

**San Diego:
A Case Study on the Impact of Enforcement on
Border Communities**

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TABLE OF CONTENTS

- I. SUMMARY AND FINDINGS**
- II. ENFORCEMENT VIA MILITARIZATION AND VISE-VERSA**
 - A. State of Siege
 - *Clarifying Policy on Interior Enforcement Operations by Border Patrol*
 - *ICE and Special Operations*
 - B. Confusion and Suppression as De-facto DHS Policy
 - *Access to Information...*
 - *Clarify Policy on Ensuring Safety and Due Process Rights*
 - *Repatriation and Detention Issues*
 - *Under-counting Border Deaths and Questionable Use of Force*
- III. IMPACT OF IMMIGRATION ENFORCEMENT BY LOCAL POLICE**
 - A. Background
 - B. Highlighted Cases
- IV. CONCLUSION**
- V. ATTACHMENTS**
 - 1. Memorandum from William T. Veal dated August 8, 2003
 - 2. Detention and Removal Field Office San Diego CA
 - 3. I-200 (Warrant for Arrest of Alien)
 - 4. Photos of Operation involving ICE and San Diego Police Dept.

I. SUMMARY AND FINDINGS

In January 2004 President Bush gave a speech on the broken immigration system that renewed attention on the immigration debate. Over the past year, impending comprehensive immigration reform has mobilized different political circles to consider the implications of what “reform” might look like. Discourse from restrictionist forces in Congress promise to include detrimental enforcement measures, fueled by xenophobia and hate, in any reform package. Still, others would like to offer a “progressive enforcement” package as a way to counter-balance the expected anti-immigrant agenda. Beginning this new congressional year, the enforcement factor already is center stage and the different circles are meeting to strategize on how to address this important issue. In order to engage the debate, the San Diego Area Office of the American Friends Service Committee offers this brief synopsis on what enforcement has meant for migrant communities in San Diego.

Considering that a new anti-terrorist paradigm guides enforcement in general, and that immigration matters are now contextualized within the “war on terrorism” where the result is an increased number of abuses of migrants and people of color and a general debilitation of constitutional protections, this report finds that:

1. Migrant communities are under siege by a series of indiscriminate sting operations, including increased number of Border Patrol sweeps and undercover home raids;
2. Immigration enforcement has incorporated unprecedented levels of tactics that infringe on civil and human rights; and,
3. Ambiguity and confusion have replaced any attempt for transparency and clarity as communication with the DHS remains truncated.

This report is the product of multiple sources, including first hand accounts, news reports, victims’ complaints, personal interviews and telephone conversations with victims and DHS representatives, and reviews of official immigration enforcement documents.

II. ENFORCEMENT VIA MILITARIZATION AND VISE-VERSA

A. State of Siege

- *Clarifying Policy on Interior Enforcement Operations by Border Patrol*

On August 8, 2003, then San Diego Sector Chief William T. Veal issued a policy memorandum concerning *City Patrol, Interior Patrol, and Area Control* [SEE ATTACHMENT 1]. The policy memorandum was in response to public outcry about increased Border Patrol operations in urban settings and on public transport systems, and came at the heels of an incident in which Border Patrol agents detained a family of six who were walking towards the Mexican Consulate for services. The policy memorandum reiterated “long-standing agency policy” prohibiting Border Patrol from “conducting random or reactive ‘area control’ operations in residential neighborhoods.” The memorandum continued by stating that “Border Patrol Agents are not authorized to conduct any ‘interior enforcement’ or ‘city patrol’ operations in or near residential areas or places of employment,” and that “Border Patrol Agents are not authorized to initiate questioning in a ‘city patrol,’ ‘interior patrol,’ or ‘area control’ mode.” (In a footnote, Chief Veal notes that similar policy restrictions involving law enforcement operations at schools, churches, and funerals exist.)

On August 16, 2003, BCBP Commissioner Robert Bonner rescinded the memorandum for being “overly broad and restrictive of Border Patrol policy in the San Diego sector.” Furthermore, BCBP spokesperson Gloria Chavez commented that Border Patrol Chief Gustavo de la Viña would conduct “a nationwide review of existing policies regarding interior immigration enforcement,” and that currently the Border Patrol [paraphrased] *has the authority to question anyone, anywhere, and at anytime.*

RECOMMENDATION

In relation to the sweeps Border Patrol conducted from 2002 to 2004 on public transit systems in San Diego County and elsewhere, it is important to clarify the Border Patrol’s interior enforcement policies, especially concerning operations at or near schools, churches, funerals, shelters, workplaces, hospitals, etc. It is also important to clarify to what degree Border Patrol operations will include random checkpoints in urban communities, and also the extent of participation of local law enforcement.

