in morality. This monstrosity infects all migrants, even those explicitly fleeing from the effects of cartels and gangs, and justifies denying them due process, holding them in cages, turning away their asylum claims, and even taking their lives.

Likewise, as migrants get degraded into subhumans, the need for accountability on the part of the enforcement agencies erodes and blame for maltreatment becomes easier to shift or ignore—in these ways the state has cultivated impunity for how it approaches immigration and border enforcement. We can see the former in efforts to cast migrant deaths as an effect of human traffickers, even though it is a problem fundamentally driven by intentional choices of U.S. enforcement agencies. Other issues like overuse of force, corruption, and waste suffer from going unspoken or unheard in a narrative environment where migrants equal illegality and agencies like CBP or ICE become synonymized with legality. This strict dichotomy results in the normalization of practices that erode any number of protections of constitutional and civil protections, but which goes ignored because it does not align with the dominant conceptual framework. And as norms and rights around small abuses erode, a slippery slope opens to allowing much larger and more destructive changes—inability to pursue real accountability for

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

practices like racial profiling, verbal degradation, or searches without warrants directly leads to agencies undermining the asylum process or wantonly separating immigrant families.

Adding to all of this is that each of these elements—criminalization, militarization, dehumanization, and state impunity—are deeply intertwined and mutually reinforcing. Dehumanizing migrants helps convert them from an issue for law enforcement, into a public threat that requires military intervention. Militarizing enforcement demonstrates a level of severity that justifies additional criminalization, and excuses erosion of legal and constitutional protections. Intentional efforts to silence problems or shift blame back onto migrants helps protect the enforcement apparatus and its practices and masks the severity of the state's transgressions until they reach a crisis point. All of this stems from and flows into criminalization and it all must be challenged simultaneously.

In recent years, this feedback and intensification of the criminalization of migration and its associated knock-on effects has led to practices not only getting more intense at the border itself, they have become more intense in the interior as well, as the practices and resources of border enforcement have permeated into the interior. Immigration enforcement has long been blurred with border enforcement, but recent years have seen a devolution of immigration enforcement into the interior, where the intensified tactics applied in the border are combined with local law enforcement, often in the interior South. Traffic checkpoints, ostensibly looking for lack of a license or insurance, but de facto allowing inquiries into immigration status, are a notable example of a practice taken from the Borderlands and applied to interior communities with devastating effect. These transplanted tactics that cause so much panic and grief for interior communities are not new, they are simple imports from border enforcement. As we

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

continue to prove unable to achieve the ideal border, we are turning inward in hope that what we may not be able to achieve in El Paso may be possible in Charlotte or Dallas.

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Section 2—Ongoing Intersections of Border/Immigration Enforcement and Criminalization

All of this construction and conceptualization of border and by extension of immigrant communities as criminal leads us to an ongoing profusion of law enforcement activities targeting these populations. Fundamental rights are degraded by both the proliferation of border and immigration enforcement agents through these communities and the expanded authorities they are granted. They are menaced by federal policies that create criminal penalties for border and immigration violations, and that tie enforcement actions to institutions such as jails. Moreover, communities face increasing threat, not only from federal enforcement regimes, but from state and local actors eager to use law enforcement, and other resources, to capitalize on a potent politics of xenophobia. The profusion of agencies, particularly near the border, also allows for ad-hoc extra-legal or illegal partnerships between criminal and border/immigration enforcement that further complicates daily life. Finally, we need to be acutely aware of the toll this takes on communities, on families, on migrants of all sorts transiting through, and on the ability of the U.S.-Mexican border to play a crucial humanitarian and legal role as a site for welcoming and taking in those seeking asylum.

The intersection of borders and criminalization starts its effects through current legal doctrine allowing CBP to undercut the 4th Amendment protections against searches and seizures provided by requirement of warrants and probable cause. Under the Trump Administration, Border Patrol working in far southern-New Mexico have been staking out homes, even climbing on roofs, all without either a warrant or the homeowner's consent. Persons passing through ports-of-entry are vulnerable to searches and seizures of themselves

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

property with no requirement of suspicion, while even invasive searches and seizures of persons require only a limited standard of reasonable suspicion. Likewise, federal agents are empowered to apply this authority on the basis of profiling, particularly racial profiling, which would both be unacceptable in other circumstances, and which open minority populations up to further interactions with and abuse at the hands of CBP agents. Furthermore, federal regulations and practices have extended this zone of degraded criminal protection well into the U.S. interior, with the federal government claiming this authority within 100 miles of an international border, and the authority to perform warrantless searches of private property (with the exception of homes) within a 25 mile radius of an international border. While of questionable legality, CBP has embraced this to establish interior checkpoints and perform other enforcement operations, which regularly leverage these diminished constitutional protections against persons residing in or traveling through these areas. As the ACLU notes regarding CBP operations in Tucson, Arizona,

“Tucson, community members report CBP agents entering courthouses and hospitals (including maternity wards) and approaching and interrogating hospital patients, motorists, and pedestrians. A patient at University of Arizona Medical Center was reportedly forced to deliver her child with a CBP agent in the room.”

(<https://www.aclu.org/aclu-factsheet-customs-and-border-protections-100-mile-zone?redirect=immigrants-rights/aclu-fact-sheet-customs-and-border-protections-100-mile-zone>)

Having to live under these conditions puts border residents, as well as people passing through this region, at much more risk of facing abusive behavior from Federal agents that through the

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

legitimation of profiling criminalizes our communities at the same time that it makes us particularly vulnerable to being drawn into the ever increasingly blurred immigration/criminal justice system.

This degradation of the criminal protections the Constitution offers to border communities is further exacerbated by the sheer overwhelming presence of Federal agents empowered to take advantage of this condition. Border Patrol and CBP vehicles and agents have a ready presence in a community like El Paso, frequently driving or cycling through downtown, residential neighborhoods, even university campuses. With a community covered by the degradation of their rights, this creates a chilling effect on communities that limits the ability of residents to pursue basic activities outside of their homes, historically even curtailing actions such as attending school, going to work or church, or seeking care from emergency services. Further exacerbating this is that the expansion of Federal enforcement agencies, particularly with the Border Patrol, has come at the same time as steep reductions in the numbers of apprehensions they are making, a situation that leaves thousands sitting around with little to do on an everyday basis. Unfortunately, the old saying that ‘idle hands are the devil’s playthings’ rings true. One notable example of this comes from Upstate New York, where “[b]etween 2006 and 2010 in the Rochester, NY, area, approximately 300 immigrants with legal status were arrested by Border Patrol agents, then released. The arrests coincided with an incentive program that rewarded agents with cash bonuses and Home Depot gift cards based on the number of arrests they made” (<https://www.aclu.org/aclu-factsheet-customs-and-border-protections-100-mile-zone?redirect=immigrants-rights/aclu-fact-sheet-customs-and-border-protections-100-mile-zone>). The overgrowth of Federal border and immigration

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

enforcement agencies compared to the tasks they are asked to perform incentivizes this bad behavior, while leaving communities at risk.

While these conditions leave border residents, as well as those passing through our region, at particular risk of being drawn into contact with enforcement regimes, a number of additional Federal policies make these contacts particularly punitive and destructive. 8 U.S.C. Sections 1325 and 1326 explicitly turn the act of crossing the border without authorization from a violation of administrative law, which immigration law otherwise is, into criminal acts punishable by fines and jail time. Section 1326 in particular, which criminalizes 'illegal reentry' leaves persons who cross the border without authorization with a felony. This is an explicit invocation of criminal law into the immigration and border enforcement arena. Still, the effects of this have only been felt recently, as it is only within the past decade that Federal enforcement agencies have pursued enforcement of these laws on a widespread basis through the 'Consequences Delivery System', better known under its former name of 'Operation Streamline'.

Under Operation Streamline, Federal agencies have explicitly aimed to criminalize every unauthorized border crossing with the aim of deterring future crossings through harsh criminal penalties. However, in a decade of practice there is absolutely no evidence to support the ideas that either Operation Streamline, nor of the criminalization of unauthorized border crossings more broadly has had such an effect. Instead, the only effect these policies have had is to fuel mass incarceration, while breaking up families and communities. Sadly, over the spring and summer of 2018, and longer in the El Paso region, we have seen this play out to horrifying effect, with the criminalization of immigrant families leading children, even infants,

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

to be torn from their parents—several hundred seemingly never to be reunited ever again. And this is only the most blatant illustration of a set of practices that has been tearing apart American families for years.

