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MEETING OF THE ARIZONA ADVISORY COMMITTEE  
TO THE UNITED STATES COMMISSION ON CIVIL RIGHTS

TRANSCRIPT OF PROCEEDINGS

Volume II

August 28, 2004

Nogales Arizona

The following proceedings commenced at  
10:00 a.m. on August 28, 2004, at the Holiday Inn  
Express Hotel, 850 West Shell Road, Nogales,  
Arizona.

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A P P E A R A N C E S

ARIZONA ADVISORY COMMITTEE

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Tucson

Ms. Isabel G. Garcia  
Tucson

Mr. Paul J. Gattone  
Tucson

Ms. Lorraine Lee  
Tucson

Mr. Jose R. Matus  
Tucson

Mr. James M. McKenzie  
Tucson

Mr. Jones Osborn  
Yuma

Mr. Ramon M. Paz  
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Stanley Agustin  
Albuquerque

TEXAS ADVISORY COMMITTEE

Honorable Adolph Canales  
Dallas

PERSONS MAKING COMMENTS TO THE COMMITTEE

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P R O C E E D I N G S

1  
2  
3 DR. WEBB-VIGNERY: Could we come to  
4 order.

5 I'd like to welcome everyone to the  
6 second day of hearings by the U.S. Commission on  
7 Civil Rights, the Arizona State Advisory Council.

8 And before we begin, I'd like for the  
9 panelists to once again introduce themselves for the  
10 benefit of those of you who are in attendance.

11 Could we start at this end?

12 JUDGE ALSTON: Gilbert Alston of the  
13 California Advisory Committee. My place of residence  
14 is Pasadena, California.

15 DR. HERNANDEZ: I'm Fernando  
16 Hernandez, Chair of the California State Advisory  
17 Committee, and I reside in Long Beach, California.

18 MR. PAZ: Ramon Paz from Tucson, now  
19 from Phoenix.

20 MR. OSBORN: I'm Jones Osborn from  
21 Yuma, Arizona, and a member of the Arizona Advisory  
22 Group.

23 DR. WEBB-VIGNERY: And I'm June  
24 Webb-Vignery, and I'm Chair of the Arizona State  
25 Advisory Council, and I'm from Tucson.

1 MR. GATTONE: Paul Gattone and I'm  
2 also from Tucson.

3 DR. HERNANDEZ: Lorraine Lee, Tucson.

4 MS. GARCIA: Isabel Garcia from  
5 Tucson.

6 MR. MCKENZIE: James McKenzie from  
7 Tucson.

8 MR. AGUSTIN: Stan Agustin from  
9 Albuquerque, New Mexico.

10 JUDGE CANALES: Adolph Canales, the  
11 chair of the Texas State Advisory Committee, from  
12 Dallas, Texas.

13 DR. WEBB-VIGNERY: And we have as our  
14 first guest this morning Derechos Humanos and Kat  
15 Rodriguez.

16 And Kat, there will be eight minutes  
17 for presentation and you'll get a warning at seven  
18 minutes.

19 MS. RODRIGUEZ: Okay.

20 DR. WEBB-VIGNERY: And then there will  
21 be seven minutes for questions and answers.

22 MS. RODRIGUEZ: Okay.

23 Good morning. I'm going to read a  
24 statement, it's included in your packet, as well as a  
25 few abuse documentation reports that we have in

1 there. I just selected a few of what we consider  
2 sort of typical problems.

3 And there are also some key  
4 recommendations from a report by the National Network  
5 for Immigrant and Refugee Rights from an article that  
6 they wrote, and then some articles.

7 When considering the situation on the  
8 Arizona-Mexico border in regards to the civil and  
9 human rights, it is imperative that a broad and  
10 comprehensive understanding take place.

11 The Southwest is a collective of  
12 shared history, culture, and community, and the  
13 continued evolving nature of these factors makes it  
14 the diversion existence that border residents live.

15 For these reasons, it is vital to the  
16 well-being of all who live along the border that  
17 economic and border policies reflect the true reality  
18 that exists, not only in those states that border  
19 Mexico, but in all of the United States.

20 Economic policies have historically  
21 dictated immigration policies and enforcement.  
22 Repulsion and attraction of migrant labor is the  
23 reality of the American work force.

24 In times of economic well-being,  
25 migrant labor is sought, and it is discouraged in

1 hard times; the enforcement of immigration laws has  
2 patterned itself accordingly, placing as a higher  
3 priority the apprehension of illegal aliens when  
4 times are harsh.

5 Prior to the militarization of the  
6 southern border, this natural migration occurred  
7 almost completely without casualty or loss of migrant  
8 lives.

9 The last ten years, which have been  
10 dominated by Free Trade Agreement of the Americas and  
11 NAFTA, have resulted in the displacement of  
12 communities, particularly agricultural based, in many  
13 countries.

14 In recent years, many of the migrants  
15 that pass through our small border communities come  
16 from Mexican states and Central American countries  
17 that have historically sustained themselves through  
18 agricultural trade.

19 The desperation of the economic  
20 situation in these homelands are evident in the  
21 unmitigated flow of migrants who risk their lives in  
22 search of a means to provide for their families.

23 Deaths: It has been estimated that,  
24 since the implementation of the policies to  
25 militarize the southwest border region, more than

1 3,000 migrants have died attempting to enter the  
2 United States.

3 In the last few years, the death toll  
4 has been at an all time high -- a true human rights  
5 crisis.

6 The nature of migrant deaths is  
7 tragic -- heat, dehydration, and exposure to the  
8 elements in a desert that is relentless and  
9 unforgiving.

10 Each summer becomes, quote, the  
11 deadliest in history, close quote, and every effort  
12 to prevent migration has merely resulted in a  
13 shifting of migration patterns, with no meaningful  
14 effect on immigration itself.

15 As of August 3, 2004, more than 175  
16 migrants have lost their lives on the Arizona-Sonora  
17 border, on pace to outnumber last year's count of  
18 205.

19 This crisis that has resulted in the  
20 tragic and painful deaths of men, women, and children  
21 must be immediately halted. There is no  
22 justification for policies that result in the  
23 increased deaths of migrants displaced, and whose  
24 only intent is to seek a better life for themselves  
25 and their families.



1 Abuse: One of the primary focuses of  
2 Derechos Humanos has been the documentation of abuses  
3 that have occurred at the hands of law enforcement,  
4 particularly in the migrant community.

5 Reports have ranged from abuse that is  
6 verbal, physical, and sexual in nature, and have been  
7 reported by citizens and noncitizens alike.

8 The culture of violence that has  
9 become the reality of our communities has resulted in  
10 situations where off-duty agents have pulled their  
11 weapons on civilians in public places, where police  
12 have violated regulations in unlawfully detaining and  
13 pursuing individuals because of their perceived  
14 immigration status, and where racial profiling has  
15 become a daily occurrence in our communities.

16 In addition, reports of the treatment  
17 of migrants in detention centers, and the conditions  
18 of those centers, have alarmed human rights monitors  
19 and organizations alike.

20 An internal memo from a Douglas Border  
21 Patrol agent alleges mistreatment of migrants in the  
22 form of overcrowding and denial of food and water for  
23 long periods of time.

24 On August 3, 2004, a 31-year-old  
25 Mexican man died while in Border Patrol custody, and

1 to this date, there has been no explanation for his  
2 death, nor how he actually died.

3 Situations like this crystallize the  
4 need for accountability on the part of agents and law  
5 enforcement officials to the public. Without  
6 accountability, abuses such as these will continue to  
7 happen, without justice being given to victims and  
8 their families, and without punishment for their  
9 abusers.

10 Violence and endangerment: In the  
11 pursuit of, quote, illegal aliens, it is becoming an  
12 all too common practice for agents to put the lives  
13 of civilians at risk in the process.

14 This culture of violence, which has  
15 become the norm for too many in border communities,  
16 is a trend that must be halted, addressed, and  
17 reversed.

18 High speed chases, which many times  
19 end in the death of the occupants, put the lives of  
20 other motorists at risk, in addition to the migrant  
21 passengers who are themselves victims of violent  
22 coyote rings.

23 Border Patrol practices are also based  
24 in behavior that has become increasingly influenced  
25 by this violence, and too often the violence carries

1 over to agents in their home environments and off-  
2 duty behavior.

3           Recently, Derechos Humanos reported an  
4 abuse in which an off-duty agent in plain clothes  
5 pulled out his gun and held it to the head of another  
6 man over a dispute in which the man had tossed a  
7 candy bar at the agent's car for failing to yield to  
8 a pedestrian in a crosswalk.

9           Community members have often reported  
10 that Border Patrol agents have their hands on their  
11 guns at all times, even in nonhostile situations.

12           That behavior does not help to build  
13 trust between agents and communities, where  
14 individuals often feel terrorized or generalized.

15           Violence on the border is not only  
16 limited to the activities of Border Patrol agents,  
17 but includes drug smugglers and coyotes, who have  
18 become increasingly violent.

19           Shootouts between rival coyote groups,  
20 torture, and assault are increasing among smuggling  
21 rings.

22           The failure of border policies to  
23 provide sufficient legal means in which migrants can  
24 come to work has created a surge in smuggling  
25 activities.

1           This violence, which did not exist in  
2 our communities prior to the militarization tactics  
3 and policies that were implemented in the mid 1990s,  
4 is a direct result of failed and flawed border and  
5 economic policies.

6           Additionally, the increased activities  
7 of antiimmigrant, vigilante, and militia style  
8 organizations have created many problems in border  
9 communities.

10           These organizations, most of which  
11 have come from outside of Arizona, seek to promote  
12 antiimmigrant extremist agendas. Several of them  
13 have ties to white supremacist and separatist  
14 organizations, and have created an atmosphere of  
15 division and xenophobia on our borders and  
16 communities.

17           The lack of action on the part of our  
18 law enforcement to deter these activities has  
19 permitted these organizations to continue their  
20 criminal actions unfettered.

21           We, as a human rights organization,  
22 demand that these actions, which are violating human  
23 and civil rights, be investigated and that violators  
24 be prosecuted to the fullest extent of the law.

25           Impacts: Plans to further militarize

1 the Arizona-Sonora border have had dramatic impacts  
2 on border populations, including indigenous and  
3 environmental communities.

4 These effects have long-reaching  
5 implications, and foretell of serious problems for  
6 all who live on the border.

7 There are approximately eight  
8 indigenous communities who have relatives on the  
9 Mexico side of the border, and for whom the rights of  
10 mobility and passage must be considered and  
11 protected.

12 It is vital for these nations and  
13 tribes to be able to share and preserve their  
14 cultural identity, and this means respecting  
15 indigenous sovereignty.

16 Problems have been reported in  
17 harassment, racial profiling, and destruction of  
18 sacred cultural objects at the hands of customs  
19 officials, many of whom are ignorant of the  
20 indigenous culture that has existed in this region  
21 since time immemorial.

22 This lack of respect for those who are  
23 truly native to this land is unacceptable, and must  
24 not be permitted had to continue.

25 Sensitivity and education of

1 indigenous culture and sovereignty must be  
2 implemented for all agents.

3 Additionally, the fragile environment  
4 of the Southwest has been seriously jeopardized by  
5 the plans to further militarize the border.

6 The Department of Homeland Security  
7 has failed to conduct meaningful analysis of impacts  
8 to sensitive species found along the border.