DHS and Border Patrol must provide a complete accounting of costs to taxpayers incurred by these types of operations, and measures must be in place to ensure that Constitutional rights are observed. The general public must also be made aware of any direct connection to terrorist threats involving public transit systems if such is the rationale for conducting the inspections.

- *ICE and Special Operations*

Documented cases of immigration enforcement activities by various federal agencies points to the devastating impact immigration enforcement have had on migrant communities. Home raids not only perpetuate the problems associated with the old INS guard, such as the separation of families, physical and psychological abuse and trauma, and civil and human rights abuses, but the new methods for conducting raids integrate techniques that verge on police-state tactics.

Since November 2003, our office has received complaints that DHS agents have been conducting home raids, but it is unclear which government entity under DHS is orchestrating the sinister operations. Under the new DHS organizational structure, the Bureau of Immigration and Customs Enforcement (commonly referred to as ICE) houses several enforcement bodies that have the power to conduct home

investigations. They include Immigration and Customs Investigations, Detention and Removal [SEE ATTACHMENT 2], and Immigration and Customs Intelligence. Operations under these bodies are completely separate from operations conducted by the United States Border Patrol, now housed under the Bureau of Customs & Border Protection (BCBP). According to DHS-ICE representatives, however, so-called “Fugitive Operations” integrate agents from across the DHS matrix as volunteers and overtime paid employees. This further complicates access to information about the operations, as people detained have indicated that immigration enforcement agents conducting the raids have, in many cases, identified themselves only as “Police.”

Since December 2001, home and work raids with similar objectives have operated under different names in San Diego. The following are some of the known operations that have been recorded at the AFSC-San Diego office:

- Alien Absconder Apprehension Initiative (On-going since 12/2001)
- Operation Tarmac (12/2001)
- NSEERS – Special Registration (10/2002 – 12/2003)
- Operation Predator (On-going since 07/2003)
- Special Interest Sweeps (On-going raids at worksites, etc.)
- Operation Game Day (01/2003)
- Operation Safe Cities (09/2004)
- Operation Compliance (pilot program and precursor to Operation Endgame)
- Operation Endgame (On-going since 11/2003)

What follows is a typical account of a home raid:

They came early in the morning, around 6 AM, knocking on the door and asking for someone that nobody in the household knows. They announced themselves as police, and were dressed in plainclothes. Some wore vests with the word “police” on the front and back of the vest. Behind them, I could see their vehicles: white vans without any identifying markings and with tinted windows. I felt obligated to open the door, because they identified themselves as police. Without asking they walked inside, about 5 or 6 of them, and others waited outside. They went through the entire house, woke up those still asleep, and gathered everyone together, even the little ones, making us stand in the living room. Instead of asking for the person they claimed to look for, they began asking us our names and immigration statuses. I think they had my name in a file; I thought I saw my picture in the folder an agent had with him. The agent flashed a paper when I asked him why they targeted our house, but I couldn’t understand it. Most of us were undocumented – my spouse, mother-in-law, father-in-law, and I - and so they told us they would need to take us in. I asked them who they were, and they told me federal police. I told them that the little ones were US Citizens, but they would need to come along also. My aunt, a legal resident for many years, was the only one to stay behind. They wouldn’t tell her where they were taking us. One of them joked that she should come along since we would all be in Tijuana anyway by tonight. She decided to stay, though. The two older children, US Citizens, were allowed to stay with my aunt. The two little ones came along with us...

The information for the composite fictional account is derived from over **forty (40)** complaints to the San Diego Area Office of the AFSC since November 2003. The Mexican Consulate in San Diego informally reported early last year that they had received over fifty (50) similar accounts. The home raids are part of an extensive operation known as Operation End Game, where the purported goal is the apprehension of

over 400, 000 “absconders” in a period of ten years. When Operation Endgame was initiated, in San Diego there were approximately 5,800 people targeted for removal, based on previously-issued deportation orders by an immigration judge. While DHS officials indicate that Operation End Game primarily targets people with criminal histories, cases we have received indicate that people without criminal histories are just as likely to be targeted.