Immigration related charges stemming from Sections 1325 and 1326 now make up the bulk of all federal prosecutions in border-region Federal trial courts, and have driven these courts to the highest caseloads in the country. Indeed, for 2012, Pew reported that immigration prosecutions accounted for 30 percent of all convictions in Federal courts. This has had knock-on effects of overloading U.S. Attorneys and Federal district courts with criminal immigration prosecutions and threatens to undercut constitutional protections of a fair and speedy trial. The overwhelming numbers of these prosecutions are a leading driver of federal incarcerations, accounting for 9.4 percent of all persons held in Federal prisons, meaning that efforts to reduce mass imprisonment must dovetail with efforts to decriminalize unauthorized border crossing and reform our immigration system. Nor does detention end with Federal prisons. Both the average daily number of persons and the annual number of persons detained by ICE were nearly five times greater in FY 2011 than in FY 1995, the former going from under 7500 persons detained on any given day to more than 33,000.

Moreover, in addition to the broad impacts Operation Streamline has had on the operations of the criminal justice system, the enforcement of 8 U.S.C. Sections 1325 and 1326 that it has brought has hugely damaging effects on immigrant families and their communities. Federal law around illegal entry and reentry brings with it escalating criminal and immigration penalties for convicts. Section 1325 carries a maximum six-month sentence, while Section 1326 carries a *minimum two-year*, and maximum twenty year federal prison sentence for persons

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

with prior criminal records. On top of this, these violations are considered aggravated felonies, meaning a number of things for these persons.

First, they become susceptible to ‘expedited removal’ that means that these persons are not given a deportation hearing, rather they are simply removed from the country. Second, these convictions trigger an increasing series of bars on legal immigration—a first conviction under Section 1325 carries a 5 year ban from the U.S., while illegal re-entry convictions bring 10-year, 20-year, and lifetime bans. Combined the federal prison sentences and bans on entry into the U.S. present significant barriers to family unification, causing serious deleterious effects on those left behind, particularly children, who can suffer significant mental traumas because of this criminalization. And efforts to achieve family re-unification, and avoid those impacts, are all the more likely to be considered criminal in the eyes of the government. These Federal efforts to criminalize border and immigration violations have serious and negative repercussions on our communities and families, and they are fundamentally rooted in how the government conceptualizes and treats the border.

Recent moves by the Trump Administration have made the criminalization of migrants all the more apparent as a tool to be used against all immigrants. The Administration, using personnel and resources within DHS, has worked to promote reporting of criminal allegations—not just convictions—against immigrants. Criminalization has been used to justify dehumanizing practices like family separation, with administration officials arguing that immigrant parents who send or bring their children to the U.S. to seek asylum are unfit guardians. This aligns with increasing efforts to prosecute parents/sponsors of minors seeking asylum as ‘human traffickers’ because of their efforts to get their children into the country. So-

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

called ‘criminal aliens’ are a justification for ICE enforcement activity that increasingly targets immigrants with no criminal record whatsoever. Not even naturalization or birthright citizenship is a safeguard against the criminalization of migrants as DHS has ramped up investigations into naturalization paperwork *after* citizenship was already granted—a process designed for use against literal Nazis being turned on the general population. Similarly, we are seeing persons born in the U.S. in communities along the U.S.-Mexico border having their citizenship called into question—being stripped of passports and denied entry into the country—because they were born to midwives. In sum, under Trump and Sessions, criminalization is not just happening to new arrivals at the border—it is spreading to new populations of immigrants, geographically and demographically, at an alarming rate.

Nor is the Federal Government alone in bringing about this growing intersection between border enforcement, immigration enforcement, and the criminal justice system. Brought back in large numbers by the Trump Administration, 287(g) agreements allow the Federal government to deputize local law-enforcement agencies to enforce immigration law. More importantly, Secure Communities, again revived by the Trump Administration, also turns local law-enforcement into a tool of federal immigration operations by collecting data on the bookings and fingerprints of all persons processed through local jails. Even with the phasing out of federal immigration detainers, Secure Communities continues a fundamental link between local agencies and immigration enforcement by using local resources toward criminal enforcement to target and destabilize immigrant communities. Moreover, with policies like Operation Streamline, this means persons coming into contact with local law enforcement,

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

even when booked in local jails on minor crimes, are likely to be sucked into Federal criminal legal proceedings rooted in the criminalization of the border.

On top of the effect that Federal efforts have had to blur border enforcement, immigration enforcement, and criminal enforcement together, state governments have increasingly followed this path as well. Since the mid 2000s states have deployed their National Guard resources to the border to support either Federal border enforcement operations, or, as Texas did in the Summer of 2014, support state-level ‘border security’ operations undertaken by state law enforcement agencies. This follows on unsuccessful efforts by the Clinton Administration in the late 1990s to deploy military resources as front-line immigration enforcers. These deployments raise a number of concerns, particularly that 1) National Guard and other military forces lack adequate training to work with civilian populations—as was highlighted by the shooting of *Esequiel Hernández, Jr.* in 1998—and 2) that having these military forces operate in around this increasing immigration-border-criminal law enforcement nexus may weaken *posse comitatus* restrictions on the use of military forces for domestic purposes. Taken together, this blurring means that the militarization of border and immigration enforcement also represents a militarization of criminal enforcement in many communities that places Americans at greater risk of abuse.

Following these state deployments of military resources to border/criminal enforcement, states are also increasingly pursuing their own ‘border security’ operations—distinct from and beyond anti-‘sanctuary cities’ legislation like Arizona’s HB 1070. Such actions, so far undertaken by both Texas and Arizona, explicitly prioritize border crime, and target border communities for law-enforcement operations. Texas, in particular, has deployed

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

hundreds of state law enforcement agents, helicopters, and boats armed with 50 caliber machine guns to the border in the name of 'security' and 'public safety'.

Texas' 2015 decision to pass legislation spending \$800 million over two years on border law enforcement by the Texas Department of Public Safety came even in the express absence of evidence of high levels of criminal activity in border communities. Instead, this legislation, which formalized the 'border surge' that then Governor Perry had started in 2014, drew its purpose from the Central American refugees that have been coming to South Texas, where they present themselves to Border Patrol and CBP agents. Beyond complicating the ability to bring these persons into the refugee and asylee process, this explicitly casts these persons as criminal, and these communities as sites for ramping up state law-enforcement activity merely on the presence of the border.

In the meantime, the effects of this 'border surge' have been a surge in traffic stops in places like Starr and Hidalgo counties, stops which have had no impact on transnational crime, but which intimidate undocumented community members who are vulnerable to the expanding nexus between criminal law enforcement, such as this traffic enforcement, and border/immigration enforcement. As a result, many in these communities, some of the poorest in the country, rarely leave their houses to do more than go to work or school. Nor is this trend subsiding, as the Texas Senate in 2015 explored the possibility of setting up an interstate compact on border security that would replace Federal border enforcement with even more intensive state level activity, the 2017 Texas Legislature maintained this DPS border funding despite, or more likely because of those impacts on communities and migrants, and that same year passed the Arizona-like SB 4 facilitating the ability of local law enforcement officers to

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

inquire about immigration status.

These actions—and the way that they facilitated and normalized the dehumanization of migrants and abuse of border crossers and residents—have brought us to the point we are at with the Trump Administration. This criminalization and militarization of the border has created a sense of impunity within ICE and CBP that has been amplified by the Trump Administration’s xenophobic rhetoric and cruel anti-immigrant policies--and that contributed to the Trump Administration’s family separation/detention crisis. At Ports-of-Entry, border crossers are subjected to degrading behavior, like being forced to retrieve possessions from the garbage, verbal abuses, arbitrary seizures of possessions and documents, and physical assaults. As mentioned above Border Patrol agents are entering private property without neither consent or a warrant, in violation of the 4th Amendment. Structuralized state impunity has eroded the basic constitutional rights of border residents as everyday we face verbal and sexual harassment, racial profiling, questionable searches, and misuse of force. Hiring surges at CBP and ICE lowered standards for new personnel, fostering corruption—and they seek to further lower these standards. A slow, ineffective complaint process does little to even resolved submitted complaints much less punish those who violate law or policy, and internal affairs is understaffed. Detention is abusive, with poor access to medical care, rotten food, use of solitary confinement as coercion, and lack of access to a working bond or parole process.

All of this is devastating for communities that largely consist of economically, socially, and legally marginalized people. People are desperately afraid of the police, unwilling to report crimes and abuses for fear of contact with the immigration system. People are limited in their mobility both on the scale of the nation and within their own localities as the tactics of the

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

border/immigration/criminal enforcement nexus restrict their comfort to move about in their daily lives. This has serious impacts as it restricts the educational, health, and economic opportunities of these persons. It creates penalties for persons that far exceed any harm they may have done, and every year forces hundreds to their deaths as they attempt to enter the U.S. These are unacceptable harms being done to our communities, harms rooted in our fundamental inability to achieve the ideal, impermeable border that drives our policy, harms rooted in our unwillingness to see migrants and border residents as people deserving rights and dignity.