9 Furthermore, there has been no  
10 meaningful analysis of the cumulative impacts that  
11 past, present, and future Border Patrol projects have  
12 and will have on the resources and the wildlife  
13 dependent on the border region for survival.

14 In conclusion, it is vital that the  
15 health and well-being of all who live on the border  
16 be taken into consideration when policies, plans and  
17 regulations are implemented.

18 The continued criminalization and  
19 prosecution of migrants needs to be seriously  
20 studied, and the injustice wreaked on all must be  
21 properly addressed.

22 In this time of antiimmigrant fervor,  
23 it is crucial that our policy makers implement  
24 economic policies that properly analyze their effects  
25 on other communities, particularly those from which

1 much of the migrant population is coming.

2 Scapegoating migrants has resulted in  
3 nothing more than fear, division, and xenophobia in  
4 our communities, and is an unacceptable response on  
5 the part of our government officials.

6 And the last page has the  
7 recommendations from the Human Rights and Human  
8 Security at Risk: The Consequences of placing  
9 Immigration Enforcement and Services in the  
10 Department of Homeland Security, a report by the  
11 National Network for Immigrant and Refugee Rights.  
12 And I'll stop there.

13 DR. WEBB-VIGNERY: I have a question.  
14 Have you given a packet to our staff from Los  
15 Angeles?

16 MS. RODRIGUEZ: I gave it to somebody  
17 outside.

18 DR. WEBB-VIGNERY: You have, okay.  
19 Thank you.

20 MS. GARCIA: Can we incorporate these  
21 findings as part of the record --

22 DR. WEBB-VIGNERY: It will be.

23 MS. GARCIA: -- since she wasn't able  
24 to finish?

25 DR. WEBB-VIGNERY: That's the reason

1 he needs a copy of that.

2 MR. GATTONE: Thank you. Paul Gattone  
3 from Tucson.

4 Madam Chair, just for the record, I'd  
5 also -- in the packet that Ms. Rodriguez brought with  
6 her today I noticed is a list of a hundred and  
7 seventy-five migrants who died from October 1st,  
8 2003, to August 3rd of 2004, and I'm hoping that this  
9 will also be included in the record.

10 I point this out because when we had  
11 our hearing, we called our hearing in 2001 in Tucson  
12 specifically based on the alarming number of deaths,  
13 I'd point out that in our report of 2001 hearing --  
14 I'm sorry, our 2002 hearing, we noted a hundred and  
15 twenty-eight deaths.

16 This hundred and seventy-five is an  
17 appalling number but is only one year in the two  
18 since we last met, so --

19 MS. GARCIA: Less than one year.

20 MR. GATTONE: Less than one year. So  
21 we can unfortunately assume that there's a far  
22 greater number that have died.

23 I'd also point out that there's a  
24 statement here from the Alianza Indigena?

25 MS. RODRIGUEZ: They'll be presenting



1 later but I included it in there.

2 MR. GATTONE: Thank you.

3 MS. RODRIGUEZ: And I just wanted to  
4 note, our numbers as far as the deaths we get  
5 directly from the medical examiners, and so we  
6 actually do have the files of it.

7 So it's not numbers that we get from  
8 newspapers, we actually get it directly from the  
9 medical examiner, and we don't put them into our  
10 numbers until we actually get the paperwork on them.

11 MR. GATTONE: I'm sorry, I forgot a  
12 question.

13 I noted that you have some -- you've  
14 included in your pact -- it looks like a few samples  
15 of abuse documentation?

16 MS. RODRIGUEZ: Yes.

17 MR. GATTONE: Do you have any summary,  
18 like a summary report of the -- that could give us an  
19 idea, that you could submit to this body, that could  
20 detail maybe in the year period the nature of the  
21 type of complaints that you received? Does such a  
22 thing exist?

23 MS. RODRIGUEZ: We could do that. One  
24 thing I do want to note on that topic is this is as  
25 far as it gets. Once you send that in, you never

1 hear anything else after that. You never hear  
2 accountability, never find out what happens to the  
3 agents in these situations. The public is never  
4 advised what has been done with those agents and with  
5 the allegations, if they were substantiated.

6 MR. GATTONE: What I was hoping is we  
7 have 30-day period in which to attach information to  
8 our report, and I just think it would be very useful,  
9 despite the troubling fact that we don't hear the  
10 outcome, it would be too useful for our information  
11 gathering here if we could have like a summary list  
12 of just the types of abuse that may be had been  
13 reported to your group in the last --

14 MS. RODRIGUEZ: Couple years?

15 MR. GATTONE: If we could, please.

16 MS. RODRIGUEZ: We could do that.

17 MS. LEE: Lorraine Lee, Tucson.

18 Yesterday when Mr. Lopez was here with  
19 Border Patrol, he was asked in terms of complaints  
20 and how they're handled, what he said to us and as I  
21 understand it was it was a very clear, clean, quick  
22 procedure that was in place and -- in terms of  
23 complaints that go through.

24 Now, what you're stating, if I  
25 understand what you're saying, is that it is not

1 quite so clear and rapid.

2           Could you run me through a typical  
3 complaint that comes to you and how it goes through  
4 the system or not?

5           MS. RODRIGUEZ: Okay. Basically when  
6 we document the abuse, it's not our responsibility to  
7 find out whether it's substantiated or not, it's just  
8 to document what the victim alleges.

9           Then before -- well, this is now under  
10 the Department of Homeland Security -- you now send  
11 it to joint intake center, which is in Washington DC,  
12 which is where all abuses under DHS go.

13           Joint intake bounces that to OIG,  
14 Office of Internal -- of Inspector General.

15           If OIG decides to take the case, they  
16 take it there. If they don't want it, which often  
17 happens for whatever reasons they want, they bounce  
18 it back to JIC, and JIC will bounce it to OPR, Office  
19 of Professional Responsibility here in Tucson.  
20 Possibly.

21           So who you get the call from, like  
22 when I get a follow-up -- because I report those --  
23 you'll notice don't give a victim's address or phone  
24 number, so the only way for them to get ahold of the  
25 victim is through us. So we know when they start

1 taking them up.

2 The call might be from an OIG  
3 inspector in LA, it might be from JIC in DC, it might  
4 be from OPR in Tucson. You never know.

5 MS. LEE: So if I could just elaborate  
6 a little more.

7 So it isn't as easy as let me call Mr.  
8 Lopez and complain about what happened?

9 MS. RODRIGUEZ: No. Absolutely not.  
10 And it's even harder to find out whether -- they  
11 told me -- like I ask how will we ever find out  
12 information, and they said, well, you can FOI it  
13 under the Freedom of Information Act, but it'll be a  
14 sanitized report.

15 And I said, okay, well, when can I do  
16 that?

17 Oh, not until the case is closed.

18 I said okay, well, can I call you and  
19 you can tell me if the case is closed and I can FOI  
20 it?

21 No, we can't tell you that.

22 So how will I know to FOI it?

23 Well, you have to FOI it and if it's  
24 not still closed -- I mean if it's still an open case  
25 they'll reject your FOI on that ground. So you just

1 have to keep submitting FOI reports, which is again  
2 ridiculous.

3 MS. LEE: Madam Chair, is it out of  
4 the ordinary -- while I recognize that Mr. Lopez did  
5 present already to this board -- that we would ask  
6 him for our records to -- because of his statements  
7 that he made here to elaborate and provide for us --

8 DR. WEBB-VIGNERY: If you recall, the  
9 arrangement was made that we submit questions to him,  
10 so this could be a question that -- and it would go  
11 through the regional office, is my understanding.

12 MS. LEE: Okay.

13 DR. WEBB-VIGNERY: So you prepare your  
14 questions, send them to Mr. Palacios, and then they  
15 will send them to Mr. Lopez.

16 MR. GATTONE: And maybe get a  
17 response.

18 DR. WEBB-VIGNERY: Maybe.

19 DR. WEBB-VIGNERY: Yes.

20 MS. GARCIA: As far as you know --  
21 Isabel Garcia.

22 Do you know if anybody's been  
23 disciplined as a result of any of the complaints you  
24 have filed?

25 MS. RODRIGUEZ: I don't know that.

1 MS. GARCIA: Have you been notified at  
2 least of the status of any of them?

3 MS. RODRIGUEZ: No, what we've been  
4 told is it's a internal investigation, they treat it  
5 as internal affairs, and that we are not going to be  
6 notified. And as far as I understand, even the  
7 victims are not notified.

8 MS. GARCIA: So you're saying they  
9 don't call to try to interview the witnesses, the  
10 victims, to see if there's any substance to their  
11 allegations?

12 MS. RODRIGUEZ: They have called to  
13 interview the victims, and they have to come through  
14 us we'll arrange for them to either -- the victim  
15 obviously doesn't want to go to the Border Patrol  
16 station and get interviewed, so we have arranged for  
17 the -- we either meet with them at the public library  
18 or they come to our office.

19 And we've -- like I've been allowed to  
20 sit in on interviews and not allowed to speak but  
21 just listen. But beyond that -- so they interview  
22 them, and then they go away and then we hear  
23 nothing.

24 MS. GARCIA: And how often does that  
25 happen that you're called to be able to contact one

1 of these witnesses or victims?

2 MS. RODRIGUEZ: I can remember two  
3 cases currently in the last couple of years.

4 MS. GARCIA: Do they have a standard  
5 complaint form?

6 MS. RODRIGUEZ: I don't know.  
7 Actually I've never seen one. I've been told that at  
8 the port of entry that there's a form that you fill  
9 out. Apparently those forms used to go to the Office  
10 of Internal Audit, which then became under JIC, but  
11 I've never seen a form.

12 MS. GARCIA: And have you ever been  
13 provided with a sheet of information as to how -- how  
14 it -- how the system works? Because you -- you  
15 talked about going to the joint intake center, then  
16 OIG, then maybe back to JRC, and then maybe to OPR.  
17 Have they given you a form showing that kind of  
18 flowchart?

19 MS. RODRIGUEZ: No. In fact, when the  
20 Department of Homeland Security took over, I called  
21 up the Office of Inspector General and asked, okay,  
22 so what's the new process now that everything's going  
23 under DHS, where do we send our abuses?

24 And they said oh, you'll send to the  
25 same place, it's just going to take longer.

1                   But their track record was pretty  
2 long, and then -- so then I found out about the  
3 Office of Internal Audit and we were doing reports  
4 there, and then one day I happened to call the agents  
5 and asked them a question, and they told me that he,  
6 A, no longer worked there at joint intake and the  
7 Office of Internal Audit was no longer doing those  
8 and it was going under joint intake.

9                   So they didn't -- even though they  
10 know they receive abuse reports from us, they didn't  
11 call to tell us about the switch.

12                   MS. GARCIA: And the last question, do  
13 you know if they publish any of these statistics  
14 anywhere?

15                   MS. RODRIGUEZ: No. And they're not  
16 very forthcoming when you request it, so --

17                   MS. GARCIA: Thank you.

18                   DR. WEBB-VIGNERY: Yes.

19                   DR. HERNANDEZ: Fernando Hernandez,  
20 California State Advisory Committee.

21                   Just a question, do you have or does  
22 anybody in the community have any kind of ongoing  
23 contact with the chief of the Border Patrol? Does he  
24 have any kind of advisory committee or citizens  
25 groups that he meets with on a regular basis to get



1 input from the community on how things are going?