The following is a list of details that surface in almost all of the cases reported to the AFSC:

- Agents identify themselves as police;
- Agents sometimes wear vests with either the words “Federal Agent” or “Police”;
- Agents are dressed in civilian-style clothing, some clearly display federal agent badges, while others do not;
- Agents sometimes wear clothing representing different agencies (i.e. Border Patrol cap, INS jacket, & ICE agency patches);
- Agents claim to look for persons unfamiliar to the residents of a home in order to gain entrance;
- Agents use unmarked vehicles with tinted windows [SEE ATTACHMENT 3];
- Agents conduct operations during early morning hours and early and late evening hours;
- Agents do not provide accessible information to family members who are not detained about where to locate detained relatives;
- Agents have asked people to sign documents during the home raid, often without understanding the content of the documents, and in certain occasions, by force;
- Agents use coercive tactics to influence detainees to sign voluntary departure forms when in detention facilities;
- Agents have issued Form I-200 (Warrant for Arrest of Alien) to migrants after having conducted a home raid, without prior knowledge of the migrants’ presence in the United States, and after migrants have been detained [SEE ATTACHMENT 4].

RECOMMENDATION

DHS agents who conduct immigration and customs investigations and those involved in detention and removal operations must be held accountable for actions that lead to civil and human rights abuses. DHS policies and initiatives that promote or encourage civil and human rights abuses should be reviewed and rescinded. Therefore, it is necessary to establish an independent body with full review and subpoena powers to monitor and hold immigration enforcement agents accountable for egregious actions, and to review questionable policies and initiatives and rescind when necessary if those policies are found to promote and encourage civil and human rights violations.

B. Confusion and Suppression as De-facto DHS Policy

- *Access to Information since the Transfer of Immigration Enforcement into the Department of Homeland Security, and the Pretext of Using “National Security Concerns” to Withhold Information in the Interest of the General Public*

EXAMPLE #1:

On August 6, 2003, a Border Patrol agent shot and killed a person about a half mile west of the San Ysidro Port of Entry. According to the Border Patrol and the official statement by the San Diego Police Department, the individual was wielding a knife and threatened the Border Patrol agent who felt compelled to fire on the individual. According to two eye witnesses interviewed by Grupo Beta (Mexico), the Border Patrol detained a second person at the scene. Efforts to obtain information from

the Border Patrol proved fruitless. Citing national security concerns, the Border Patrol would not release any information regarding the incident. The identity of the individual was established through secondary sources, but the Border Patrol has failed to confirm the information, including the nationality of the individual. The Border Patrol will also not confirm nor deny the apprehension of a second individual. To date, the case has not been resolved nor has the Border Patrol issued a statement on the accounts.

EXAMPLE #2:

Border Patrol increased its “trans-checks” aboard public transportation vehicles throughout 2002 to 2004, citing the following legal references as authorities: 8 USC 1357 and 8 CFR 287.5. The Border Patrol also used plainclothes officers to document their activities and to document Human Rights Observers. In news reports the Border Patrol claimed to be conducting the “trans-checks” in order to prevent terrorists from using weapons of mass destruction on public transportation systems. Moreover, the Border Patrol claimed the “trans-checks” are in the best interest of national security, because they represents a novel way of combating terrorism, which is part of the Border Patrol’s mandate since its integration into DHS. According to recent detention figures provided by the Mexican Consulate (San Diego Office), from mid-March to August 2004, over 11,000 commuters were interrogated by Border Patrol agents and about 650 (about 5.9%) people were detained. From the 650 figure, 470 (7.2%) people were detained in San Diego County alone. (The remainder were detained in San Bernardino and Orange Counties). About 85% of those detained were Mexican Nationals and 14% were nationals of Central American countries. About 1% of those detained were from other countries. It is unclear how many of those detained had previous criminal convictions or outstanding deportation orders. However, previous figures from mid-March to early June 2004 demonstrated low indicators of migrants with criminal convictions (25 or .33% of 7500 people interrogated) and of migrants with outstanding deportation orders (3 or .04% of 7500 people interrogated [SEE FIGURE 1]).

To date, federal authorities have not presented any circumstantial or factual evidence that suggest terrorists have used or planned to use public transport systems.