Taken together, what we see is a clear blurring of what it means to be doing immigration enforcement, border enforcement, and criminal law enforcement at all levels of government. We see policies and enforcement measures like Operation Streamline that create an embrace between these three to punitively harm immigrants with prison sentences for unauthorized border crossings. We see a conceptualization of the border and border communities as places of such lawlessness as to justify stripping residents in the borderlands of key constitutional protections granted under the 4th Amendment. We see this idea of the border as criminal seeping down to the states, even when backed up by no crime data or reality in the field. And we see all of this consistently rooted in fundamental mischaracterizations and misperceptions of border communities and of the border itself. More, we see it reinforced by ongoing militarization of border enforcement, dehumanization of migrants, and fostering of state impunity—all happening concurrently. This is a dynamic, growing, and deepening intersection of border, immigration, and criminal enforcement that threatens border communities, undermines communities in the interior, and which demands a significant

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

response rooted in breaking apart this nexus, and recasting the border based on its own realities, not on the xenophobic vision of it as a place of lawlessness.

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Section 3—Decriminalizing Immigrant Communities

by Building an Accountable Border

All of the above provides a diagnosis of the problem, but knowing the problem, in and of itself, does not provide a solution. And this is what we need, solutions that respond not only to the dynamic specifics of the ways that border, immigration, and criminal enforcement are blurring, but that work on the underlying root causes of how the border is fundamentally criminalized in the minds of so many Americans. In addressing the challenges presented by this growing nexus of border, immigration, and criminal enforcement, we believe that there is a need to lay out a principled, comprehensive approach that breaks apart this nexus, foregrounds accountability, and ensures the humane treatment of all communities, the protection of our civil and human rights, and the wise use of public resources.

First, this is work that must be rooted in long-term, broad, intensive efforts to break down the stigmatization of the U.S.-Mexico borderlands as a place of lawlessness, and to undo the institutions built in response to this. We need, badly, to move away from rhetoric of ‘border security’ that, even when used in statements otherwise critiquing the status quo, indulges the underlying frame of criminality and threat. Current border and immigration enforcement institutions, built to label border crossers and residents alike as criminal before ensnaring them in a hybrid border/immigration/criminal legal system will not fall unless and until they are attacked at their core. There are real issues to be addressed, working in concert with border communities, but constantly paying lipservice to ‘border security’ undermines our ability to reach our long-term goals.

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

Second, we need to call out what the nativist right wing is doing, not just the details or the immediate human effects—although these cannot be lost as part of the stories we tell—but ways that they shape America’s understanding of our country, of the border, and of immigration. We need to do this, because, following from the point above, we need to denormalize and destabilize these undercurrents in what the far right says about us not just at the level of decrying material falsehoods, but exposing the deeply wrongminded and destructive ideals they hold for our society. We need to be loud and strident in this work—because we can succeed when we passionately voice our ideals. Indeed, as the cases of the Muslim ban and Family Separation have shown, the Far Right is vulnerable to, and afraid of, attacks rooted in values. Those are the moments when their project has struggled most.

So we need to call out their tricks and underhandedness, but always in ways tied back to big ideas and core values, and that do not get us bogged down in process fights, legal technicalities, or jargon. We need to aggressively denormalize and destabilize the status quo. The criminalization of migrants/the border is intensified by this Administration, but rests on a framework that well predates Trump and Sessions. Likewise, we need to convert people’s fear—these are deeply unnerving times for many, many Americans—into a constructive vision of society.

Third, similarly, we cannot ‘sweat the details’. Policy details, such as specific enforcement tactics matter, certainly—sometimes immensely at the level of a family or individual. But, skirmishes over tactics, in and of themselves, are not conducive to effective communications/narrative building. We need to press big ideas—accountability, humanity, welcoming, inclusion, community engagement, dignity—that connect to core American values

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

and build the scaffolding off of that upon which to hang future tactical fights, or conversations about policy details. We need to build a cohesive alternative vision rooted in these big ideas.

We can see the limitations of getting caught up in tactical skirmishes against specific enforcement approaches—rather than underlying strategic social/political narratives—even in campaigns as successful as those undertaken in the Obama era against Secure Communities. While those campaigns were increasingly successful in pushing back against specific enforcement tactics such as detainers and the presence of ICE in local jails, they did not change the underlying criminalization of the border. As a result, when tactics changed, such as with the then shift to PEP, communities were still fundamentally vulnerable, and years of hard work proved ephemeral.

Similarly, we cannot ‘sweat’ policy proposals. We need, and we have, policy to demonstrate our seriousness and commitment to building constructive outcomes, but we cannot let ourselves get caught up in conversations about details. We should only discuss policy if it is a means of pivoting to talk about underlying values and visions for America. This is an area where we have seen the ‘Abolish ICE/Abolish CBP’ messaging from this summer fail. It unnecessarily pivoted from big ideas to policy and did too little to offer an alternative vision firmly rooted in values. Policy without vision will fail, as it has up to this point. Vision, even if presented without lots of policy details and many of which we have anyway, can succeed.

Our proposal for this vision is the U.S.-Mexico border as the New Ellis Island, a place where the U.S. opens itself to the world, and through our bounty of welcome and opportunity, of humanity and dignity, avails us of those who seek out a new life in America. This is a positive and affirmative re-envisioning of the border, and a reaffirmation of immigrants, that Americans

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

of all walks of life can buy into. This vision, rooted in our communities, calls for embracing and building on the realities of our lives, recentering essential American values of welcoming, inclusion, human dignity, etcetera. On that foundation of the New Ellis Island, we can hang new policies that engage and are accountable to communities as the way to solve problems like abuse of border residents and migrant deaths, and provide real benefits to the entire nation.

However, while border communities have been able to develop counter-narratives about the U.S.-Mexico border, they are persistently marginalized and under-resourced in ways that make promulgating this work very difficult. We need to center border communities. We cannot let any part of this process be captured by insiders whether in D.C. or the states. The only way to counteract this is to organize border communities to make sure their voices are heard and engaged with as part of larger conversations. We need to empower border communities, and ensure that they have the resources, training, and support to be able to participate in and lead discussions and actions happening at the regional, state, national, and transnational scales around this nexus of border, immigration, and criminal enforcement. This is not just about media outreach, but is about community self-activation and representation so that consistently from here on out border communities voices and experiences need to drive future conversations. Only by doing this can we effectively build border enforcement, immigration policy, and criminal justice institutions that are rooted in realities rather than fears, and that break apart the problems we face currently.

Likewise, when we work to rebuild our institutions around reality rather than unfounded fears of the border, we need to make sure that this engagement with border communities continues into the border, immigration, and criminal justice institutions that we

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

build. Public safety throughout all of this needs to be rooted in an idea that agencies need to be accountable to communities they serve for their actions. This engagement and push for community accountability ensures opportunities for communities to assert and protect their dignity and rights. In particular, we need to ensure that CBP, the Border Patrol, and other entities have relationships with the community, engage with community concerns, and can justify their actions in the realities of the communities where they are working. Local engagement provides a critical check on activities happening on the ground, allows problems to be worked through relatively quickly and easily, and builds a solid foundation for any larger advocacy efforts that are necessary.

We also need to ensure that as we work to break-up the nexus of border, immigration, and criminal enforcement that we base future policy and institutions on the provision of quality public safety, not quantity public safety. Current policy and practices emphasize quantity because they see entire border and immigrant communities as criminal because of their association with the border. So we have practices that reduce constitutional rights and protections for large numbers of people, that check the immigration status of every person in local jails, and that build new state level enforcement agencies because the quintupling of the Border Patrol is seen as still insufficient in the face of this misconception.

Ultimately, we need to recognize that the border matters, and that addressing the needs of border communities matters. Even in discussions toward achievements like comprehensive immigration reform, border voices are all too often left out, and a conceptualization of the border as criminal is preserved. This is why we consistently see immigration legalization partnered with increased border enforcement, with tougher stances

Breaking the Border-Immigration-Criminal Enforcement Nexus: A View from the Border

on border crossing prosecution, and with further militarization and degradation of the quality of life in border communities. Moreover, it reflects poorly on our society that we are so willing to see border communities, notable for being consistently Latin@-majority communities, as so thoroughly criminal in ways that we would never portray the American interior. The enforcement policies matter, but practices exist hand in hand with symbols and discourses that must be addressed concomitantly. By failing to address the criminalization of the border we criminalize Latinas and Latinos throughout the U.S. and in so doing make everyone worse off.