2 MS. RODRIGUEZ: Not that I know of.

3 And recently when I requested from Border Patrol  
4 their numbers of deaths, because I was interested in  
5 comparing them to the medical examiner's number, I  
6 was told no, my boss said no. And I said who's your  
7 boss? And he said Andy Adomi said no.

8 So they refused to give us that --

9 DR. HERNANDEZ: And who was that  
10 gentleman?

11 MS. RODRIGUEZ: The gentleman that did  
12 that was --

13 DR. HERNANDEZ: No, who is Andy  
14 Adomi --

15 MS. RODRIGUEZ: Andy  
16 Adomi is the middle man of the -- the chief --

17 DR. HERNANDEZ: Is he the chief of the  
18 Border Patrol in this area?

19 MS. RODRIGUEZ: Second in command?  
20 Yeah. He's not just Tucson, he's now DHS.

21 DR. HERNANDEZ: Has your group ever  
22 tried to get an appointment with the chief of the  
23 Border Patrol to discuss these issues?

24 MS. RODRIGUEZ: I know that we have  
25 met with him in the past, but not recently.

1 DR. HERNANDEZ: And when you met with  
2 him, what kinds of things did you discuss and what  
3 came out of the meeting?

4 MS. RODRIGUEZ: That was pre-me. That  
5 was before I worked for Derechos Humanos, so answer I  
6 couldn't answer.

7 DR. HERNANDEZ: So in the recent --  
8 more recently, have you made any attempts or have you  
9 known of any citizens groups or community groups like  
10 yours that have contacted the chief of the Border  
11 Patrol and asked for a meeting?

12 MS. RODRIGUEZ: No.

13 DR. HERNANDEZ: Thank you.

14 DR. WEBB-VIGNERY: Okay. We are  
15 running over our time. We have time for one more  
16 question, very quickly.

17 MR. GATTONE: Thank you. Paul Gattone  
18 again from Tucson.

19 Yesterday Mr. Lopez from the Border  
20 Patrol explained all these elaborate mitigation  
21 systems that they have in place, supposedly  
22 humanitarian interventions to say rescue people in  
23 the desert.

24 Have you seen any positive results  
25 from this -- from these alleged mitigation efforts?

1                   And I'm sorry, if anyone on the  
2 committee can remember -- I can't remember the names  
3 of these particular --

4                   MS. RODRIGUEZ: BORSTAR?

5                   MR. GATTONE: Yeah, BORSTAR and those  
6 sort of things, thank you, have you seen any -- do  
7 you feel -- from your position, do you feel that it  
8 has had any mitigating effect on the number of  
9 migrant deaths in the desert?

10                  MS. RODRIGUEZ: It's not affected  
11 migration. I'm not going to deny that they have  
12 helped people and tended to people and gotten them  
13 medical aid, but that's not addressing the reason  
14 people are coming into this country.

15                  So you're shifting people around,  
16 you're finding people, you know, you're throwing them  
17 in the water and then throwing a lifesaver after  
18 them, but you're not addressing the root of the  
19 problem, so the problem is never going to get solved  
20 these are Band-aids, elaborate hero Band-aids that  
21 they put out, but they're not changing anything, and  
22 they're not looking at the policies which are the  
23 root of the problem.

24                  MS. GARCIA: But are the numbers  
25 down?

1 MS. RODRIGUEZ: Are the numbers down?  
2 No. Immigration hasn't decreased since any of these  
3 things --

4 MS. GARCIA: Or the deaths.

5 MS. RODRIGUEZ: Or the deaths. The  
6 deaths have not decreased. Every year they increase  
7 despite what they say.

8 DR. WEBB-VIGNERY: Is it very quick?

9 JUDGE CANALES: Yes, it is.

10 Adolph Canales from Dallas, Texas.

11 What percentage of the abuses are  
12 committed by the Border Patrol or the coyotes and  
13 that kind of thing, do you have that type of  
14 information?

15 MS. RODRIGUEZ: No, unfortunately many  
16 of the abuses we hear about are after the fact, and  
17 unfortunately many of the abuses that we hear about  
18 are after people have been deported. It makes it  
19 very difficult to document at that time.

20 So our -- the abuses we get are  
21 probably a fraction of a percent of what's actually  
22 occurring, and so I couldn't, you know, try to give  
23 you a breakdown of coyotes versus Border Patrol.

24 All I'm saying is migrants have become  
25 a victim on all fronts, from all of it, because of

1 the atmosphere that's been created.

2 DR. WEBB-VIGNERY: I want to thank you  
3 very much --

4 MS. RODRIGUEZ: Thank you.

5 DR. WEBB-VIGNERY: -- for your input  
6 today.

7 I need to find out who's here because  
8 we have upcoming the mayor of Nogales, Sonora --

9 MR. BARNETT: Yes, I'm representing  
10 him.

11 DR. WEBB-VIGNERY: I would like to go  
12 ahead with our agenda as it's supposed to be.

13 And so could we have your input  
14 from --

15 MR. BARNETT: Well, we don't have  
16 anything prepared, we're just observers.

17 DR. WEBB-VIGNERY: Could you please  
18 come and meet with us?

19 MR. GATTONE: Could we ask you some  
20 questions?

21 MR. BARNETT: Yes.

22 DR. WEBB-VIGNERY: Would you give your  
23 name for the record?

24 MR. BARNETT: My name is Alberto  
25 Suarez Barnett.

1                   By the way, I'm not related to another  
2 Barnettts who are famous in the border.

3                   My great-grandfather came from England  
4 in the 1860s to Sonora and he married in Hermosillo a  
5 Mexican lady.

6                   By the way, she's a -- I don't know,  
7 probably you're familiar with Sonora -- she's the one  
8 who originated the chayote which is a very famous  
9 food in Sonora.

10                  They went to Sinaloa and then in 1865  
11 they returned to Hermosillo. My great-grandfather  
12 was born there. He helped my great-grandfather,  
13 Guiermo Barnett. A great help.

14                  Ramone Coralle, who was then a  
15 newspaperman before being governor, then vice  
16 president.

17                  Then he later came to the border area,  
18 he bought Arizona Ranch, which is southwest of  
19 Nogales about 10 miles straight ahead as the fly  
20 crows is the word?

21                  And he gave the name to the state of  
22 Arizona. It's a long history from the colonial  
23 times.

24                  And then almost all the family that  
25 comes from him.

1                   The other Barnetts -- my great-  
2 grandfather came from England. The other Barnetts in  
3 this region came from another family who was in the  
4 1880s -- they were baseball men who used to live in  
5 the Patagonia area. The Barnetts in Douglas area are  
6 related to them, no?

7                   But they're not related to my family.  
8 All my life family lives in Sonora and so totally  
9 independent from the other one.

10                   DR. WEBB-VIGNERY: And you are here to  
11 represent --

12                   MR. BARNETT: I'm representative of  
13 Sonora municipal authorities, just in the -- I'm not  
14 prepared to -- because I wasn't aware for what kind  
15 of presentation was needed for today.

16                   DR. WEBB-VIGNERY: That's fine.

17                   MR. GATTONE: Paul Gattone.

18                   I'm sorry, sir, I was just  
19 wondering -- I realize you haven't prepared a  
20 statement -- but we've been here obviously trying to  
21 figure out the impact of -- I think we all  
22 acknowledge that there's a serious problems and we're  
23 looking into the violations of civil rights and human  
24 rights on the border.

25                   As an official in Sonora, Mexico --

1 Nogales, Sonora, I'm sorry -- could you give us just  
2 some general idea about do you hear on a daily basis  
3 from Mexican citizens about on negative interactions  
4 that they have might have had with the Border Patrol  
5 or with U.S. officials?

6 MR. BARNETT: It varies, depending on  
7 the -- what happens, the story.

8 It has varied from -- i think it was  
9 1917 when the Immigration Act was signed. And then  
10 almost depending on the influx of the -- on the need  
11 of workers in the U.S. has helped -- received good --  
12 they have received good terms and sometimes they  
13 haven't, depending on the economic situation of the  
14 U.S. That varies throughout time.

15 I'm -- this is just a small slice in  
16 time, the economic and social processes that answer  
17 to -- are very complex situation.

18 So sometimes it's a very good receive,  
19 they receive -- Mexicans are received very good,  
20 sometimes they are not depending, on the particular  
21 situation at that time.

22 MS. GARCIA: Isabel Garcia from  
23 Tucson.

24 How do you view it at this present  
25 moment?



1 MR. BARNETT: Well, my personal  
2 opinion is that, I was thinking after September 11 it  
3 would be worse because probably what happens at the  
4 stage of setting up new rules.

5 For instance, yesterday we  
6 commemorated the 27th of August, 1918, which was  
7 border incident related to the -- then close  
8 participation of the U.S. and the First World War.

9 At that time the border agents  
10 weren't -- for instance, the border crossing car has  
11 been instituted from the previous year, 1917, and  
12 then in 1918 there was a series of events that  
13 cost -- for instance, the guards that take care of  
14 the border, they didn't warn the crossers that they  
15 couldn't pass, they just shot them. And there were a  
16 lot of people dead.

17 The people think that August 27 is  
18 just an isolated case, but it was sort of a process.  
19 It's a long process.

20 For instance, in 1916 all Nogales,  
21 Sonora, was (unintelligible) because the U.S.  
22 instituted an embargo of foods, and Nogales, Sonora  
23 had to acquire all the foods in Arizona.

24 So it depends on the particular  
25 situation in time.

1 Right now it's -- I was thinking that  
2 it would be worse because of the necessary measures  
3 taken by the federal government, but it's been in the  
4 process of the instigation of new rules.

5 DR. WEBB-VIGNERY: Yes.

6 DR. HERNANDEZ: Fernando Hernandez,  
7 California State Advisory Committee.

8 I wanted to ask you if the mayor of  
9 Sonora --

10 MR. BARNETT: Nogales, Sonora.

11 DR. HERNANDEZ: -- of Nogales, Sonora,  
12 is on any kind of joint committees.

13 Do you meet regularly with the  
14 authorities here on the U.S. side of Nogales, and do  
15 you have any liaison or any connections to the U.S.  
16 Border Patrol? Do you work with them? And if you do  
17 meet with them, how often do you meet and what are  
18 the means of --

19 MR. BARNETT: Yeah, they're not --  
20 with relation to the Nogales, Arizona city  
21 administration, they're probably is on an informal  
22 basis communication. There's not a formal network.

23 Regarding the Border Patrol, I'm not  
24 aware of any. Probably there's one, but I'm not  
25 aware of it.

1           The main -- probably the main channel  
2 of communication with Arizona would be the Arizona-  
3 Mexico Commission. There are several chairs on the  
4 Commission. Most of them are education, tourism and  
5 development. But I'm not aware of any other network  
6 besides that.

7           DR. HERNANDEZ: Just one follow-up  
8 question.

9           Do you see a need for any kind of  
10 contact like this on a more formal basis with -- do  
11 you think it would be helpful for there to be some  
12 kind of liaison between the two cities and maybe the  
13 authorities in the two cities and the Border Patrol  
14 and law enforcement on both sides of the border.

15           MR. BARNETT: Yeah, that's -- that's  
16 something that has already been developed, not in  
17 terms of immigration but in terms of ecology.

