

“Human Rights Abuses of Migrants in Short-Term Custody on the Arizona/Sonora Border”

Executive Summary

Published by *No More Deaths*, Tucson, Arizona - Summer 2008

BACKGROUND

Volunteers with No More Deaths and other humanitarian aid organizations have been working in Migrant Aid Centers in Nogales, Agua Prieta, and Naco, Sonora to provide basic care to migrants and others repatriated across the U.S.-Mexico border since the summer of 2006. Initially concerned with the physical and emotional toll faced by migrants who had endured long border crossings, we quickly realized that these conditions were often compounded by Border Patrol practices. We routinely encounter migrants who have been **denied food and water** and who have been **separated from their family members** during the repatriation process. We hear accounts of **physical and verbal abuse**, of **injuries** sustained while in Border Patrol custody, **denial of urgent medical care**, and of **possessions that are not returned**. Our experiences have made us realize that we have an obligation to document and make public the routine violation of basic rights that is occurring in our backyard and in our name. We urge immediate and fundamental changes to these routine practices.

Recent studies, including those by the United Nations Special Rapporteur on Migrant Rights, the American Immigration Lawyers Association, and Detention Watch Network, have focused on the abysmal conditions faced by individuals held in long-term Immigration and Customs Enforcement (ICE) detention facilities. **Here we highlight the daily violations of human and civil rights that result from ICE and Border Patrol practices during short-term (up to 72 hours) apprehension, processing and repatriation.** There are currently no uniform regulations of short-term custody nor independent oversight of their treatment of those detained.

These practices regularly violate domestic and international law, as well as guidelines, Memorandums of Understanding, and recommendations issued by the Department of Homeland Security itself.

Similar concerns were publicized in a series of reports issued in the 1990s, as Americas Watch (later Human Rights Watch), Amnesty International, and the American Friends Service Committee issued a series of reports documenting the “cruel, inhumane or degrading treatment” faced by people apprehended by federal immigration agents along the U.S.-Mexico border. The reports detailed the routine deprivation of water, food, and medical attention; the theft of migrants’ belongings, including their official documents; verbal, psychological, and physical abuse; and the use of excessive force. Additionally, four State Advisory Committees to the U.S. Commission on Civil Rights and a Citizens Advisory Panel established by the Immigration and Naturalization Service (INS) itself all published studies documenting patterns of extensive complaints of abusive treatment by officials of INS (now Homeland Security) and a complaint process so inadequate as to be almost nonexistent.

Now, **fifteen years later**, we find that these patterns of mistreatment and the routine violation of civil and human rights persist.

Indeed, as the increased militarization of the border has intentionally pushed people into more and more remote and difficult terrain, even more people are at risk from these policies and the lack of regulations to govern the treatment of people in ICE and Border Patrol custody. While the practices we outline in the report clearly document the routine violation of human rights, our concerns also extend

to the climate of fear created by those practices. Intense fear often dominates the daily lives not only of migrants crossing the border but also of undocumented immigrants around the country. They often encounter equally abusive and negligent treatment in regional processing centers if detained by ICE. These patterns of abuse and the climate of fear produced by them must end around the country and there must be continued oversight to guarantee compliance.

SUMMARY OF FINDINGS

The following findings come out of two years of systematic documentation (2006-2008) provided by medical professionals and trained volunteers working in migrant aid centers and the Southern Arizona desert with people recently detained and returned to Mexico.

The violations and mistreatment we have identified occur at all three stages of interactions with civilians: in the field during apprehension, in the processing centers, and during the repatriation process. It is our experience working with migrants that these violations are occurring daily. Whether or not they are a deliberate outcome of Department of Homeland Security policy, the lack of custody standards and lack of penalties for Border Patrol officers committing abuses indicates that higher levels of DHS administration are equally responsible for that abuse. While we have primarily documented the conditions of short-term custody on the border, we also work in cooperation with other human rights groups who have documented abuses in custody in other regions, so that we can together provide a comprehensive view proving the need for national-level policy change. Significant changes in training and operations are required if agents are to comply with the policies we recommend. We have identified 12 primary areas of concern that reflect the abuses that we have documented:

- 1) A failure to respect the **basic dignity** of migrants, as evidenced in the repatriation of migrants without their clothes or shoes;
- 2) The routine failure to provide and the **denial of water** in the field and in processing centers;
- 3) The routine failure to provide and the **denial of food** in the field and in processing centers;
- 4) The failure to provide **medical treatment** and access to medical professionals;
- 5) The denial of blankets and overcrowding in **holding cells at the processing centers** and Border Patrol stations; holding cells maintained at uncomfortable temperatures; lack of access to phone calls and legal counsel;
- 6) Pervasive **verbal abuse**, particularly the use of derogatory racial & sexual epithets;
- 7) **Physical abuse**, perceived by migrants as punishment for trying to run away or for being with others who ran away, or explicitly aimed at discouraging future crossing attempts;
- 8) **Transportation practices** that endanger migrants including a lack of seat belts, dangerous speeds over rough terrain, crowding, and the over- or under-use of air conditioning or heat in extreme temperatures;
- 9) **The separation of family** members who may be repatriated at different ports of entry and/or at different times;