The AFSC believes that the “national security” pretext masks other real concerns that have been brought to our attention by the general public. Commuters have complained to the AFSC that Border Patrol agents have



Figure 1: Border Patrol agent questioning bus passenger (Photo source: AFSC)

engaged in racial profiling when conducting their operations. Also, while “trans-checks” have been reported throughout San Diego County, most incidents occur in neighborhoods where the predominant population using the transportation system are migrants, of Mexican or Latin American descent [SEE FIGURE 2].

Other reports include Border Patrol using intimidation tactics to coerce commuters to provide personal information. In once such case, a young woman en route to a high school was told by a Border Patrol agent that they would follow her into the high school and detain her in the presence of



her classmates. The Principal of the school has reported that the young woman has stopped attending classes for fear that the Border Patrol will search for her there. In another incident,
Figure 2: Border Patrol agents targeting bus passengers in Downtown San Diego (Photo source: AFSC)

Border Patrol agents chased a woman on the Trolley tracks when she panicked and ran at seeing Border Patrol agents aboard the Trolley. While nobody was injured during the incident, the potential for commuters and Border Patrol agents alike to be injured is likely, given that bus and Trolley stations are often located in urban areas with a high density of public and private vehicles.

We need clear policy on what drives operations based on “national security concerns” and assurances that it does not become a pretext for fomenting a state of siege and confusion for migrant communities.

- *Clarify Policy on Ensuring Safety during Deportations and Ensuring that Border Patrol treat detainees with Respect and Dignity, and that all Due Process Rights are Observed*

EXAMPLE:

Verbal and physical abuse by Border Patrol agents of detainees has been a historical problem in Border Patrol operations. The AFSC has received complaints of Border Patrol agents coercing migrants through verbal statements and physically forcing the signing of Voluntary Departure forms. This prevents and obstructs detainees the right to present their case before an immigration judge. In at least two cases, detainees have been physically forced to sign a Voluntary Departure in spite of having potential immigration benefits should they have pursued their case in court.

In other cases, immigration officers have removed migrants from the United States after 1 AM when shelters are closed. This presents a serious hazard for vulnerable populations, especially children, who must fend for themselves in often violent areas and are subject to further abuse and exploitation. Despite a bi-national agreement between Mexican and US authorities in which the US government as agreed not to remove women and children from the US after 11 PM, ICE officials have confirmed in at least one case that women have been removed from the US after 11 PM.

RECOMMENDATION

Border Patrol must clarify policy on protocol for deporting people and it must ensure that detainees are afforded all due process rights, and that no coercion or physical and verbal abuse occur at any point of contact between migrants and federal agents.

- *Repatriation and Detention Issues*

The Repatriation program is ostensibly part of a strategy to save migrant lives as they attempt to make their way into the US. The idea is that detained migrants will be transported to the interior of Mexico in order to dissuade them from attempting to cross into the US again. What remains unclear is how the Repatriation program will be administered, and to whom. Will those transported be migrants who

have signed voluntary departure, will migrants be those ordered removed by a judge, or a combination of both? Should migrants attempt to cross again, will they be subject to a felony conviction based on illegal re-entry? Another point to consider is for those migrants who refuse to be “repatriated” through the program, and who have signed for voluntary departure, will they be subject to additional penalties? Finally, it is quite possible that the Border Patrol might prolong the detention of migrants waiting to be “repatriated,” and it is necessary to clarify the confinement guidelines that will be used for migrants subject to this program.

RECOMMENDATION

Border Patrol must clarify the policy surrounding the Repatriation program, including detention procedures for migrants subject to this program.

Much has been made about new detention methods in use for desert border areas in Arizona that include “tent-camps,” that are supposed to have air conditioning systems and other cooling features to hold over 300 migrants as an alternative to placing them in overcrowded jails.

Complaints about new detention “facilities” such as tent-camps include migrants being held for prolonged periods of time, with limited or no access to food or water, and that while the cooling systems provide some relief, it is still inadequate for the temperatures that soar beyond 100 degrees for most of the summer. Aside from inadequate sewer facilities and potential ecological damage to protected natural habitats, the tents might pose an infringement upon sovereign indigenous lands.

RECOMMENDATION

Border Patrol must ensure that new detention methods are humane and provide migrants access to food and water, and to appropriate restroom facilities. The tents, which are a questionable detention facility, should not house migrants for prolonged periods especially given the extreme weather conditions. Border Patrol should find ways to remedy the concerns surrounding these types of detention facilities.