18           For instance, I mean in the share and  
19 the task force is the name of them, and air quality  
20 and water and several others. They're already been  
21 organized with input from both sides of the border.

22           And in terms of water, I was -- the  
23 other day I was talking -- which is a different  
24 subject from this -- I was talking to -- because the  
25 water is brought not only from the Santa Cruz River,

1 but Nogales, Sonora water is brought mainly from the  
2 Santa Cruz River but also from the (unintelligible)  
3 which runs south and it's pumped to Nogales and then  
4 discharged into the Santa Cruz. So it changes water  
5 sheds.

6 So it's -- in terms of use of water,  
7 it needs not only the border area but also the washes  
8 that are affected by the border.

9 So probably in terms of your question,  
10 not a commission or a group addressing those issues  
11 would not necessarily need the input from just  
12 Nogales, Sonora, but other areas that will have  
13 impact -- have impact with this problem.

14 MS. LEE: I just -- as far as you  
15 know, you do not know what happens to complaints that  
16 may come in from -- from citizens, Mexican citizens  
17 that experience abuses or experience very negative --  
18 anything negative that happens when they cross the  
19 border at all and they go back and if they have any  
20 complaints, where -- to your knowledge, where do --  
21 where does that person or persons go to file or to  
22 make the complaint to? And then what happens when  
23 that persons makes that complaint?

24 MR. BARNETT: Yeah, in terms of  
25 complaints in Mexico they are addressed through the

1 U.S. consulate -- I mean to the Mexican consulate in  
2 Sonora.

3 MS. LEE: That's when they're here?

4 MR. BARNETT: No, in Mexico.

5 MS. LEE: Okay, in Mexico.

6 MR. BARNETT: Yes.

7 MS. LEE: Now, once it goes there and  
8 the complaint is I would assume filed there, do you  
9 know what happens to it?

10 MR. BARNETT: No, I don't know.

11 MS. LEE: Do you know if the  
12 government has any -- if the Mexican government is  
13 given any kind of report or a data cap or anything  
14 like that?

15 MR. BARNETT: As far as I know,  
16 they're dealt with on a case-by-case basis. I don't  
17 know. I'm not aware of that.

18 MS. GARCIA: I have a question.

19 Isabel Garcia from Tucson.

20 My question is, as a border town  
21 that's been a major port of entry for people, I want  
22 to know what the impact of migrants both incoming and  
23 deported on the City of Nogales and what does Nogales  
24 do to try to provide for the care of people that are  
25 either coming in or have been deported.

1 MR. BARNETT: You mean Nogales,  
2 Sonora?

3 MS. GARCIA: Nogales, Sonora.

4 MR. BARNETT: Okay. It's seen as a  
5 problem, the situation. But in terms of Nogales,  
6 Sonora, Nogales, Sonora has grown through  
7 immigration.

8 Nogales, Sonora population census  
9 figures that gave us for 2000 census gave us 259,000  
10 people in Nogales. However, the real population is  
11 around 300,000.

12 Also the census -- the census figures,  
13 somehow their (unintelligible) information don't  
14 agree with that information.

15 For instance, people who are in social  
16 security institutions are more than the population of  
17 the census figures of Nogales.

18 Nogales, the immigration of people  
19 from Sonora, from Sinaloa, from the rural areas of  
20 northwestern Mexico to the border -- to the border  
21 city of Nogales is more a blessing than a problem  
22 because it causes problems in the short-term in terms  
23 of services and infrastructure, social  
24 infrastructure.

25 However, in the long-term, I would say

1 nine of every -- I mean nine of every 10 Nogaleans  
2 have less than one generation in Nogales.

3 MS. GARCIA: What about the deported  
4 people?

5 MR. BARNETT: Oh, you mean the people  
6 coming back?

7 MS. GARCIA: Right now, yes.

8 MR. BARNETT: It's handled through --  
9 you mean people who don't want to remain in Nogales?

10 MS. GARCIA: People who are just  
11 deported. I imagine there's some people that are --

12 MR. BARNETT: Yeah, there are several  
13 channels of -- for instance, one of them is the  
14 Programma Paisano. I don't know if you're familiar  
15 with that, the Programma Paisano, but is combination  
16 of -- I'm not sure who is participating in it, but  
17 they're given work in Nogales, different -- depending  
18 on their abilities, and they are given social  
19 security prescription and with the payday they're  
20 given after a period of -- I don't know how much,  
21 probably a month or something of pay of work, they're  
22 given the pay for them either to return or do  
23 whatever they want to do with that money.

24 MS. GARCIA: Because there's  
25 problems -- my understanding is that there's

1 substantial need for those that have been deported.  
2 And I don't think the Programma Paisano helps them,  
3 but --

4 MR. BARNETT: Sure.

5 MS. GARCIA: But I understood that  
6 there was another city-funded program that tried to  
7 help migrants.

8 And then of course we've got the issue  
9 of children that have been separated and big issue of  
10 the welfare of the children.

11 MR. BARNETT: Yeah, it's a complex  
12 situation.

13 But from my point of view is  
14 historical, I see it not as just one slice in time  
15 but from the whole process.

16 MS. LEE: Lorraine Lee, Tucson.

17 Would you know the average income of a  
18 typical resident in Nogales?

19 MR. BARNETT: Nogales, Sonora, the  
20 average nobody would be able to know it because  
21 there's -- throughout Mexico there's the underground  
22 economy, which is a very prominent factor in the  
23 economy of the people.

24 They sell tacos, they sell hot dogs,  
25 they sell whatever they can. It's a very mobile not



1 only geographical -- from a geographical sense but  
2 also social and economic. It's a very mobile  
3 society. They come to improve their living  
4 conditions, and they improve it.

5 They either return, they cross the  
6 border, whatever -- most of them remain here in -- I  
7 mean on the Nogales, Sonora side of the border.  
8 That's the reason for the growth of population in  
9 Nogales.

10 DR. WEBB-VIGNERY: We have time for  
11 one more question.

12 MR. PAZ: Ramon Paz. I was born here,  
13 raised here. And you're painting a very pretty  
14 picture of Nogales. And it is beautiful. But when I  
15 went to high school here --

16 MR. BARNETT: In the U.S. Side?

17 MR. PAZ: On the U.S. side. All my  
18 family's from Nogales, Sonora. I'm the only one that  
19 was born here.

20 And now it is very difficult to cross  
21 the border.

22 But earlier, or yesterday the sheriff  
23 said that this was a very safe community because  
24 there was a Border Patrol --

25 MR. BARNETT: It is or it was?

1 MR. PAZ: It is. Because we have  
2 customs, Border Patrol DEA, DHS, FBI, CIA and Border  
3 Patrol.

4 So when I was here, I saw them at  
5 every place. It was not safety to me, it was feeling  
6 oppressed, like everybody was watching me.

7 MR. BARNETT: What year was that more  
8 or less?

9 MR. PAZ: Ten years ago.

10 MR. BARNETT: Okay.

11 MR. PAZ: I lived here in 1992. And I  
12 come back and I see the same thing, but now I see a  
13 wall; now I see very few people come in to enjoy  
14 Nogales, Arizona; very few people going across  
15 Nogales, Sonora unless we have our (unintelligible)  
16 over there.

17 So how about the feeling of the  
18 community that has changed throughout the years?  
19 Because it has changed for us. And I was a member of  
20 the city council as well, and I remember always,  
21 always complaining about not having enough resources  
22 to take care of the -- of the people. Is it that  
23 pretty still?

24 MR. BARNETT: Well, it's a  
25 psychological situation. For instance, right now, to

1 get across the border, I had to -- I had to bring the  
2 car at 5:30 in the morning and I left it close to the  
3 border and then I walk back.

4 And then I made a mistake, I gave half  
5 an hour for me to get across on foot, where it took  
6 me close to three-quarters of an hour. Right now the  
7 lines are long to get across the border. Walking is  
8 close to three-quarters of an hour. The lines are  
9 very long right now. Of course, it's a weekend.

10 But the Nogales mentality is made  
11 up -- has already been adapted to that. You will not  
12 only see them going from south to north but also from  
13 Nogales, Sonora, going south, then you have to go to  
14 kilometer 21, and it's another line there.

15 It's a mental thing. It's a  
16 psychological situation in Nogales. You have to --  
17 people get used to forming lines.

18 In terms of security, two weeks ago  
19 there was a study made in Hermosillo, Sonora, a  
20 social studies institution, a prominent institution  
21 for social studies in Sonora. And they found that  
22 Nogales, Sonora is the safest place throughout  
23 Sonora, in spite of all what is being said. I don't  
24 know why. People come to work.

25 DR. HERNANDEZ: Could we get ahold of

1 that study and put maybe it in the record?

2 DR. WEBB-VIGNERY: Yes.

3 MR. BARNETT: Yeah, they have it.

4 DR. WEBB-VIGNERY: Is there a  
5 possibility you could give the address to  
6 Mr. Palacios, who's sitting right back there and he  
7 just raised his hand, and so we could have that study  
8 and enter it into the record? It would be very  
9 helpful.

10 MR. BARNETT: Yes.

11 DR. WEBB-VIGNERY: I want to thank you  
12 for taking your time this morning to come and meet  
13 with us.

14 MR. BARNETT: Thank you.

15 DR. WEBB-VIGNERY: All right. Could  
16 you identify yourself for the record?

17 MS. RIVAS: My name is Ofelia Rivas.  
18 I'm O'odham.

19 (Speaking in native tongue).

20 I'd like to make that statement all  
21 the time on behalf of my ancestors.

22 My name is Ofelia Rivas. I'm  
23 O'odham. My father is Thomas Rivas, comes from  
24 (unintelligible) which is a community in northern  
25 Sonora, Mexico. And my mother's from Ali Chuk, a

1 community which is in southern Arizona.

2 I prepared a statement, so I'm just  
3 going to kind of briefly go over it. And I'll give a  
4 copy to the record keeper.

5 The O'odham since creation existed on  
6 Mother Earth, and have maintained our Himdag, our way  
7 of life, and lived by our Himdag based on the land,  
8 as taught by our teacher, Elder Brother I'ittoi, in  
9 our sacred ancestral territory, now known as the  
10 Sonoran Desert in the Republic States of Mexico and  
11 the United States of America.

12 In this testimony we stand in honor  
13 and in defense of our existence in our territory and  
14 our aboriginal right to maintain our traditional  
15 practices and customs through O'odham ceremonies and  
16 language and use of our traditional routes to freely  
17 travel within our ancestral territories.

18 The O'odham territory is dissected and  
19 occupied at this time by the United States of America  
20 and the Republic States of Mexico in the treaty of  
21 Guadalupe Hidalgo in 1848 and the treaty of Le  
22 Mesilla in 1853.

23 These foreign governments have  
24 occupied our territories. To disenfranchise the  
25 O'odham from the sacred territories these governments

1 impose borders, land policies and immigration laws  
2 jeopardizing the integrity of the primary principles  
3 of the O'odham Himdag.

4 In the 1850s there was a record of 45  
5 communities in northern Sonora, Mexico, which is now  
6 reduced to nine communities and five annexos.

7 The remaining territory is in the  
8 United States in a federal recognized reservation  
9 call the Tohono O'odham Nation.

10 The impact on our community is that we  
11 are restricted from free passage across these borders  
12 that we had really nothing to do with. They didn't  
13 come and address us and we were not a part of this  
14 negotiating team to establish these borders.