10) The **repatriation of children, women, and the vulnerable at night**, and in violation of previous memoranda of understanding signed by the U.S. and Mexican governments;

11) The failure to **return belongings** to migrants prior to repatriation, including official identity documents and cash;

12) **Failing to inform migrants of their rights, coercing them to sign forms they do not understand**, and failing to provide copies of these forms to the migrant in a language they understand.

SAMPLE INCIDENTS FROM 2006-2008

Physical & Verbal Abuse in Agua Prieta:

A group of 15 migrants, including 3 women and 2 teenage boys, were detained by the Border Patrol while crossing the desert. The agents who detained them made them run for 30 minutes, telling them that this would discourage them from crossing again. If they stopped running, the agents would kick them to force them to run again.

Physical Abuse & Failure to Provide Medical Care in Nogales:

Three women, approximately age 20, sought treatment for injuries sustained while crossing. One had a lower back injury from falling after fleeing "bandidos." All reported that the agents who apprehended them had pushed them into cacti as they were walking in custody. None had received treatment for blisters, trauma, or cactus spines.

Denial of Water in Agua Prieta:

A group of 9 was in detention from 6pm to 8:30 am. The jail was very cold and they were not provided with food or water. Maria begged for water for her two children, ages 6 and 9, and the BP officers drank in front of them and refused to provide any water for her children or the others.

Physical Abuse in Nogales:

A male migrant was repatriated through Mariposa. He was missing two of his teeth as a result of being struck by the Border Patrol during his apprehension. No treatment had been provided.

Family Separation in Agua Prieta:

Efrain G.P. was apprehended along with his 16-year old sister. They were separated at the processing center, and Efrain was repatriated through Agua Prieta after over 50 hours in Border Patrol custody. He was not told what had happened to his sister and had no way of knowing whether she was still in custody, in care of the Consul, or repatriated through another port. Efrain had crossed through the Altar Valley; the closest port of entry would have been Nogales but he was repatriated through Agua Prieta.

Physical & Verbal Abuse in Agua Prieta:

Herman was crossing on a wet and cold evening with friends and the group tried to hide in an *arroyo* when they saw Border Patrol officers. When the Border Patrol agents found them, the officers started to kick Herman and his friends. Herman tried to cover his face, but the agent grabbed him by the back of his clothes to lift him up and kicked him some more. After beating everyone in the group, the BP continued to harass them verbally, calling them "*pendejos*" ("assholes") and "*mojados*" ("wetbacks"). While doing their paperwork, the agents forced the group to lie on the ground, wet and shivering, for 10 minutes, and told them that they were making them muddy so that if they came back, the agents would know who they were. Every migrant was covered in mud.

Failure to Provide Medical Care in Nogales:

An older man, approximately 60, was carried into the Mariposa aid center. He was unable to walk and had been carried from the Wackenhut deportation bus by two men. He was also unable to sit properly, as his muscles appeared to be seizing. He went into the *Cruz Roja* trailer for treatment as soon as he could be moved again.

CONCLUSIONS

The above incidents are not extreme cases – they are representative of the most common stories we have heard throughout the two years of documenting abuse in short-term custody. In fact, in a series of affidavits from long-term volunteers attached as an appendix to the report, they identify specific patterns of abuse that they have seen consistently and over time:

“I was repeatedly told that water was provided in a single, large dirty bucket with one ladle placed in the middle of a large detention room,” – Joan Cooney, a retired New York State judge;

“I have spoken with hundreds of migrants who were separated from their family members and repatriated at different times,” – Sarah Roberts, a registered nurse from Tucson, Arizona;

“I have witnessed and/or treated dozens of injuries including sprained ankles, injured arms and hands, lacerations, severely blistered feet, sunburns, and dehydration among returned migrants who had received no medical care of any kind while in U.S. Custody,” – Joseph Shortall, a First Aid certified volunteer from Lakewood, California.

Based on this overview of the rights violations we have documented, No More Deaths is developing a series of guidelines and regulations to govern ICE and Border Patrol practices with regards to the apprehension and treatment of undocumented migrants in short-term custody as well as **the formation of ongoing community oversight to ensure implementation of these guidelines**. We plan to work with other human-rights groups who have gathered data beyond the border region, as we share similar concerns.

For a full copy of the report, please contact No More Deaths by visiting our web site at nomoredeaths.org, e-mail at custodystandards@nomoredeaths.org or by phone at (520) 495-5583. General information about No More Deaths can be found at www.nomoredeaths.org.