- *Under-counting Border Deaths and Questionable Use of Force*

(1) Since the implementation of Operation Gatekeeper and its counterparts along the US-Mexico border, the number of border deaths has surpassed 3000 as of October 2004. Under the Department of Homeland Security, the Border Patrol has been reluctant to provide concrete figures of migrant deaths for different reasons. The Border Patrol also fails to include migrant deaths that occur beyond 100 miles from the border, even though they involve migrants who have moved beyond the 100 mile marker as they traversed the border. Also, the Border Patrol fails to account for skeletal remains found in desert areas in cases where it is clear, through circumstantial evidence, that the remains are those of a migrant. Equally troubling are inconsistencies in numbers that Border Patrol provide as official figures as compared with numbers provided by coroners and Mexican consulate offices.

(2) Border Patrol pursuits of migrants in vehicles have been the cause of many migrants’ deaths. The Border Patrol also does not include these deaths in its official death tally, even though most pursuits occur well within the 100-mile marker. The Border Patrol has also been known to use variations of spike strips, in coordination with the California Highway Patrol, to stop vehicles during high-speed chases.

(3) The Border Patrol continues to use hollow-point bullets as standard ammunition, which typically expand on impact and cause more bodily damage than full metal jacket bullets. The rationale is that

hollow-point bullets are less likely to ricochet or pass through the intended target thereby lessening the chance of injuring innocent bystanders. There are no clear studies that would support the Border Patrol's rationale for the use of hollow-point bullets. Moreover, Border Patrol agents who have discharged their weapons often fire several shots to incapacitate an individual, which would mean sudden death for someone stricken with hollow-point bullets.

RECOMMENDATION

In order to have an accurate portrayal on the efficacy of Operation Gatekeeper and its counterparts along the US-Mexico border, it is necessary that the Border Patrol accurately tally the number of deaths which occur along the border, including those that result from high-speed chases, and those whose bodies remain unidentified.

The Border Patrol should immediately suspend the practice of chasing migrants in high-speed chases, as well as its use of hollow-point bullets. Such enforcement practices only contribute to the increasing death toll that has marred 10 years of failed border enforcement policies.

III. IMPACT OF IMMIGRATION ENFORCEMENT BY LOCAL POLICE

A. Background

In the aftermath of September 11, 2001, the onslaught of anti-terrorist initiatives has included executive and legislative proposals that aim to revive ineffective policing measures that would empower local and state law enforcement agencies with civil immigration enforcement authority. The resurgence of the contentious debate was most notably symbolized by two legislative proposals introduced during the summer of 2003, but were not voted on at the end of the Congressional term: Clear Law Enforcement for Criminal Alien Removal Act of 2003 (CLEAR), H.R. 2671 and Homeland Security Enhancement Act of 2003, S. 1906.

While supporters of the proposals state that the security of the nation depends upon improving the coordination of immigration laws between all levels of law enforcement agencies, the initiatives could potentially result in increased civil and human rights violations. Such proposals could also be disruptive to tenuous community relations between local police and migrant communities. Moreover, the proposals surface during a time when xenophobic laws become codified under the guise of dealing with global terrorist networks. At the local community level, the enactment of such laws could mean a dire prognosis for migrant families struggling to meet basic necessities in a society that relegates them to the margins.

If proposals like the CLEAR Act and the Homeland Security Enhancement Act pass, the number of incidents in San Diego County involving local and federal law enforcement collaboration could increase. Instead of combating terror, the proposals will create conditions that will terrorize and foment fear in migrant and working class communities. Migrants could be at risk of being turned over to federal authorities when they are suspected of committing a traffic violation or misdemeanor. This problem is further aggravated by a trend by the federal government to include the names of thousands of noncitizens with civil immigration violations, into the National Criminal Information Center database, which is accessed countless times each day by all levels of law enforcement agencies.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) attempted to address the issue of formal cooperation between local police and federal immigration authorities. Under Section 133, local police could enter into agreement through the use of Memorandums of Understanding with the Attorney General to limited enforcement of civil immigration law, and only after receiving extensive training on civil immigration matters. Such enforcement would occur only under the direction and supervision from the Attorney General's office.