15 We're restricted to attend our annual  
16 ceremonies in Mexico as well as in the United  
17 States. We do collect ceremonial implements for  
18 ceremonial uses and selecting medicinal plants and  
19 just to do personal business crossing this border.

20 It's always a problem crossing the  
21 border. They're demanding that we carry proper ID  
22 and prove what citizen we are at either the legal  
23 port of entry or traditional points of crossing this  
24 border.

25 Recently what I put out here, my

1 brother removed nine of these, and this is just part  
2 of it, that they embedded in our traditional road  
3 that we travel back and forth to our communities.

4 MR. GATTONE: Could you describe for  
5 the record what you held there?

6 MS. RIVAS: It is probably about a  
7 three-inch metal spike. I'm submitting this -- these  
8 two spikes. We have nine of them that we removed.

9 Unfortunately, the car in front of my  
10 brother's, all the tires were immediately flattened.  
11 Because as you see, when this goes into the tire,  
12 there's holes through this -- out this spike, that it  
13 releases all the tire in the tire.

14 Not only that, also on June 9, 2004, a  
15 grandmother and her young son were abused by the  
16 border patrol and they were threatened to detainment  
17 and deportation and threatened that -- they were  
18 assured that all ground and air force would be called  
19 to detain them and deport them and that they would  
20 make sure that this process would be very lengthy.

21 Another one was myself in 1999, was  
22 held at gunpoint by the Border Patrol and asked  
23 repeatedly to say that I was a U.S. citizen when I  
24 stated that I was O'odham.

25 And I asked this guy, this Border

1 Patrol what citizen he was and he was very abusive at  
2 that time and said that he would throw me on the  
3 ground, on the pavement and handcuff me and deport  
4 me. And I said well, if you deport me to Mexico,  
5 Mexico is also O'odham territory. So he didn't  
6 really appreciate that.

7 But it traumatized my family. It  
8 traumatized -- I can laugh now, and I have to laugh  
9 about it now, but they didn't like that response.  
10 They wanted us just to continue to say, you know,  
11 we're either citizen, and I didn't want to do that.

12 We had just come back from ceremony,  
13 all night ceremony, and I was tired and I was  
14 sleeping in the backseat of the car, and that's when  
15 we got pulled over.

16 And the other thing was that right now  
17 Homeland Security is fast-tracking some projects  
18 along the border that a lot of the general public are  
19 not aware of. Because in 2002, the president of this  
20 nation decided that they were going to fast-track  
21 some environmental impact studies to projects that  
22 impact the so-called threat upon this nation.

23 So what they're doing now is they're  
24 going to build barricades and what they call vehicle  
25 barricades along the border, which will impact the



1 communities, traditional communities and ceremony  
2 people crossing the border.

3 They're also going to improve -- and  
4 what I don't know what that means -- improve the road  
5 along the border without any environmental impact  
6 studies on sacred sites and burial sites that are not  
7 disclosed to the general public.

8 Not only is the environment devastated  
9 by what they have done, the Border Patrols are out  
10 there with all-terrain vehicles, dirt bikes, Hummer  
11 vehicles, with just one individual in their Jeeps,  
12 various other vehicles, immigration buses,  
13 helicopters, portable lookout posts, airplanes,  
14 unmanned planes as well as satellite monitoring,  
15 sensors and unknown number of government agents,  
16 which are the U.S. Customs agents, Border Patrol  
17 agents, drug agents, special drug agents and --  
18 special agents, immigration agents, and then as well  
19 as the Tohono O'odham police, the Tohono O'odham  
20 rangers, and then now Tohono O'odham special trackers  
21 for people crossing the border, which many times are  
22 us living in the territory.

23 In Mexico, you know, the government  
24 has very much not recognized the tribal people as  
25 having any special privileges and our communities are

1 not recognized as they are in the United States. In  
2 the United States we're kind of corralled into our  
3 reservation, it's not like that.

4 DR. WEBB-VIGNERY: We have reached the  
5 seven minutes. You've got one minute.

6 MS. RIVAS: All right. Thank you.

7 I just wanted to end by saying that  
8 I'll be submitting this whole statement, but there is  
9 also an undetermined amount of abuse that is not  
10 reported by all O'odham people, people that I've  
11 talked to personally that have been abused by Border  
12 Patrols, abused by Tohono O'odham police as well and  
13 undercover agents.

14 And there's also deaths regarding drug  
15 trafficking and human trafficking that are not  
16 specifically documented as such.

17 So thank you.

18 JUDGE CANALES: Yes. Adolph Canales  
19 from Dallas, Texas.

20 Could you tell us the quantity, the  
21 number of immigrants that are coming through from  
22 Mexico and other countries through your land?

23 And also what is the relationship  
24 between your tribal people and these people that are  
25 coming through?

1 MS. RIVAS: As I said -- or maybe I  
2 wasn't clear -- that I represent the traditional  
3 O'odham people and the ceremony O'odham people, and I  
4 do -- personally don't have the means to keep any  
5 records as such, but I know that the Derechos Humanos  
6 does and Alianza Indigena also has those kind of  
7 records.

8 JUDGE CANALES: And what relationship  
9 do you have with the people? Do you have problems  
10 with them?

11 MS. RIVAS: Problems with -- pardon  
12 me?

13 JUDGE CANALES: The people that are  
14 coming through.

15 MS. RIVAS: Personally I don't.  
16 Through time and since we've been in the territory --  
17 and I said that we were in the territory since  
18 creation -- migration has occurred. It's a naturally  
19 occurring thing. There has been no problems until  
20 the U.S. militarized our territory and imposed these  
21 laws on our people.

22 DR. WEBB-VIGNERY: Yes.

23 MR. GATTONE: Paul Gattone from  
24 Tucson.

25 Actually, two questions. First off, I

1 wondered, do you have any indication who laid those  
2 spikes on the road?

3 MS. RIVAS: No, I don't. But  
4 they're -- my brother, who was born in Mexico but  
5 also served in Vietnam, said that these are military  
6 issue road, you know, hazard kind of things that they  
7 use.

8 MR. GATTONE: Second question,  
9 yesterday we heard from Richard Saunders, the chief  
10 of the Tohono O'odham -- the chief of police, I'm  
11 sorry, of the Tohono O'odham Nation.

12 He painted a rather optimistic picture  
13 of the relationship between the tribal authorities  
14 and the Border Patrol and government entities as far  
15 as when members of the tribe have problems, they  
16 report them and there's good interaction.

17 Have you found this to be the case?  
18 Is it good response when tribal members report abuse  
19 by the federal government agencies?

20 MS. RIVAS: Many of the tribal members  
21 will not report abuses because of fear of reprisals  
22 because they are directly in the communities.

23 These Border Patrols are in our  
24 communities all the time, you confront them on a  
25 daily basis, and they're very much afraid.

1                   And no, they will not come forth and  
2 even tell this chief of police that -- well, I'm  
3 going very appalled at all the statements that he  
4 made yesterday. He was not very forthcoming in any  
5 information that he had to share with this  
6 committee.

7                   DR. WEBB-VIGNERY: Has there been any  
8 type of -- June Webb-Vignery, Tucson.

9                   Has there been any type of advisory  
10 council set up and representatives from the various  
11 districts to work with the Border Patrol and with the  
12 different agencies that are working -- that are now  
13 on the border and --

14                   MS. RIVAS: I would have to say that  
15 there is, but again, that is the government. That is  
16 imposed by the state government and the federal  
17 government to set up this tribal government that does  
18 not necessarily speak for all the people.  
19 Traditional people were not advised and not part of  
20 the meetings. Ceremony people are not a part of  
21 these proceedings.

22                   And yes, there is committees, there is  
23 that type of people on the reservation. And as a  
24 matter of fact, they did approve vehicle barriers,  
25 which traditional people are opposed to.

1 DR. WEBB-VIGNERY: In other words, San  
2 Xavier sends certain representatives --

3 MS. RIVAS: Yes, there's 11 districts,  
4 and all the districts have representatives to the  
5 tribal council.

6 DR. WEBB-VIGNERY: And this was done  
7 through the aid of the Bureau of Indian Affairs?

8 MS. RIVAS: I believe that is so.

9 DR. WEBB-VIGNERY: Thank you.  
10 Are there any others?

11 MS. GARCIA: Yesterday Chief Saunders  
12 said that -- when I asked the question about the  
13 O'odham in Mexico and the 7,000 in this country that  
14 can't prove their citizenship and the citizenship  
15 bill that the administration is no longer pursuing,  
16 he indicated that the crossings for people has now  
17 improved.

18 Is that true, that there are no longer  
19 problems with people crossing the borders and having  
20 these kind of problems?

21 And the other thing is, well, whether  
22 you participated in those scoping meetings that INS  
23 had a couple of years ago.

24 Anyway, I'm sorry. Two questions.

25 MS. RIVAS: Yeah. The first question

1 is that regarding Chief Saunders' statement, I think  
2 that he, again, was not very forthcoming with  
3 information.

4 There are, like I said, nine  
5 communities with community members that continue to  
6 cross this board on a daily basis either to go to  
7 work, attend school, go to the health clinic, because  
8 we do utilize the health clinic in the United  
9 States.

10 We are considered enrolled members.  
11 Even though we are in Mexico, we are considered  
12 enrolled members of the Tohono O'odham Nation.

13 Federal, state and any other kind of  
14 dollars do come to the Tohono O'odham Nation.  
15 However, it stops at the border.

16 There are problems there that he did  
17 not address. There's problems that just a couple of  
18 days ago that when my brother was crossing, the  
19 Border Patrol agent called Mondonalo stated that the  
20 chairwoman has sealed the border.

21 And we asked that we see a document  
22 stating that she has sealed the board and that  
23 traditional O'odham people crossing to the  
24 communities could no longer cross this border, and  
25 there was no document, so we still continue to cross

1 that border today on our traditional route.

2 There are very many other problems.  
3 The Border Patrol running vehicles off roads,  
4 tailgating people, intimidating people, going into  
5 people's houses.

6 Border Patrol has crossed into Mexico,  
7 and we know it, and vice versa, Mexican military has  
8 crossed into the United States countless times. I  
9 think that in all other terms, that would be called  
10 an invasion.

11 And of course now, Homeland Security,  
12 there's more Border Patrols, there's more personnel  
13 on the border that -- that always, you know, stops  
14 you and interrogates you. And if you are only  
15 O'odham-speaking, you'll get very much intimidated,  
16 you know, and demeaned in the things that they ask  
17 you and do, you know, at that point. Even at the  
18 legal ports of entry they do the same thing.

19 MR. MCKENZIE: James McKenzie from  
20 Tucson.

21 You had mentioned that a lot of tribal  
22 members will not report abuses by Border Patrol  
23 because of fear of retaliation.

24 Can you give me some examples of  
25 tactics that they have used in the past to try to



1 discourage -- you know, how they've intimidated  
2 individuals so they discourage complaints that you're  
3 aware of?

4 MS. RIVAS: One individual woman that  
5 questioned the authority not only of the Customs and  
6 the Tohono O'odham police, all of a sudden in the  
7 middle of the night with her children was invaded by  
8 people dressed in black with hoods and everything,  
9 carrying heavy weapons, came into the house, tore up  
10 the house and told them that they were possibly  
11 stashing drugs, which these people were not, and  
12 later admitted that it was a mistake. But that was  
13 one way to intimidate people.