BNHR DRAFT

Border Network for Human Rights
2115 N. Piedras Ave
El Paso, Texas 79930



915-577-0724

www.bnhr.org

[www.fb.com/BorderNetworkForHumanRights](https://www.facebook.com/BorderNetworkForHumanRights)

An Overview of Current Conditions at the U.S.-Mexico Border

Revised 09/03/2019

Happening Now

- **Recent weeks have seen a drop in crossings** (as measured by CBP statistics)ⁱ. This is a combination of seasonal shifts—migration from Central America to the U.S. normally drops over the summer—and Mexican enforcement efforts. Still crossings are high compared to a similar point at past years and includes people from all over the world—including Central America, Cuba, Venezuela, Haiti, India, and countries in Africa.
- **The United States has greatly expanded the use of the Migrant Protection Protocols (MPP/Remain in Mexico) on persons seeking asylum at the U.S.-Mexico Border**ⁱⁱ. This has been expanded across locales—now being applied borderwide—and nationalities—now being applied to Cubans and Venezuelans as well as Central Americans.
 - As of early July 2019 approximately 7,600 persons had been placed into MPP locally and returned to Ciudad Juarez. By July 16th that had risen to more than 10,200 personsⁱⁱⁱ and as of July 26th was more than 12,000^{iv}. By August 27th there are more than 15,000 persons in MPP in Ciudad Juarez^v.
 - Typically people are being given court proceedings that start in early 2020.
 - There are immense regional challenges in how we can provide these persons shelter, safety, and access to counsel/due process that are only getting more heightened as more people are put into this program.
 - ‘Metering’ is in effect in the region and more than 4,000 persons are waiting in Ciudad Juarez for their opportunity to present at a port-of-entry to claim asylum^{vi}.
- **There are multiple hunger strikes ongoing in ICE detention centers in the El Paso region**^{vii}. Hunger strikes are ongoing at both the Otero County Processing Center (ICE contracted) and the El Paso Processing Center (EPPC—ICE run). Hunger strikers are being transferred from Otero to the EPPC^{viii}.
 - As of July 28th, with a court order, ICE has begun forced hydration of at least four Indian detainees at the EPPC^{ix}.
 - A large Cuban-detainee led hunger strike is expected in the coming days/weeks.

Executive Summary (More Detail in Later Sections)

- **There is an ongoing spike in the number of arriving asylum seekers^x—people following an established and legal process in U.S. law^{xi}—that is dominated by families and children.** (See page 3)
 - CBP’s failure to adapt to this changing migrant population, which we first saw in 2014 and 2016, has exacerbated ongoing problems at the border.
- **Conditions in CBP custody over the past 9 months show an agency and an Administration with little concern for human rights, dignity, or lives.** (See pgs. 4-6)
 - Across the border we have seen widespread documentation of serious failings, grotesque conditions, and inhumane treatment in CBP custody—severe overcrowding, lack of sanitation, frozen or spoiled food, denial of or insufficient medical care, and verbal, physical, and sexual abuse by CBP personnel^{xii}.

An Overview of Current Conditions at the U.S.-Mexico Border

- CBP has broadly refused to take responsibility for its failings and also has done nothing to facilitate any significant transparency, accountability, or oversight^{xiii}.
- **Metering of asylum seekers has kept migrants from being able to follow the lawful asylum process at ports-of-entry^{xiv}.** (See pg. 6) Instead, this U.S. government practice is effectively forcing families, children, and migrants to enter between ports-of-entry. This choice makes arriving migrants at the border a more complex logistical problem.
- **The Administration has increasingly made immigration/border enforcement a more complex multi-national issue.** (See pgs. 6-7) Implementation of the ‘Migrant Protection Protocols’ (MPP)^{xv} and deployment of the Mexican military to conduct border enforcement^{xvi} has entailed the involvement of the Mexican government and we have effectively coerced Guatemala into signing a ‘safe third country’ agreement^{xvii} restricting the ability of people from Honduras and El Salvador to seek asylum in the U.S.
 - These policies have the effect of undermining due process in asylum proceedings while also shifting enforcement further away from Congressional oversight.
 - The effects of MPP in particular are dire, as they force asylum seekers to spend months or years waiting through their legal proceedings in horribly unsafe conditions in northern Mexico^{xviii}. Migrants, typically, would rather be in CBP custody, despite the poor conditions, than in Mexico under MPP.
 - The Administration is choosing programs like MPP despite the hardships they cause asylum seekers rather than releasing them in the U.S. where community support helped feed, clothe, bathe, and shelter them^{xix}. This community support had also worked to connect asylum seekers to family and transportation.
- **The deeply problematic and traumatic practice of family separation has continued under this Administration in several ways—despite court orders from last summer to put a stop to the practice^{xx}.** (See page 8)
 - ACLU statistics indicate that more than 900 children have been separated from their parents since last year’s court order^{xxi}.
 - Non-parent guardians (e.g. adult siblings, grandparents, etc.) are regularly separated from children, even when they have legal proof of guardianship.
 - Partial family separation (like a father divided from mother & child) is common.
 - CBP agents retain wide and unaccountable discretion to separate families on the basis of ‘neglect’ or ‘abuse’^{xxii}.
 - The intersection of family separation and MPP causes deep complications for families, both to their wellbeing and to their legal situation.
- **Administration force-feedings and solitary confinements of migrants in area ICE detention verges on torture.** (See page 8) Medical professionals conducting this procedure went outside of recommended practice causing injury and trauma^{xxiii}.
- **Redeployment of approximately 15 percent of area Office of Field Operations (OFO/‘Customs’) to support Border Patrol operations has led to significant slowdowns in border crossing times^{xxiv}.** (See page 9) Since this redeployment started, vehicle crossing times went from 90-120 minutes to 4-5 hours and pedestrian crossing times went from 30-60 minutes up to approximately 2 hours. This hurts shoppers, students, workers, families, and trade reliant on crossing between the U.S. and Mexico.
- **Border communities need solutions that uplift our values and opportunities as a country, and that create meaningful accountability and oversight.** (See pgs. 10-13)
 - Congress should pass HR 2203 (Homeland Security Improvement Act).

An Overview of Current Conditions at the U.S.-Mexico Border

Who are these migrants?

- **Current migratory flows at the U.S.-Mexico border are dominated by people—mostly families or children—coming to the U.S. seeking asylum^{xxv}.**
 - Asylum is a legal process under U.S. and international law where people with an imminent fear of violence or persecution can ask for protection in another country^{xxvi}. Asylum does not apply to people migrating from fear of poverty or starvation. You must be physically present in the country in which you are seeking asylum. You do not need a valid visa to request asylum. Current asylum laws were a response to the genocides of the Holocaust and represents the best of America’s values as a ‘land of opportunity’.
 - Families presenting at the U.S.-Mexico border—related adults and children—are not always biological parents and children^{xxvii}. Often these are other familial relationships: older siblings and children, step-parents and step-children, grandparents and children, or aunts/uncles and children.
 - Large numbers of people arriving at the U.S.-Mexico border to seek asylum are from Central America, but also many are from Mexico, Cuba, Venezuela, or Haiti^{xxviii}. Increasing numbers of arriving asylum seekers at the southern border are from African countries^{xxix}.
 - Many people, especially from Central America, are indigenous and may not speak, much less read, Spanish.
- **People are leaving their home countries because of the extreme risks they face if they stay there.**
 - Many migrants are fleeing severe poverty/deprivation/hunger in their home countries. Highland Guatemala, especially, has been suffering through severe drought that appears linked to global climate change^{xxx}. Migrants coming for these reasons are unlikely to have successful asylum claims under current law, no matter how desperate the circumstances at their place of origin.
 - Many other migrants are fleeing because of the inability of their home governments to manage violence or crime or because of state involvement in things like gang/drug/sexual/domestic violence^{xxxi}. Indigenous people are often particularly targets of such violence. Migrants coming for these reasons may have a good claim to asylum under existing law, although the Trump Administration has limited their ability to prevail.
- **More of these migrants are families and children than we have seen come to the U.S. in recent decades^{xxxii}.** Overall levels of migration, however, are still below the historic peaks seen in the 1980s, 1990s, and mid-2000s^{xxxiii}.
- **Most of these migrants already have some family or sponsor in the United States** and are likely to go be part of a community where they have an opportunity to work, learn, live, and thrive^{xxxiv}.
- **Most activity at the U.S.-Mexico border still comes through ports-of-entry.** In a typical year there are approximately 350,000,000 U.S.-Mexico border crossings through ports-of-entry^{xxxv}. Even if we get to the estimated 900,000 to 1.2 million unauthorized migrants crossing the southern border this fiscal year, this is still only .3 to .4% of total traffic moving through ports-of-entry. Moreover, most flows tied to transnational crime, such as flows of drugs, guns, or cash, move through ports-of-entry^{xxxvi}.