In April 2002, the office of the Attorney General John Ashcroft floated the suggestion that local and state police agencies already have the "inherent authority" to enforce civil immigration laws. If this legal opinion is implemented, it would be in contradiction to Section 133 of the IIRIRA which stipulates that local and state police must undergo extensive training in order to execute and enforce civil immigration laws – a formula sure to encourage civil and human rights violations. As recently as February 10, 2004, at a Senate hearing Homeland Security Secretary Tom Ridge told lawmakers he welcomed the idea of using local law enforcement to assist in enforcing immigration laws.

In San Diego County, since the early 1980s community groups have struggled to point out the problem in having local law enforcement take on the tasks of federal agents. The County, which is comprised of 19 separate cities, has almost as many local police forces. In at least three of the Cities (El Cajon, San Diego, & National City), policies prohibit local police from handling cases involving federal civil immigration matters. It is unclear at this point to what extent local police attempt to enforce civil immigration law in parts of San Diego County which do not have policies prohibiting such practices. It is common, however, that even in areas with policies prohibiting handling civil immigration matters local

police overstep their boundaries. Below are actual cases selected to highlight specific problems where local police has collaborated with federal agents in handling civil immigration matters. The cases illustrate a broad array of problems associated with collaboration between local and federal enforcement authorities. These include: problems in accepting Mexican Consular Identification cards, racial profiling, use of threatening and intimidating language, arbitrary and overreaching powers by security personnel and law enforcement officials in general, civil and human rights abuses committed by law enforcement while in detention, and deportation.

B. Highlighted Cases

CASE #1

Complainant: Macario M.
Date & Time: October 3, 2003; Approximately 8 PM
Location: Barrio Logan, San Diego, CA
Agency: California Highway Patrol; US Border Patrol
Case Summary: Mr. M. was a passenger in a vehicle stopped by the CHP. The officer asked for identification cards and called the Border Patrol. Mr. M. was later physically forced by at least two agents of the Border Patrol to sign voluntary departure forms while in their custody.

CASE #2

Complainants: Felipe P., Rosa F.
Date & Time: October 21, 2003; Approximately 1:15 PM
Location: Chula Vista, CA
Agency: Chula Vista Police Department; US Border Patrol
Case Summary: Mr. P. and Mrs. F. were stopped by the Chula Vista PD, and later turned over to the Border Patrol for deportation. Mr. P has health conditions that were aggravated and overlooked throughout the detention process.

CASE #3

Complainants: Antonio F. & Family members
Date & Time: November 14, 2003; Approximately 4:30 PM
Location: J.C. Penney Department Store, Plaza Bonita Mall, National City, CA
Agency: J.C. Penney Security Personnel; J.C. Penney Management; National City Police Department (Officer Steve Shepard); US Border Patrol
Case Summary: A family shopping at a local department store was racially profiled and illegally detained without charges; Matricula Consular Identification was not accepted by local police and Border Patrol agents were called to the scene which resulted in the deportation of two family members.

CASE #4

Complainants: Diana G.
Date & Time: November 14, 2003; Approximately 2:38 PM
Location: 32nd & Franklin Streets, San Diego
Agency: San Diego Police Department
Case Summary: In a "random" license checkpoint, SDPD threatened resident with calling the Border Patrol.

[This documented incident was part of several complaints received on this particular day. According to a local resident, SDPD stopped many people and seized as many as 50 vehicles in the Barrio Logan and Sherman Heights area.]

CASE #5

Complainant: Luis V.
Date & Time: March 26, 2004; Approximately 8:30 AM
Location: 3800 block - Beyer Blvd., San Ysidro
Agency: Officer D. Westney (#5757), San Diego Police Department; US Border Patrol
Case Summary: Officer Westney reported Mr. V. to the Border Patrol after a routine traffic stop. While in detention, Mr. V. was pressured to sign 6 documents, without having sufficient time to review them. He was deported 12 hours later.

CASE #6

Complainant: Jose M.
Date & Time: July 8, 2004; Approximately 4 PM
Location: Van Dyke Avenue, San Diego
Agency: Raul Naranjo (#3692), San Diego Police Department; US Border Patrol
Case Summary: Mr. M. was stopped for riding his bicycle on the sidewalk. Officer Naranjo contacted Border Patrol for assistance. Mr. M. was deported thereafter.