14 Also the people that have been  
15 doing -- and mind you, that Tohono O'odham are doing  
16 human trafficking, they're doing drug trafficking.  
17 It's a psychological thing. It's a social oppression  
18 of people that's been going on since the United  
19 States government got involved in the drug -- drug  
20 business in other countries, pushing people out of  
21 their territories all the way to this country with  
22 the delusion that it's a better life here.

23 I'm getting off the subject, but yeah  
24 there is a lot of other -- other instances that  
25 happens, you know, to people that -- that they will

1 not come forward because they're afraid not only of  
2 the Border Patrols doing something to them or our own  
3 Nation's police doing something to them or the  
4 customs people.

5 MR. MCKENZIE: Thank you.

6 JUDGE CANALES: Adolph Canales from  
7 Dallas, Texas.

8 Quick question. Do your own tribal  
9 police -- I assume you have those -- do they  
10 cooperate with the U.S. officials in anything, in any  
11 way at all?

12 MS. RIVAS: I think that you got the  
13 very clear message from Chief Saunders yesterday that  
14 they do very much cooperate, they do have agreements  
15 with each other that the general public of the  
16 O'odham Nation as well as the O'odham public  
17 membership probably are not aware of.

18 JUDGE CANALES: Do they patrol  
19 together?

20 MS. RIVAS: They do patrol together.

21 MS. GARCIA: Isabel Garcia from  
22 Tucson.

23 Can you tell the members about the  
24 case of Bennett Patricio? Are you aware of that  
25 case?

1 MS. RIVAS: Yes, I am. And it is in  
2 the part of the report that I made and I didn't read  
3 that.

4 But 18-year-old Bennett was walking  
5 home in his community and was struck by a Border  
6 Patrol vehicle and was killed, and the Border Patrol  
7 choose not to report this incident to -- in any way.

8 And it's an ongoing issue now because  
9 the family -- the Border Patrol have tried to settle  
10 with the family money-wise, but the family refused to  
11 settle and take the settlement.

12 But it is very tragic thing. And  
13 that's just one of the things that has happened.

14 I think that every time you read the  
15 paper and the Border Patrol is mentioned that --  
16 there's a van in Tucson that got turned over, run off  
17 the road and so many people are dead. That is what  
18 happens all the time, and it's not just a  
19 coincidence.

20 MR. GATTONE: Well, just a point of  
21 clarification. I noticed in the packet that was  
22 delivered by Ms. Rodriguez for Derechos Humanos and  
23 Alianza Indigena Sin Fronteras there is a statement,  
24 and ma'am, you have an additional statement?

25 MS. RIVAS: The Alianza is an

1 organization -- it's part of the packet as well --  
2 it's an organization that is -- has membership of all  
3 the indigenous communities and tribes along the  
4 border that have come together to try to discuss how  
5 to confront these issues that are facing especially  
6 traditional people and ceremony people that cross the  
7 borders on an annual or daily basis.

8 MR. GATTONE: Could you -- just for  
9 the sake of our complete record, could you please  
10 make sure that copies of all those statements get  
11 into our --

12 MS. RIVAS: Yes.

13 Part of the packet also includes some  
14 photographs of community members and soldiers in our  
15 community, some of the elders people, the portable  
16 lookout posts there are out there in all the  
17 territory, in the whole territory of the nation,  
18 Tohono O'odham Nation.

19 We also have a picture of Heckla  
20 Mines, Mining, which is a part of NAFTA that is --  
21 that is also encroaching on our communities in the  
22 northern part of Sonora, Mexico. And also pictures  
23 of the -- the spikes that we were talking about here  
24 and how they were found.

25 MS. GARCIA: Isabel Garcia.

1 Do you have photographs there of  
2 the -- what you call encampments, can you describe  
3 that, because --

4 MS. RIVAS: Pardon me?

5 MS. GARCIA: Encampments or tents?

6 MS. RIVAS: Yes, I do.

7 MS. GARCIA: We've been told by some  
8 members of the nation that they don't have facilities  
9 there for the Border Patrol. Is there --

10 MS. RIVAS: This is a temporary  
11 detainment camp at the bottom, that when I went to  
12 photograph it I was chased off by Border Patrol at  
13 gunpoint.

14 And they were -- and they said -- it  
15 looked like -- the people are down here, there's  
16 about 200 people sitting there, and outside there's a  
17 table with water, one jug of water, and all the  
18 people are inside this -- this structure.

19 They're also building a permanent  
20 structure as a part of the proposals that was fast-  
21 tracked by Homeland Security and the United States  
22 government.

23 MR. GATTONE: Those are on tribal  
24 lands?

25 MS. RIVAS: These are on tribal

1 lands.

2 MS. GARCIA: On which part? Can you  
3 describe it? Southeast or --

4 MS. RIVAS: This is in the -- the  
5 district of -- Chukut Kuk district and it's a mile  
6 north of the border.

7 And there's also a picture of the  
8 helicopters that fly all over all the time.

9 DR. WEBB-VIGNERY: And are these in  
10 the process -- are the tribal councils involved in  
11 giving the okay for this or --

12 MS. RIVAS: No, these are the projects  
13 that were fast-tracked. They did not go through the  
14 proper environmental impact procedures that usually  
15 follow these kind of projects.

16 They're already -- I mean, the  
17 construction is -- I mean, the building is there  
18 already. I mean, what more can you say?

19 Not only that, but the vehicle  
20 barricades that they're saying is not actually a  
21 border is already 13 miles into -- on the territory,  
22 so -- and I also have pictures of those.

23 MR. GATTONE: Please get those to our  
24 staff person.

25 MR. MCKENZIE: James McKenzie from

1 Tucson.

2 Just a follow-up question on those  
3 camps. Were those -- did that go through tribal  
4 council or through the district representatives?

5 DR. WEBB-VIGNERY: She said no.

6 MR. MCKENZIE: I'm sorry.

7 DR. WEBB-VIGNERY: Could you -- you  
8 met Mr. Palacios, who is --

9 MS. RIVAS: Yes.

10 DR. WEBB-VIGNERY: And we want to make  
11 sure that we have all of the information that you  
12 brought to us in the record.

13 Is there a way that you can identify  
14 when they're putting together the --

15 MS. RIVAS: Yeah, some are identified,  
16 but I can --

17 DR. WEBB-VIGNERY: I think it would be  
18 helpful because we're here but they're over in  
19 California --

20 MS. RIVAS: I also have some of the  
21 original pictures of the spikes that were embedded in  
22 the road, but I made copies of --

23 DR. WEBB-VIGNERY: Are those pictures  
24 that you can give to him or --

25 MS. RIVAS: I probably could copy

1 them.

2 DR. WEBB-VIGNERY: Is there some way  
3 that -- I mean, if you could just give him one so it  
4 could be used as --

5 MS. RIVAS: I will.

6 MS. RODRIGUEZ: We could make digital  
7 copies for you and then send them to the --

8 DR. WEBB-VIGNERY: I think that would  
9 be helpful just to visualize what we've observed here  
10 at this hearing.

11 MS. RIVAS: I guess I have kind of a  
12 question as to what is going to become of this  
13 report?

14 DR. WEBB-VIGNERY: First of all, we  
15 gather the information. And as you see, we have a  
16 court reporter who is recording the information.

17 It's -- then the office, our regional  
18 office in Los Angeles, puts a preliminary report  
19 together and it's reviewed by all members of the  
20 Arizona State Advisory Council.

21 Then a final report is issued and it's  
22 bound and it's sent to the U.S. Commission on Civil  
23 Rights in Washington.

24 And after they have reviewed it, it's  
25 sent to Congress.



1                   And Mr. Palacios can answer any other  
2 questions because he -- he's been with the agency for  
3 years, so he understands the process intimately.

4                   MS. RIVAS: Okay. Thank you for  
5 answering my question.

6                   And I'd like to make a further  
7 statement that personally my life is in danger  
8 because I'm making this statement, as well as anybody  
9 else that will make this statement.

10                   I have been personally followed by  
11 people of unknown origin. My daughter's phone is  
12 tapped because I'm bringing out these issues.

13                   So I want that on the record  
14 somewhere, that my life is personally threatened.

15                   DR. WEBB-VIGNERY: And then so noted.

16                   MS. RIVAS: Thank you.

17                   DR. WEBB-VIGNERY: Well, we have -- I  
18 don't see Dr. Garcia. And at 11 o'clock we have --  
19 and I don't see Mr. Polheber.

20                   MR. GATTONE: Can we take a break?

21                   DR. WEBB-VIGNERY: Let's take a  
22 break. It's a 10-minute break, so be back here at  
23 11:30.

24                   (A recess was taken.)

25                   DR. WEBB-VIGNERY: Could we come back

1 to order?

2 We have next on the agenda Richard  
3 Hoover from Humane Borders. Is he here?

4 MS. OHMANN: No, he is not, but I'm  
5 taking his place.

6 DR. WEBB-VIGNERY: Could you please  
7 identify yourself?

8 MS. OHMANN: Yes. I didn't realize  
9 this until Wednesday, and then I just sent an  
10 e-mail over to --

11 My name is Elizabeth Ohmann and I'm  
12 representing Humane Borders today.

13 I did not -- I do have this prepared  
14 because it was too late, but I will be happy to give  
15 this to you when we finish.

16 DR. WEBB-VIGNERY: Okay, thank you.

17 And you understand the process?

18 You'll have eight minutes of presentation, and you'll  
19 be warned at the one-minute time period, as then  
20 seven minutes of discussion.

21 MS. OHMANN: Thank you. Yes.

22 Thank you very much for giving us the  
23 opportunity to speak at a session such as this.

24 Humane rights is a nonprofit,  
25 faith-based, humanitarian organization, developed

1 because one man asked the question, How do we, as  
2 people who call other our brothers and sisters, and  
3 are called upon to love our neighbors, respond to the  
4 deaths that are taking place in the desert in our  
5 state, or as I like to call it, in our backyard?

6 As a humanitarian response, we have  
7 chosen to provide water in the desert to save the  
8 lives of migrants, particularly in the heat of the  
9 summer when it is impossible to carry enough water to  
10 survive.

11 Many of those dying have been because  
12 of dehydration. That being the case, water is the  
13 best medicine.

14 We regularly study the death maps --  
15 and you have been given the list of people who have  
16 died this year.

17 We have taken it taken upon ourselves  
18 to compile a complete list of deaths with information  
19 from this -- the health department, the coroners from  
20 the counties of southern Arizona, the Mexican consul,  
21 and the Border Patrol.

22 They will give us the names and then  
23 we will cross-check to be sure they're not duplicated  
24 and we will make a map of these deaths by location,  
25 by GPS readings.

1           We've studied these maps over the last  
2           few years and have determined where the most deaths  
3           are occurring and that is where we ask landowners for  
4           permission to set up water stations.

5           Our very first water station was at  
6           Organ Pipe Cactus National Monument.

7           We have permissions from three federal  
8           government agencies, from Pima County, and from  
9           private landowners.

10          The federal government agencies come  
11          under the Department of the Interior and thus far,  
12          each agency has contracted with us and set the  
13          restrictions. If the Department of the Interior had  
14          one set of guidelines, we could all work from one set  
15          of guidelines saving much time and energy for the  
16          agencies and for us.