An Overview of Current Conditions at the U.S.-Mexico Border

Recent Problems/Conditions in the El Paso Region

- **In recent weeks and months we^{xxxvii} and other border organizations/communities have witnessed or documented very poor conditions in CBP custody^{xxxviii}.** We, and other organizations, have documented a significant lack of adequate infrastructure for families, children^{xxxix}, and single adults. This includes a lack of access to healthcare, sanitation (toilets and showers), and adequate sleeping accommodations. There is serious overcrowding—dozens or hundreds of people are being crammed into rooms meant only for a few. Reports on food service has indicated that food served is often rotten, moldy, spoiled, or frozen, and typically is nutritionally inadequate for the populations being served. It seems apparent that the Federal Government’s ability to house, care for, and process migrants has broken down.
 - As documented in our 2019 Abuse Documentation Report^{xl}, migrant reports of the food they were given in CBP custody included:
 - ‘our food was a cold sandwich and sometimes we would go days without water and a biscuit, nothing more’,
 - ‘the children are given only a small juice, when we ask for a bottle of water it is denied...we were given raw soup without water, raw oatmeal’,
 - ‘they gave us raw oatmeal, maruchan soup without water, a juice and a cookie and that was it’,
 - ‘they gave us pure frozen food, salads with ice, frozen burritos with stones inside’,
 - ‘they gave me oatmeal with water they said we had to eat it if we did not eat it, they would not let us drink water...’,
 - ‘it was more chlorine/bleach than pure water’, ‘water tasted like pure chlorine’
 - Migrants reported^{xli} when they wanted to access medical care issues such as:
 - ‘when I was taken to the detention center I told them about my finger and they ignored me, and my hand became swollen and another fellow told me that I had broken my hand when he saw how swollen my hand was, but those of ICE did not help me with my finger at all, hours later, my hand deflated itself’,
 - ‘I was treated by a person who wore a medical uniform and tried to help me because I could not breathe and he suggested to the officers in green that they call an ambulance and one of the agents answered "To leave me, that there was not much to do, that they would give me some pills and that's it"’,
 - ‘my children had cough and flu but they did not give them any medicine...I started menstruating and they did not give me sanitary napkins’,
 - ‘when I was going to tell them that I felt bad with a headache they told me "you are not dying, so you can stand it" they treated us for the worst as if we were animal’,
 - ‘I felt dizzy, nobody saw me and they told me they would only see me if I was dying... the doctor [saved] me and gave me medicine for the blood pressure, the doctor recommended to take it every morning but the officers gave it to me every 3 days and I was there for 20 days’,

An Overview of Current Conditions at the U.S.-Mexico Border

- ‘I became ill, I got a fever during the morning and a pain on my throat and around one I went to tell an agent in blue that I was sick and I wanted them to take me to a doctor, and he responded to me “there is no doctor...that is not something that is grave, something grave is when you faint or you are dying” thus he didn’t take me’
- Reports of overcrowding include: 900+ adults in a facility with capacity of 125 as documented by the DHS-OIG at the Paso Del Norte processing center in El Paso^{xlii}, and DHS-OIG reports of ‘dangerous overcrowding’ at CBP facilities in the Rio Grande Valley^{xliii}. Our 2019 Abuse Documentation Report found many migrants reporting similar conditions.
- We have also heard other concerns, including that CBP as a blanket policy takes away migrant’s medications^{xliv}, putting them at risk from illness and disease.
- CBP also only allows persons in custody to have one layer of clothing and takes away all other clothes and jackets—leaving people vulnerable to cold conditions in holding cells^{xlv}. This is justified as an ‘anti-suicide’ effort.
- **In our June 2019 Abuse Documentation Report, we reported multiple accounts of degrading treatment by CBP officers—verbal and physical abuses^{xlvi}.** Subsequently we have also seen public reporting on multiple instances of CBP—primarily Border Patrol—posting offensive, degrading, and demeaning statements on social media^{xlvii}. These are broad and long-lasting patterns of officer misconduct—notably not ‘a few bad apples’ and not tied to the lack of adequate resourcing or infrastructure described above.
 - Instances of these abuses that we collected in our 2019 Abuse Documentation Report include^{xlviii}:
 - ‘whenever we wanted to fall asleep they would wake us up to count us, they made us stand up and they’d shout at us that more people were coming and that it was our fault’,
 - ‘he kicked me in the back and said “fucking motherfuckers, what are you doing here, why don’t you stay in your land eating shit”’,
 - ‘there was one of Mexican origin, who sometimes spoke Spanish and told us “pinches, why did you come here, here you are going to suffer”’,
 - ‘they told us we were pigs’,
 - ‘they only used words like “fuck you”, they checked us, but they squeezed my breasts, my back, and my legs’,
 - ‘every time they saw me outside they would say “get in bitch or do not make me mad”’,
 - ‘they yelled at me “you are an expense to us”’,
 - ‘an agent dressed in blue would make us get up to our feet with yelling and insults or would get us up with kicks’,
 - ‘I witnessed an immigration agent hitting a child of approximately 7 to 10 years old [telling] him “fuck you, motherfucker.” The same agent also hit a woman...’,
 - ‘when attendance was called, I could no longer hear and they went and kicked me so I could get up’, and others.
- **A number of sources, including our 2019 Abuse Documentation Report^{xlix}, have indicated that people are being detained in CBP custody for unreasonably long periods of time.** CBP facilities are intended to hold people for a maximum of 72 hours.

An Overview of Current Conditions at the U.S.-Mexico Border

Instead, we are hearing reports of children being held in CBP facilities for up to 3 weeks and of adults in CBP facilities for up to 10 weeks. This is particularly concerning because people in CBP custody have no access to attorneys and only very limited means to contact family or sponsors. Prolonged detention in CBP custody is also a key contributor to overcrowding in CBP custody.

- **It can be, and often is, hard to know a lot of details about conditions in CBP custody. That said, it is our impression that many fewer people are in CBP custody in the region, and that duration in CBP custody in the region is down, as more people have been put into MPP more quickly.** Data from CBP is very limited and unevenⁱ. Communities/NGOs do not have access to CBP custody sites; for reports from these sites we must rely either on a limited number of entities that can provide direct inspections, or on the testimony of people released from CBP custody either to communities in the U.S. or are placed in MPP. Conditions are also given to changing or deteriorating very rapidly.
- **CBP has been increasingly and strongly resistant to any reporting, from any source, of problems with the quality of care or conduct migrants are facing in agency custodyⁱⁱ.** It is deeply troubling that the agency has been so resistant to any criticism or reporting about custody conditions given the multiple and extensive reports—including reports from the Department of Homeland Security Office of Inspector General—detailing widespread and similar problems at multiple locations. These issues will never get adequately addressed if the administration’s response is to dig in its heels in the face of criticism rather than to commit itself to ensuring and upholding humanity in its conditions and treatment of people.
- **There is continued use of ‘metering’ of arriving asylum seekers** (artificial limits placed on the number of people who are allowed to present for asylum at a port-of-entry on any given day)ⁱⁱⁱ. In the El Paso area there are thousands of people on list but only about 20 people get called every day—the wait time on this list is weeks long. In mid-July 2019 this list was more than 4,000 persons longⁱⁱⁱⁱ—and the wait on the list has been reported as lasting 4 months^{lv}. Different populations have taken different approaches on whether or not to go through metering—most migrants waiting in Ciudad Juarez are Cubans. CBP personnel are posted in the middle of the international bridges to check people for visas and physically preventing people from presenting for asylum.
 - The clear effect of ‘metering’ and other similar enforcement actions is to force migrants and asylum seekers to criminalize themselves in order to actually seek protection in the United States, despite the fact that Asylum is legal under U.S. law. We see the Trump Administration’s utter determination to degrade and dehumanize migrants by making the process as difficult as possible and by forcing people into making choices where the only outcomes are harm to them.
- **In an effort to reduce the number of migrants crossing/claiming asylum at the U.S.-Mexico border, the U.S. Federal Government is shifting enforcement south into Mexico.** There is now heavy use of Mexican authorities and the Mexican military/’National Guard’ to block people coming north from Guatemala into Mexico^{lv, lvi}, disrupt the movement of migrants northward through Mexico^{lvii}, and keep migrants from approaching the U.S.-Mexico border^{lviii}.
- **Implementation of the Migrant Protection Protocols (MPP) leaves vulnerable people at risk^{lix}.** More than 15,000 people have been returned to Ciudad Juarez to await their

An Overview of Current Conditions at the U.S.-Mexico Border

asylum legal proceedings—this is more than half of the overall total^{lx, lxi}. Approximately 200-300 persons are returned to Ciudad Juarez daily to await their legal proceedings^{lxii}.