CASE #7

Complainant: Carlos O.
Date & Time: November 16, 2004; Approximately 7:40 AM
Location: 35th & Euclid Streets, San Diego
Agency: San Diego Police Department
Case Summary: Carlos O. was stopped by an officer who later stated he previously worked for the Border Patrol. The officer called Border Patrol who apprehended Carlos O's documents, but did not detain him. Carlos O. was later pressured into signing voluntary departure forms, and he was not informed of his rights.

Additionally, it has been the case that local Police Departments have set up Driver's License Checkpoints in residential areas where the demographics of those particular areas are Latino. The Driver's License Check points have been documented in San Diego City as well as in the City of Escondido.

While San Diego Police Department has held a policy of non collaboration with immigration authorities in cases of minor traffic violations, the cases highlighted above demonstrate the difference between policy and practice. The Driver's License Check Points, while not illegal, have been considered discriminatory and highly offensive as these Checkpoints are conducted in front of schools and community parks, during release/let-out hours. There is an impression of discrimination based on race given the locations and are considered to be a direct form of harassment and racial profiling of entire communities. [SEE FIGURE 3].

Our office has also received complaints about the use of Border Patrol as "translators" during these Driver's License Check points in the City of Escondido by the Escondido Police Department.

In similar instances El Cajon City Police and the San Diego County Sheriff's Departments have been known to use Border Patrol as "translators" when dealing with the Latino community which has been interpreted by victims as a form of intimidation.

RECOMMENDATION

Police Departments must clearly explain Department Policy when dealing with undocumented migrants and this policy must be made public. Police and Sheriffs Departments must take steps to account for officers who have demonstrated disregard for Department policy to ensure public confidence in law enforcement and the protection of

civil as well as due process rights. There must be public disclosure of Driver's License Check points prior to set up as well as an accounting mechanism to demonstrate that these Driver's License Check Points are not exclusively done in areas of the City that target specific ethnic groups.

III. CONCLUSION

During the final days of the congressional lame duck session of 2004, the House and Senate approved the final version of the 9/11 Commission Intelligence Reform bill, which was signed into law by the President. Officially known as the Intelligence Reform and Terrorism Prevention Act of 2004, it contains over 40 provisions dealing with immigration or immigrant-related issues. Among them are the following:

- A significant increase of Border Patrol agents from 2006 to 2010 of 2000 agents per year, for a total of 10,000 additional agents by 2010, 80% of which will be designated to the US-Mexico border;
- A significant increase of ICE agents from 2006 to 2010 of 800 agents per year, for a total of 4,000, to conduct special operations including home raids;
- An increase in detention space by 8,000 per year from 2006 to 2010, for a total of 40,000 additional beds designated for immigration detention and deportation operations; and,
- Use of a pilot border security program, which expands advanced technological equipment, such as sensors, video, and unmanned aerial vehicles.

The increased number of Border Patrol agents and other immigration enforcement officials, including increases in use of military equipment along the border, continues the deadly tradition of militarizing the border to unprecedented levels. In the last twenty years, the militarization of the border has exacerbated civil and human rights abuses and it has created an atmosphere in which institutionalized violence is tolerated and treated as natural to the borderlands landscape. The intensification of enforcement seems less about eliminating terrorism and more about creating an infrastructure for a police state. This will mean that more families will be separated, more people will be subjected to racial profiling and unjustified scrutiny, more migrants will be injured, and deaths along the border will continue to soar.

As a case study on San Diego this report depicts the brutal reality of border enforcement as experienced by migrant communities. While the report reflects an on-going militarization process prior to changes in immigration enforcement in response to September 11, post-September 11 enforcement policies and structural changes to immigration law have intensified living conditions for border communities in general. In recent years, economic and demographic changes in San Diego reflect conditions of apartheid; migrant communities and people of color in general are increasingly pushed to the margins, without adequate access to public and social services, education, healthcare, affordable and dignified housing, and regularly bear the brunt of labor violations, as they form the greater part of the low-wage and “invisible” workforce.

In discussing enforcement policies and contemplating a fair and humane immigration reform, it is necessary to consider an alternate way of thinking about comprehensive immigration reform, in which “comprehensive” means addressing root causes of migration, especially unequal power and economic relationships, but also entails integrating ways to affirm and protect human rights and dignity.

It is the hope that this case study provides points for discussion as we dialogue over the meaning of fair and humane immigration reform.