17          The Tohono O'odham Nation has not  
18          given us permission to set out water, though the  
19          number of deaths has continued to be high in that  
20          area.

21          The water stations are checked  
22          regularly for purity and water is added when  
23          necessary.

24          We are well aware that supplying water  
25          is only a band-aid. Band-aids do help the healing

1 process. However, our border has wounds that are  
2 much bigger than band-aid size.

3 Therefore, we also advocate for border  
4 policy change by carving out a social space in which  
5 persons of conviction can and will provide meaningful  
6 assistance to persons in peril while working within  
7 the confines and constraints of our legal-political  
8 system.

9 The politics of migration are neither  
10 liberal nor conservative. The border continues to  
11 be, as it has been in the last few years, in an  
12 emergency situation.

13 We have a matter of life and death  
14 that must be addressed. The U.S./Mexico border  
15 policies are fatally flawed and migrants are dying in  
16 record numbers from coast to coast and have increased  
17 each year.

18 Closing down urban areas of the border  
19 with fences or walls, technology and more personnel,  
20 may have a certain logic to stopping crime in the  
21 local areas, but it also has certain consequences.

22 The U.S. Border Patrol inaugurated  
23 Operation Gatekeeper, Safeguard, Hold the Line and  
24 others.

25 With closing these urban areas, it

1 feeds the coyote or the smuggler industry and forces  
2 migrants into the remote and most dangerous desert  
3 areas.

4 One of the most dangerous is in  
5 western Arizona through the desert. Migrants jump  
6 fences in the most fortified areas and require  
7 expensive, nonreimbursed medical services. Migrants  
8 cross deserts that are both dangerous and  
9 environmentally delicate. Migrants trespass on  
10 private land causing distress to the landowners while  
11 breaking down fences allowing animals to escape.

12 The concern of landowners also brings  
13 the concern of vigilantism in southern Arizona.  
14 These groups favor militarization of the border.  
15 Humane Borders does not believe that militarization  
16 of the border is for the best.

17 It is not the migrants who cross the  
18 border looking for work to feed themselves and their  
19 families, or to have a better way of life, that  
20 concern us the most. They have legitimate reasons  
21 for coming and should not have to go through a death  
22 trail.

23 What about those encouraging them to  
24 come? Employer sanctions have been stopped because  
25 of our insatiable appetite for cheap labor and the

1 contributions to the American economy.

2 Those who should give us the most  
3 concern and should have more of our attention are the  
4 drug smugglers and now also the people smugglers.  
5 They often come armed and are very dangerous and have  
6 little or no respect for life.

7 They use innocent people to carry the  
8 drugs across the border and then they pay them with  
9 drugs to show them the way.

10 On the tribal lands, and particularly  
11 the Tohono O'odham -- and you just heard from Ofelia  
12 talking about that -- and I lived out there for a  
13 while and have experienced this -- the people are  
14 telling me that the drug smugglers are using their  
15 children and their youth to carry drugs across the  
16 land and then they pay them in drugs, thus causing  
17 further drug abuse and gangs and criminal violence.

18 There are some measures being taken to  
19 control, if not solve, the migration issue. Flying  
20 apprehended migrants to cities far from the border is  
21 very expensive and only delays the reentry by a few  
22 days. Those who want to come, they'll try again.  
23 And also it's very tempting for some of the people to  
24 cross the border and then be apprehended and then  
25 have their very first airplane ride.

1                   Numerous efforts to draft guest  
2 workers legislation are underway as our attention  
3 turns to both national security and economic  
4 interests, and these have some good effects.

5                   And we do believe a guest worker  
6 program would be useful; however, the guest worker  
7 programs that are being established or envisioned  
8 need some fine-tuning.

9                   Each of these proposals makes  
10 decisions about people's lives. They're human  
11 beings. They have a personal life to live, who have  
12 faith and beliefs and they want to care for their  
13 families.

14                   Many want to do it in their own homes  
15 and in their own lands, but circumstances do not  
16 allow for that and do not give them the opportunities  
17 to do so.

18                   Why can they not get jobs in the  
19 places where they come from? Why can they not raise  
20 their standard of living there?

21                   Those may be the most important  
22 question. What are the governments of all these  
23 countries involved doing and how are they cooperating  
24 with one another to find solutions?

25                   And then not to leave out the desert



1 and the environment, we at Humane Borders have  
2 concerns there too.

3           The many feet walking across the land  
4 have trampled down much of the vegetation, but the  
5 feet are only a small part of it. Great areas are  
6 damaged by vehicles and by dragging.

7           Dragging, for those who are not  
8 familiar with it, is done by Border Patrol, dragging  
9 tires behind the car so that the ground is fresh so  
10 they can watch for tracks. This has damaged much of  
11 the desert vegetation and it will take years, the  
12 environmentalists tell me, for the desert to restore  
13 itself once it is given the opportunity.

14           Another consequence of the flow of  
15 migrants through the desert has been the deposit of  
16 large amounts of trash. It is not only an  
17 environmental disaster but also an aesthetically  
18 unpleasant site.

19           To begin to remedy this situation, we  
20 pick up trash every time we check the water stations  
21 and monthly we organize trash pick-up days. Many  
22 Tucsonians join in the task of saving the desert and  
23 beautifying the desert, as do youth groups and others  
24 from many areas of the United States.

25           Humane Borders supports providing a

1 legal status to persons coming to work in the United  
2 States. Security concerns demand that we know who  
3 are here.

4 Humane Borders supports legalized work  
5 opportunities for migrants wanting to work here. If  
6 legalized, the workers would be able to enter at the  
7 ports of entry and would not have to take the  
8 dangerous walk through the desert and this would  
9 reduce the number of deaths.

10 We are dedicated to take death out of  
11 the migration equation.

12 Thank you.

13 DR. WEBB-VIGNERY: Thank you.

14 MR. GATTONE: I have a quick  
15 question. Paul Gattone from Tucson.

16 Ma'am, it's my understanding that in  
17 the past some of the water distribution stations have  
18 been vandalized. Is that the situation?

19 MS. OHMANN: We have had a few of them  
20 vandalized, yes. The first one that was vandalized  
21 was on county property, in the Buenas Ides Wildlife  
22 Refuge.

23 The first vandalism was a puncture in  
24 the water station so that the water all ran out. And  
25 then the same station was shot at several times.

1                   And another station that has been  
2 vandalized is in the Ironwood Forest National  
3 Monument, and there the faucets have been taken off  
4 of the tank so the water all runs out. And this has  
5 happened three times that I'm aware of.

6                   And one station in Cochise County, the  
7 faucets have been taken off. The tanks were not  
8 disturbed, just the faucets are removed and taken  
9 with them.

10                  We also have a blue flag on a 30-foot  
11 pole at each station so that the water -- the people  
12 can see the flag to know where the water is.

13                  The flags have at times been taken  
14 down, and two or three maybe have been destroyed or  
15 torn or broken and the poles broken.

16                  MR. GATTONE: No indication who may  
17 have been responsible for the vandalism?

18                  MS. OHMANN: We have no idea.

19                  MR. GATTONE: Thank you.

20                  MR. OSBORN: Jones Osborn from Yuma.

21                  Does your program extend all the way  
22 across the border to the pacific coast?

23                  MS. OHMANN: There is another group in  
24 California who puts out water. They call them pole  
25 stations. They put out a flag and put gallon jugs by

1 the flag, whereas we put out tanks.

2 We have been helping them with  
3 financial help, as well the Yuma area. We've been  
4 working with the group there.

5 MR. OSBORN: Thank you.

6 MR. MCKENZIE: James McKenzie from  
7 Tucson.

8 I have follow-up question on that.  
9 What about the bombing range that's -- what's going  
10 on between Ajo and Yuma, that big stretch of land?

11 Is it Gold Water? What did I say?

12 MS. OHMANN: We may not go on the Gold  
13 Water range, so we do not.

14 MR. MCKENZIE: A little dangerous,  
15 right?

16 MS. OHMANN: Right.

17 Actually I had a news working on the  
18 range in wildlife, and she would report to me because  
19 she had to report in every time she saw migrants go  
20 through, she had to call into the Border Patrol, and  
21 then I would get information that way.

22 But no, we may not go out there.  
23 There is BLM land around the Ajo area which borders  
24 that part, and BLM has given us permission to put  
25 water out there.

1                   And then there's a wildlife refuge out  
2 there, Abeyta Prieta. Abeyta Prieta does not want us  
3 to go on their land; however, they have allowed us  
4 to, wherever they have water holes for the animals,  
5 to put a tank so that the water from the well comes  
6 immediately to the tank with a faucet and then -- and  
7 then overflows into the watering hole so that the  
8 water in the tank is continually refreshed from the  
9 well and the migrants have the opportunity to have  
10 fresh water then rather than taking it out of the  
11 watering holes.

12                   And we have found gallon jugs out in  
13 the desert with water that we are sure was taken out  
14 of the watering pools holes because of the way it  
15 looked, for one thing.

16                   We have had some of that water  
17 analyzed at the University of Arizona and -- because  
18 we want to be sure our water is pure and drinkable.  
19 And they have said that some of this water is water  
20 that was taken out of the ponds for the animals,  
21 watering ponds.

22                   MS. GARCIA: Isabel Garcia from  
23 Tucson.

24                   Can you describe for our committee  
25 members the efforts that the community has engaged

1 in, in particular this summer because of the record  
2 number of deaths? And I guess I'm talking about No  
3 More Deaths, if you could tell the panel members.

4 MS. OHMANN: Yes. I haven't worked  
5 with them directly, but indirectly, yes, we have.

6 And No More Deaths organized this  
7 summer because of the number of deaths in the  
8 desert. And they established camps in the desert in  
9 several places that are called Arks of the Covenant.  
10 And volunteers live there 24 hours a day, seven days  
11 a week.

12 And from these camps we'll go out in  
13 four-wheel vehicles to watch for migrants and to help  
14 them with water, food, medicine or whichever way they  
15 can. And when they find migrants who are in a  
16 medical emergency, will take them for medical help  
17 immediately, yes.

18 We have given them -- we meaning  
19 Humane Borders -- has helped as part of this  
20 organization with water jugs and a place to -- for  
21 meetings or to use our area for supplies and -- and  
22 parking areas, things like that. And so they use our  
23 meeting rooms there.

24 And we've prepared health kits to help  
25 them so that they can give to the migrants the very

1 basic needs, toothpaste, soap, et cetera.

2 And we've also sent health kits into  
3 Mexico to the -- to some of the centers there so that  
4 they can give them to the migrants, at least they  
5 have something to that them feel more humane or they  
6 can clean up before they go through.

7 One of the big things that I know No  
8 More Deaths has been confronted with is because the  
9 people walk so long, their feet are blistered, and  
10 you just wouldn't believe it. It gives you the  
11 chills thinking about it, much less even seeing what  
12 they look like.

13 So socks are being sent and helped out  
14 and we help them with supplies like that. So even  
15 though we don't go directly into the desert, we are  
16 supplying them.