- Northern Mexico is unsafe; we and others working in El Paso have heard many stories of returned migrants getting extorted, assaulted, robbed, kidnapped, raped, etc. after they have been sent back to Mexico to await further proceedings^{lxiii}. Attorneys have witnessed kidnappings of their Central American clients in broad daylight at the foot of the international bridge. Attorneys have also expressed increasing fear as they go about their work in Ciudad Juarez, as they become increasingly familiar to people like taxi drivers, as they fear such familiarity may make them vulnerable to kidnapping or extortion^{lxiv}.
- There is also a profound inability to provide adequate due process in the conduct of MPP. Attorneys cannot reasonably reach clients in Mexico, transit times between the two countries are a significant barrier, and other logistical considerations undermine the ability to guarantee that MPP actually complies with a person's 6th or 14th Amendment rights to due process^{lxv}. Broadly there is a lack of attorneys available, able, and willing to take the cases of people in MPP for full representation.
- Furthermore, implementation of MPP is uneven between the two halves of CBP—Border Patrol has placed a number of vulnerable people into MPP that OFO or other processes have later pulled out of the program^{lxvi}.
- The MPP process—and elements such as the non-refoulement interviews with a 'reasonable' rather than 'credible' fear standard—seem to be designed in a manner that migrants claim to allow them to stay in the U.S. for the duration of their proceedings never have a realistic chance of success.
- Other issues with MPP include a lack of adequate shelter space in Mexico (especially given that migrants are being told their legal proceedings may take up to five years)^{lxvii}. There are 12 shelters open in Ciudad Juarez housing upward of 8500 persons, but many are outside of the shelter system in houses and hotels. There is some organizing to provide support with food, furniture, and toiletries for shelters in Juarez but this has been difficult and does not appear that it will be sustainable. Interestingly, the Mexican Consulate has informed Congresswoman Escobar that the U.S. Federal government is providing financial and material support to shelters in Juarez to facilitate and sustain the MPP program^{lxviii}.
- Implementation of MPP has mainly affected Central Americans, but the program was recently expanded to include Cubans, Venezuelans, and others^{lxix}. There is significant fear the program will be expanded to include non-Spanish speakers.
- Early implementation of MPP was only at three locations: El Paso, San Diego, and Calexico. This was recently expanded to include all sites along the U.S.-Mexico border^{lxx}. Movement of people via MPP back to Nuevo Laredo and Matamoros—sites even more dangerous than an increasingly unsafe Ciudad Juarez—started in July 2019. The government is also working to expand the ability to have judges conduct proceedings through teleconferencing in an effort to expand the court infrastructure available for MPP.
- Broadly migrants would rather be in CBP custody, even knowing how bad custody conditions can be there, than be placed into MPP and sent to languish in Ciudad Juarez or other sites in Northern Mexico.

An Overview of Current Conditions at the U.S.-Mexico Border

- **ICE’s practices of force-feeding hunger strikers arguably constitute a form of torture against detainees^{lxxi}.** These practices were used against hunger strikers in January and February 2019^{lxxii} and are also being currently used on hunger strikers now at the El Paso Processing Center (EPPC).
 - ICE obtained a sealed order from a Federal Judge to allow force-feeding of detainees at the EPPC in January 2019^{lxxiii} without the migrants’ attorneys even being aware that a motion for such an order had been filed or being able to obtain a copy of the order once it was issued^{lxxiv}.
 - In February 2019 there were 10 hunger strikers at EPPC who the government obtained orders to force feed. When ICE conducted its initial force-feeding on one of these migrants, it kept the other nine in the room to watch^{lxxv}. The medical professional who conducted the force feeding had never done one of these procedures before and used nasal tubes that were larger than recommended^{lxxvi}. By the end of the procedure the migrant’s shirt was drenched in blood^{lxxvii}.
 - The process of getting people to eat again after a long fast is medically delicate. The first meal ICE force fed to one hunger striker who had been fasting for 76 days was a hamburger^{lxxviii}.
 - There are also concerns about ICE’s use of solitary confinement as an apparently punitive practice against detainees in their custody^{lxxix}, including at detention centers under the ICE El Paso field office^{lxxx}.
- **Family separation continues^{lxxxi}.** The Federal Government’s insistence on family being only a strict nuclear family unit does not reflect reality of the family relationships people are bringing with them to the border—aunts and nieces, older and younger siblings, grandparents and grandchildren all where an adult has effective custody of a child. As a result we see children being separated from their guardians because these relationships do not fit a needlessly strict government rule. We also have reports that CBP personnel are—at their sole discretion—separating children from their parents when they judge a parent to be negligent or unfit^{lxxxii}. These separations are being done without any input from a judge or child welfare expert. The result of this is to further burden the ORR unaccompanied minor custody system.
 - Beyond these family separations we also see various forms of partial family separations—such as when a father gets held in CBP/ICE custody or put in MPP while the mother and children are released.
 - The ways that family separations and MPP intersect in practice are complex and numerous meaning that affected children are often left to languish in ORR custody due to a lack of a potential guardian in the U.S.
 - Family separation has an intense and lasting impact on migrants—especially children—and the trauma inflicted can cause mental and physical problems for the rest of their lives^{lxxxiii}. Migrants report that the migratory journey to the U.S. is relatively benign, but that their encounters with U.S. border and immigration enforcement are harmful.
- **High numbers of people getting released to communities from federal custody have largely evaporated^{lxxxiv}, although the daily number of releases remains in flux.** Much of this is people getting diverted to MPP instead, and there has also been some movement to other sectors/parts of the border. Much of community shelter capacity in the El Paso area has demobilized^{lxxxv}.

An Overview of Current Conditions at the U.S.-Mexico Border

- At the peak of releases in April to early June, the Federal Government had peak releases of up to 1100 people/day in the El Paso region^{lxxxvi}. Local networks, coordinated through Annunciation House, were mobilizing more than two-dozen shelters in El Paso, Las Cruces, Albuquerque, Deming^{lxxxvii}, Denver, and Dallas^{lxxxviii}. There were more than two-dozen shelters operating at the peak and the largest single shelter had a capacity of more than 500 persons^{lxxxix}. Tens of thousands of people moved through this shelter network since October 2018.
- These shelters provided food, sanitation, beds, clothing, medical screenings and transport as necessary, facilitated communication with family or sponsors in the U.S. and helped connect people to transportation within the U.S.^{xc}.
- There has been some state government support from the State of New Mexico^{xcii} and some local government support (Cities of Albuquerque, Las Cruces, and to a more limited extent El Paso, along with El Paso County) but the vast majority of support has come from private volunteers and donations—much from the local region of El Paso and Southern New Mexico. We are immensely proud of these volunteers and communities for living America’s values at a moment when they were being challenged and eroded by this Administration
- **Border wait times have spiked since March 2019 when OFO pulled about 15% of personnel off of ports-of-entry to support Border Patrol^{xciii}.** Vehicle waits have gone from 90-120 minutes up to 4-5 hours. Pedestrian waits have gone from 30-60 minutes up to 120 minutes. Commercial vehicle processing on weekends has ended. Reduced traffic crossing because of reduced capacity or lengthened wait times means reduced economic activity in Texas and drop in state sales tax revenue.
- **We have heard some recent reports that BP is simply not apprehending all persons crossing^{xciii}.** Families will try to waive down officers/vehicles but will be ignored. According to these reports this happens fairly regularly over the last couple of months with small groups (3,7, biggest on Easter was about 35). These are people actively trying to present themselves to government agents and being turned away.
 - Interior checkpoints are closed in the El Paso sector but are open along other parts of the border^{xciv}.
- **There has been limited activity from ICE raids in the region.** BNHR has collected 5 reports of people being approached by ICE agents in their homes or other circumstances^{xcv}. Broadly speaking people so approached have been able to deflect apprehension by questioning the validity of the non-judicial warrants ICE has been using in conducting their enforcement activities.
- **We are monitoring developments around the Trump Administration’s interim final rule restricting who can seek asylum and the expansion of ‘expedited removal’ to apply nationally for persons in the U.S. less than two years.** It is too early to fully grasp the implications of the expansion of expedited removal. Meanwhile, the interim final rule has been blocked by the courts, but caused significant confusion and anxiety among asylum seekers while it was in effect^{xcvi}.

Why is this happening?

- **The causes of why people are treated as they are at the border predates the Trump Administration—although things have become particularly intense and cruel under their watch.** In recent decades, Americans have treated the U.S.-Mexico border as a

An Overview of Current Conditions at the U.S.-Mexico Border

place of lawlessness, a portrayal that makes it implicitly criminal. This justifies more walls, agents, drones, and arms—a (para)militarization of the border.

- Border communities become similarly impugned. It doesn't matter if El Paso is consistently one of the safest communities in the country, because the extensive police presence suggests some active criminality or threat. Confusion of migration and transnational communities with imagined wars such as the 'War on Drugs' or 'War on Terror' reinforce this criminalization of the border, as border crossers are seen first as potential smugglers or terrorists, and only second as visitors, shoppers, workers, tourists, or businesspersons.
- **The current situation facing border communities, and the U.S. writ large, is one where a criminalization of migrants fuels and facilitates other harmful tendencies.** Drawing from, and also reinforcing that criminalization, are concomitant forces dehumanizing migrants (criminality makes migrants sub-human, a view reinforced by the overwhelming and unchecked response of the state against migrants), paramilitarizing enforcement (criminality paired with dehumanization justifies not just a carceral, but a military response on the part of the state with minimal effort to actually achieve any stated public safety ends), and treating the enforcement apparatus with impunity (people so thoroughly criminalized and dehumanized cannot be meaningfully abused). These four prongs—criminalization, dehumanization, paramilitarization, and state impunity—are mutually supporting and reinforcing; interconnected in ways that make efforts to address the problems of any one issue, by itself, nearly impossible.
 - Dehumanizing migrants transmutes them from an issue for law enforcement, into a public threat that requires military intervention. Militarizing enforcement demonstrates a level of severity that justifies additional criminalization, and excuses erosion of legal and constitutional protections. Intentional efforts to silence problems or shift blame back onto migrants helps protect the enforcement apparatus and its practices and masks the severity of the state's transgressions until they reach a crisis point. All of this stems from and flows into criminalization and it all must be challenged simultaneously.
 - In recent years, the intensification of border-criminalization nexus has seen the practices and resources of border enforcement permeate into the interior.
- **Border hardening—the intensification of border enforcement—can be counter-productive to creating a safe, controlled border.** Much of the U.S. approach to border enforcement rests on the concept of 'deterrence'—that the experience of migration can be made so dangerous/degrading/miserable that migrants will choose not to come. However, despite trying this approach for 25 years, there has never been evidence that deterrence works. Instead, legal service providers in the El Paso region are reporting that their clients are being told by 'coyotes' that people need to be looking to migrate NOW—before the Trump Administration further hardens or closes the border^{xvii}. This presses people to accelerate the timeline for their journey to the United States. In this way, we are seeing the Administration's deterrence rhetoric being turned on its head and actually proving to cut directly against the goal of our border control strategies.

What should be done?

- **We need to recognize that families and individuals seeking asylum at the U.S.-Mexico border are coming to us seeking safety and opportunity, NOT as a threat.**

An Overview of Current Conditions at the U.S.-Mexico Border

These families are coming in line with our values, our history, and our laws (asylum IS a legal process). Our southern border is the New Ellis Island of our age, a place where we can see communities building the future of America before us.

- We should not speak about these families in ways that criminalize them, degrade them, or marginalize their needs or humanity.
- **Congress should pass HR 2203—the Homeland Security Improvement Act by Cong. Escobar—to create a framework for internal and external oversight of Federal border and immigration agencies.** HR 2203 addresses a number of important areas for improving border and immigration enforcement moving forward:
 - HR 2203 creates a border stakeholder commission with a mandate to review and assess U.S. border policy, strategy, and practice from the lived perspective of border residents, and with a particular eye toward considerations of civil, constitutional, and human rights.
 - The bill creates an ‘Ombudsman for Immigration Agencies’ within DHS. This ombudsman would create a single unified complaint process for CBP, ICE, and USCIS and ensure that complaints were resolved in a thorough, timely, and transparent manner. The ombudsman would also have the authority to conduct unannounced inspections and audits of the operations of all of these agencies, and issue reports and recommendations based on complaints and other findings.
 - HR 2203 requires that CBP and ICE personnel receive training and continuing education on civil and human rights, including topics such as asylum law and identifying vulnerable populations. Front-line supervisors would be evaluated on the extent to which personnel under their command uphold these rights.
 - HR 2203 would require CBP and ICE to deploy body-worn cameras.
 - HR 2203 requires CBP to produce data on stops, searches, and secondary inspections at ports-of-entry, interior checkpoints, or other locations.
 - The bill would require improved reporting and agency approaches to prevent migrant deaths. It also requires better strategies for staffing ports-of-entry.
- **CBP and other involved Federal agencies and their contractors must commit to treating all persons in their custody and care with respect, dignity, and humanity.** There must be immediate improvements in the infrastructure provided to ensure that all persons in custody—children, families, and adults—have access to good food, drinking water, sanitation and hygiene, medical care (including psychiatric care), and legal aid. These entities must also ensure that their personnel conduct themselves in a courteous and careful manner.
- **There is a clear need for vastly greater transparency/accountability/oversight from CBP.** Existing means for providing transparency/accountability/oversight are woefully lacking. CBP holding facilities have no attorney access and very limited NGO access (only one NGO nationally has access under the terms of the *Flores* settlement). As a result, we reliant on the DHS-OIG and members of Congress to conduct tours and inspections—both of which have obvious time and resource limitations.
 - CBP must allow attorneys and NGOs access to these facilities and work with them to improve conditions.
 - There is a need for state inspections/licensing of CBP and other facilities where migrants are held in government custody as allowable under law.

An Overview of Current Conditions at the U.S.-Mexico Border

- State and local officials should pressure local CBP bureaucrats to be more transparent about the condition of people in their custody.
- Failures to meet standards of care and treatment must be recognized, acknowledged, and addressed in a thorough and timely manner.
- CBP must ensure that all people in their custody have adequate access to clean food and water, hygienic facilities, sleeping accommodations, and medical care. CBP must also ensure that all persons in their custody are free from verbal or physical abuse or degradation.
- **The Flores Settlement and the TVPRA should be protected.** These offer critical humanitarian protections for the treatment of migrants—especially children—in Federal custody and to ensure adequate due process of law.
 - That said the definition of family in the TVPRA should be loosened to include extended family and guardians such as children with aunts/uncles, grandparents, elder siblings, etc.
- **There is a need for federal support for humanitarian aid.** We should be looking to reimburse local governments for costs they have already incurred and to help facilitate things like transportation within and between cities going forward.
- **MPP should be terminated.** No new persons should be placed in this program and people who have been returned should be allowed to reenter the US for the duration of their court proceedings.
- **‘Metering’ at ports-of-entry should be terminated.** We should allow asylum seekers to present at ports rather than be forced into much more dangerous illegal entries in the desert or in the river in between ports. Furthermore, OFO is better to bear this burden than Border Patrol; they have better access to infrastructure at ports-of-entry in places like El Paso or the RGV than in remote areas of Southern New Mexico or the Big Bend.
- **The Federal Government should put processes in place to facilitate easy release of asylum-seekers into the US interior.**
 - The Federal Government should partner with NGOs at the border to coordinate food, shelter, and transportation—using a model akin to the facility the Obama Administration constructed in Tornillo, Texas in December 2016. It behooves us to recognize that border communities have been willingly taking on this effort and upholding the best of what our country has to offer for the better part of a year, even in the face of the Trump Administration’s degradation and inhumanity.
 - CBP custody should be strictly limited to the 72 hours set in TEDS standards.
 - CBP and ICE should use their ability to bond or parole people as a means of releasing them from their custody. This is as important a solution as improving detention conditions. No more ICE detention capacity is needed.
 - We should promote alternative-to-detention programs—especially case management based systems that have been shown to be effective in practice.
- **Widespread, de-facto ongoing family separations must cease.**
 - The amount of discretion CBP personnel have to separate families should be minimized and their ability/authority to do so should be extraordinarily limited. Loopholes around assertions of human trafficking in particular should be minimized.

An Overview of Current Conditions at the U.S.-Mexico Border

- The burden of proof should be on the government to demonstrate that child is victim of trafficking or is otherwise in imminent risk. This should require review by a court, or at least a child welfare expert.
- Children should be left in the custody of non-parent relative guardians (such as siblings, grandparents, aunts/uncles) unless such a burden of proof can be met.
- Presenting family units should undergo no degree of family separation—all parents, minor children, and other adult relatives should be kept together in CBP custody and released together.
- **ICE should be barred from force-feeding detainees. Migrants in a medical state requiring force-feeding should instead be paroled out of detention.**
 - ICE should be barred from using solitary confinement.

For More Information

If you have any questions about the contents of this testimony, would like further information on any topic, or would like references to further contacts regarding the contents herein, please contact BNHR Policy Director Robert Heyman. Mr. Heyman can be reached via email at rheyman@bnhr.org or by cell phone at 915-801-7440.

About Border Network for Human Rights

The Border Network for Human Rights has worked for 21 years in El Paso, Texas and Las Cruces, New Mexico to facilitate the education, organizing and participation of marginalized border communities to defend and promote human and civil rights so that these communities can create political, economic, and social conditions where every human being is equal in dignity and rights. During that span we have been one of the leading community-based organizations working on border and immigration issues, through work such as our annual Abuse Documentation Campaigns or our El Paso Model of dialogue and pressure with government agencies.

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Building a New Ellis Island Rooted in Accountability and Human Rights

Reframing How We Talk About the Border:

One of the most basic steps Americans can take to help migrants and communities along the U.S.-Mexico border is to change how we think and talk about the border. Rather than seeing the border as something apart, we must realize it as a place that connects America's future to our shared values and common past.

Today, we must decide what kind of America we want and decide what our future will be. Is it the one that incarcerates families and puts children in jails and builds walls and with immigration officers acting with impunity? Or, the one the one that accepts its destiny, that we are nation of immigrants and that is what makes us exceptional. A nation that is inclusive, diverse, and working for the wellbeing of each other.

- **Seeing the U.S.-Mexico Border as the 'New Ellis Island':** Asylum seekers from Central America arriving at the U.S.-Mexico border are fleeing the same drivers of violence, poverty, and starvation that drove so many of our forebearers out of their homes in the 18th, 19th, and early 20th Centuries. They come to America because of the promise of our society as 'the land of opportunity', a place of welcoming, inclusion, and dynamism where we all prosper together. Regardless of race or language, these people are of a piece with the history of this country and the southern border is the new Ellis Island through which they pass. The border is not just a gateway for arriving migrants, it is a place where our country is actively being created. In trying to turn away these people the Trump Administration is turning their back on our history, our values, and our future. We cannot let this happen—we must affirm the U.S.-Mexico border as a place where we must put our values into practice to turn real challenges into real opportunities.
- **We need to grasp that conversations about the border are really conversations about the whole of America.** We talk about what is happening at the southern border in terms of arriving migrants, but much of what is happening here is not about them, it is about us. The enforcement measures we enact at the border—the militarization of enforcement, criminalization of migration, massive emphasis on detention, family separation, overcrowding of CBP holding cells, driving people to cross in remote deserts—these are choices our government has intentionally made. And those governmental choices aren't removed from society writ large, they reflect America—our priorities, our values, our (in)humanity. Moreover, because a country is defined by its borders, what is happening now suggests a dark, disheartening future for our country. If we want to change what is happening we need to reflect on our society that allowed it in the first place and see ourselves as actors in this story. Only then, when we affirm that these choices do not reflect our values and demand that America do better, can we actually achieve a more humane U.S.-Mexico border.

We should not get too caught up in the details. Policy details, such as specific enforcement tactics matter, certainly—sometimes immensely at the level of a family or individual. But, skirmishes over tactics, in and of themselves, are not

Building a New Ellis Island Rooted in Accountability and Human Rights

conducive to effective communications/narrative building. We need to press big ideas—accountability, humanity, welcoming, inclusion, community engagement, dignity—that connect to core American values and build the scaffolding off of that upon which to hang future tactical fights, or conversations about policy details. We need to build a cohesive alternative vision rooted in these big ideas.

Ultimately, we need to recognize that the border matters, and that addressing the needs of border communities matters. Even in discussions toward achievements like comprehensive immigration reform, border voices are all too often left out, and a conceptualization of the border as criminal is preserved. This is why we consistently see immigration legalization partnered with increased border enforcement, with tougher stances on border crossing prosecution, and with further militarization and degradation of the quality of life in border communities. Moreover, it reflects poorly on our society that we are so willing to see border communities, notable for being consistently Latin@-majority communities, as so thoroughly criminal in ways that we would never portray the American interior. The enforcement policies matter, but practices exist hand in hand with symbols and discourses that must be addressed concomitantly. By failing to address the criminalization of the border we criminalize Latinas and Latinos throughout the U.S. and in so doing make everyone worse off.

- **Visit the U.S.-Mexico border.** Coming to listen to affected border communities and see the daily realities of border life is a powerful step toward understanding just how distorted common perceptions of the U.S.-Mexico border are. Please continue to come to the border and listen to what our communities have to say in their own voices.

Short-Term Oversight and Long-Term Change:

The US has built the largest enforcement domestic operation without safeguards for effective accountability mechanisms and very little oversight. When we think of America, we think of the effectiveness of its government. At least, this is what I have thought and learned about this great nation, that American government works best with checks and balances.

We have asked for accountability of the financial markets that led this nation to an economic crisis. And Congress had to implement closer oversight to the wars in Afghanistan and Iraq. But, we have neglected to do so in a domestic enforcement policy (border and immigration) that is affecting millions of Americans.

And, this is not a question if we need enforcement at the border. It is a question of what type of enforcement do we want. To ask Border Patrol, ICE, and other immigration agencies to be professional, that is a true American value. To ask them to respect constitutional rights of residents at the border, it is their duty and their obligation, not an option. To send border immigration agents through more constitutional, civil, and human rights trainings is the right thing to do. To ask this Administration to stop the separation of families and end family detention it is the just thing to do. Moreover, for all these

Building a New Ellis Island Rooted in Accountability and Human Rights

border and immigration agencies to be accountable to their community, to act transparently in their actions, is not only a mandate but a moral obligation.

What has happened at the U.S.-Mexico border under the Trump Administration is the dire consequence of border enforcement that lacks accountability and oversight and is unmoored from civil and human rights, or core American values like transparency. Lasting solutions entail enforcement institutions respecting human dignity, civil and constitutional rights, and American values. Thankfully, there are steps communities can push to ensure short-term oversight and address long-term problems.

Fight for legislation that makes agencies like ICE, CBP, and USCIS more accountable. Based on border resident input, border accountability should:

- Uphold constitutional rights and guard against government overreach.
 - Focus on quality enforcement not quantity.
- Maximize the preservation of the lives and wellbeing of border residents, crossers, and enforcers.
- Implement more robust policies and resourcing to address and prevent migrant deaths.
- Improve policies & training to reduce use-of-force & de-escalate problems.
- Agencies must engage locals—both residents and border crossers.
 - Residents must have policy input.
- Address problems in a thorough and timely fashion.
 - Publicize changes responding to problems.
- Invest in ports-of-entry to facilitate movement of legal goods and better interdict illicit activity.

The Trump Administration has intentionally worked to break the ways our border and immigration institutions and processes were designed to work—and they knew they could do that because those agencies lacked meaningful accountability or oversight. We need to fight for legislation that fixes this, like HR 2203 (Homeland Security Improvements Act introduced by Congresswoman Escobar). Among the necessary provisions in that bill, it is the creation of oversight commissions composed by members representing the different sectors of our border community to assess, investigate, and report back to Congress on the impacts of immigration strategies on border residents. It would also create an Ombudsman within DHS over CBP, ICE, and USCIS to revamp training, the complaint process, and the supervision of law enforcement institutions at the border. Support this bill and make sure that these principles of government transparency, accountability, and community engagement are realized.

Beyond HR 2203 Congress must work toward policy solutions where:

- **The Trump Administration must stop blocking access to asylum in the U.S. and support regional efforts to protect children, families, and others seeking asylum.**
 - End asylum ‘metering’ at ports-of-entry and implementation of the Migrant Protection Protocols.

Building a New Ellis Island Rooted in Accountability and Human Rights

- Modernize and appropriately staff ports of entry so that asylum seekers can be processed at ports in an orderly, humane, and efficient manner, as intended. Funds needed for humane processing and short-term shelter capacity can be drawn from the border wall and other CBP allocations, not new sources.
- Restore the ability to claim asylum based on persecution by gangs or because of domestic violence.
- Work with Mexico and other countries in the region to strengthen their refugee and asylum systems and reinstate the Central American Minors Refugee/Parole program, so that families and children can apply for protection in or near their homes rather than at the Southern border.
- **Congress should require DHS to use its funding for community-based humanitarian support programs and community-based alternatives to detention.**
 - Redirect border wall, detention, and enforcement funds to grants for state/local government and NGOs providing humanitarian aid to migrants released at the border.
 - Create long-term ‘welcoming centers’ for arriving asylum seekers that provide basic shelter, medical screening, legal orientation and assistance connecting to family, and assistance figuring out next steps.
 - Direct DHS to dedicate more funding for case management programs and other community-based alternatives to detention programs, *not detention beds*, for those who require longer-term support.
- **Congress should continue to demand transparency and accountability from CBP, ICE, and DHS leadership.**
 - Use Congressional oversight to hold DHS accountable and document how the Administration created chaos and ‘crisis’ along the border, all on the backs of asylees. Inquiries from Cong. offices, committee hearings—at the Capitol and in border communities—and subpoenas, requests for reports from inspectors general and the GAO, and all other available means of forcing accountability must be used.
- **In the long-term the U.S. must invest in improving conditions in Central America.**
 - We need deep, lasting investment in Central America to ensure that people live in prosperity and peace, and not feel like they need to flee their homes under threat of starvation, persecution, or violence.
- **Members of Congress and staff must continue to visit the U.S.-Mexico border.** Congresswoman Escobar’s office is happy to facilitate such visits, including ensuring that members are connected to voices from the community.
 - The work of people like Senator Merkley leaving D.C. to actually visit CBP facilities in South Texas was one of the key turning points around family separation—we must continue to build off of this example.

Building a New Ellis Island Rooted in Accountability and Human Rights

- **Bolster and support community pressure on government agencies/institutions—this can and has made real changes, even under the Trump Administration.** In the El Paso area, pressure from organized communities held the de-facto child detention center in Tornillo, and through months of protest, succeeded in closing the facility. This sort of sustained mobilization by an organized community is a model for targeting inhumane immigration operations around the country, not just at the border.