17 MR. OSBORN: Jones Osborn from Yuma.

18 How is your work financed, may I ask?

19 MS. OHMANN: Yes, you may, and I'll be  
20 happy to talk about that too.

21 Our work is financed totally by  
22 donations. Humane borders is an umbrella  
23 organization. We have in our membership about 120  
24 churches and other organizations and many  
25 individuals. And we give them reports of what we do

1 we send out a newsletter every month or two and they  
2 send donations to us.

3 And I believe that we have been able  
4 to get along because we all have a great faith. By  
5 the end of the month there are bills that come in.

6 Gasoline is probably our most expense  
7 right now because we have water trucks to take out.  
8 BLM requires that we check the water tanks every  
9 day. It's very expensive to drive out to the desert  
10 every day to check these. And so that's a very huge  
11 expense for us.

12 The end of the month there are times  
13 we are not sure we can pay all of our bills, and I  
14 know it is only because we have faith that a check  
15 comes in just before it's time.

16 And we do, we have been able to pay  
17 all of our bills and help out the California-Yuma  
18 area too with their water.

19 We have also contacted a number of  
20 groups, say as water providers, and they will give us  
21 a donation of a thousand gallons at one time.

22 The tanks that we put out, the first  
23 40 were donated to us by the Coca-Cola company. It's  
24 how they distribute their Coke syrup, and we wash  
25 them out and clean them and use them. And this year



1 they gave us 40 more.

2 So everything is by donation. And all  
3 the work that is done by volunteers. There's only  
4 one half-time salaried person who is the office  
5 manager.

6 JUDGE CANALES: Adolph Canales of  
7 Dallas, Texas.

8 Are there any groups, either  
9 government or private, that either harass you or try  
10 to intimidate or discourage you?

11 MS. OHMANN: To a certain extent, yes.

12 Before we ever started this we did  
13 meet with Border Patrol probably five or six or more  
14 times, and they certainly were not in favor of us  
15 doing this.

16 And if I may just give one little  
17 quick incident of what happened at one of our  
18 meetings, my first meeting there.

19 The Border Patrol asked us why we were  
20 doing this, and we could feel that they were really  
21 against us, and they told us so, too.

22 And so I asked them if I see someone  
23 in the desert when I'm in my car and it's a hundred  
24 ten in the desert, I have air-conditioning, totally  
25 comfortable, I see someone in need, there's nothing I

1 can do accept stop.

2 I carry water with me all the time, I  
3 can give that. Sometimes I have food, I can give  
4 that. I said, But I cannot drive away from a person  
5 who is in need when it's a 105 out in the desert. So  
6 what do I do?

7 The chief said, If I see you give  
8 someone a ride, I personally will come and put the  
9 handcuffs on you.

10 Now, I was not there to argue. We  
11 were trying to make a point of the need. So I said,  
12 Yes, you will, that's your job, but I have a job too,  
13 and you haven't answered my question, what do I do.

14 And he said, You may not give a ride.

15 I said, Then I sit there with him  
16 because I cannot leave.

17 And he said, I'll come out and put  
18 handcuffs on you.

19 JUDGE CANALES: What is the name of  
20 the individual that --

21 MS. OHMANN: The chief of the Border  
22 Patrol? It was -- David Aguilar then was the chief.

23 Then our conclusion to that meeting,  
24 though, was that we -- we're a humanitarian  
25 organization and we may give humanitarian aid to

1 anybody who needs it. Therefore, we may put the  
2 water on the desert.

3 So we -- we agree we will put out  
4 water, we can give food, we can do first aid types of  
5 work. If there's a medical emergency, we must call  
6 Border Patrol.

7 And I said to them I will call Border  
8 Patrol, yes, because I'm on duty as a volunteer with  
9 Humane Borders. However, if I'm in my own car, that  
10 may be a different story.

11 That was our agreement.

12 Their part of the agreement then was  
13 that they will not use our water stations as bait  
14 stations to catch migrants.

15 However, we have found -- we have  
16 found at least two incidents now where they have set  
17 up these elevated lookouts. We call them  
18 cherrypickers. I don't know what their real name  
19 is.

20 They've set those close enough so they  
21 can look right down at our water tanks. Now, whether  
22 they are doing it because of the water tanks or that  
23 just happens to be a place where they decided to put  
24 one, I don't know.

25 MR. MCKENZIE: James McKenzie from

1 Tucson.

2 Did I hear you correctly that the  
3 Tohono O'odham Nation is not allowing you to put  
4 those stations up?

5 MS. OHMANN: The Tohono O'odham has  
6 not allowed us to put water out on the desert.

7 MR. MCKENZIE: And what is their  
8 justification for that?

9 MS. OHMANN: One of the reasons they  
10 gave to me -- because I used to live out there, so I  
11 knew a lot of the people, and I went personally to  
12 most of the chairpersons of the district to ask and  
13 to talk to the legislative body.

14 One reason is they're afraid. Another  
15 reason is they think if they don't put water out, it  
16 will discourage them from crossing their land.

17 But neither of these really are good  
18 reasons because it did not discourage them from  
19 crossing. They're being forced into this because of  
20 the security in the city areas. They're forced into  
21 that area of the desert.

22 And they have crossed that area --  
23 "they," meaning the people who live there -- because  
24 they live on both sides of the border, the same  
25 tribe, but they're all -- they also know many of the

1 people in Mexico.

2 And so that's just a land that they've  
3 always crossed, and then now they can't.

4 MR. MCKENZIE: You indicated they're  
5 afraid?

6 MS. OHMANN: They're afraid. They  
7 have had a few bad incidents and they're afraid there  
8 will be more.

9 MR. MCKENZIE: Okay.

10 DR. WEBB-VIGNERY: We have reached the  
11 time limit. Are there any other questions?

12 Okay. I want to thank you very much.

13 The materials that you brought, could  
14 you please give them to Art Palacios?

15 MS. OHMANN: Sure.

16 DR. WEBB-VIGNERY: Who is just outside  
17 the door.

18 I want to thank you very much for  
19 coming.

20 MR. GATTONE: Thank you.

21 MS. GARCIA: Thank you.

22 DR. WEBB-VIGNERY: Did you come to  
23 testify?

24 MR. GOMEZ: Actually, yes, I was  
25 wondering if you were going to announce --

1 DR. WEBB-VIGNERY: That's fine.

2 MR. GOMEZ: I'll be really brief.

3 DR. WEBB-VIGNERY: Could you identify  
4 yourself for the record?

5 MR. GOMEZ: My name is Enrique Perez  
6 Gomez. I'm actually here representing the district  
7 director for southern Arizona for LULAC, the League  
8 of United Latin American Citizens, and also  
9 representing myself as a citizen.

10 I had a real quick question  
11 regarding -- just a comment.

12 I was wondering -- and excuse me for  
13 not having been here for all of yesterday's  
14 proceedings, or today -- but was there any effort  
15 made to bring any of the people that are -- that  
16 are -- that represent the community that are being  
17 talked about here?

18 I was just wondering if anyone that --  
19 migrants, anyone, if there was that opportunity at  
20 all for direct testimony from anyone?

21 That's just my question, if that was  
22 considered or if that was a possibility.

23 DR. WEBB-VIGNERY: I believe the  
24 advertisement went out in the Nogales newspaper, but  
25 I need to bring in the staff from Los Angeles to

1 answer that question.

2 MR. GOMEZ: I was just wondering,  
3 since the community being discussed, I was hoping  
4 that someone had been -- that was part of that be  
5 able to give testimony so that it's a little bit more  
6 direct and it's not so much from people who are  
7 actually just working with this community.

8 DR. WEBB-VIGNERY: And that's a very  
9 good question.

10 MR. PAZ: Perhaps we could show him  
11 the list of people from the Nogales contingency and  
12 those that did not show up.

13 MR. GOMEZ: I saw the agenda.

14 MR. PAZ: They did not show up.

15 DR. WEBB-VIGNERY: But what Enrique is  
16 asking, I believe, are the people who actually -- the  
17 migrants themselves.

18 MR. GOMEZ: The migrants themselves.

19 DR. WEBB-VIGNERY: And this is  
20 Mr. Palacios from the regional office, and perhaps  
21 you could address the question to him.

22 MR. GOMEZ: My question was, since  
23 we're talking about migrants who are unfortunately  
24 dying on this side of the border, if anyone from that  
25 community was invited to testify or any kind of

1 outreach was made?

2 DR. WEBB-VIGNERY: Art, he's asking  
3 you the question.

4 MR. PALACIOS: What are you asking  
5 me?

6 MR. GOMEZ: I'm asking was there any  
7 effort made to try to get someone from the community  
8 that's being discussed, which would be a community of  
9 migrants, to anyone who have might trekked, who had  
10 firsthand experience with the border crossing, and if  
11 any effort was made to try to get someone that  
12 represents that community present to testify.

13 MR. PALACIOS: No, I wouldn't know how  
14 to begin to find someone like that.

15 MR. GOMEZ: I just felt that was  
16 important, and I didn't see anyone on the agenda. It  
17 just seemed to be representatives from government or  
18 other agencies that serve this community, and that  
19 was my own main concern.

20 If there are going to be more  
21 hearings, just like you mentioned, that you're going  
22 to be looking at possible future hearings, I would  
23 really, really stress that they're needs to be  
24 someone from this community speaking on behalf of the  
25 community who represents that community, and I think



1 it's very important.

2 We can hear everyone that does  
3 wonderful work on the border, but not until we hear  
4 from them themselves, even though it might just be  
5 one person, I think it's very important that we  
6 always include our targeted community as part of the  
7 proceedings, very much so.

8 DR. WEBB-VIGNERY: And Enrique, we  
9 were contacted by Richard Fimbres on behalf of LULAC,  
10 and that LULAC that would help in any way possible  
11 with this hearing.

12 And I know that the regional office  
13 did contact Dave Rodriguez in Los Angeles to see if  
14 we could have more coordination. And somehow that  
15 all didn't come together.

16 So I understand exactly what you're  
17 asking, and hopefully in the future we'll have that.

18 MR. GOMEZ: Well, I would hope so.  
19 It's very important.

20 The only -- as far as testimony, I  
21 just really wanted to go on record -- and I know  
22 Richard mentioned something yesterday, but I think he  
23 was more in the capacity of being the director for  
24 the governor's program on highway safety -- just  
25 specifically regarding PAN, just that the people for

1 southern Arizona LULAC are really aware of and  
2 working on that issue, but -- and that's just the  
3 official thing that I wanted to say.

4 The other part is just is, I was just  
5 wondering in respect -- I live on both sides of the  
6 border. The majority of the time I live in Nogales,  
7 Sonora, and I'm also in Tucson.

8 But one of the biggest concerns that I  
9 had -- and again I apologize if this was possibly  
10 mentioned previously -- but I think that a big  
11 part -- just wondering if there was any discussion  
12 regarding impunity, and in that sense regarding the  
13 Border Patrol, only because being in the Nogales,  
14 Sonora, when there is incidents that involve the  
15 Border Patrol, the first thing that you hear from  
16 everyone is it doesn't matter because nothing will be  
17 done.

18 I'm just wondering -- I know there's a  
19 system in place with respect to investigating any  
20 reported abuses from the Border Patrol.

21 I just wonder if there's going to be  
22 any further looking at the violation of people's  
23 civil rights, human rights by this agency and what is  
24 the process in place to date, and also if there will  
25 ever be any kind of community oversight or

1 involvement in respect to these -- looking at these  
2 incidents.

3 MS. GARCIA: Isabel Garcia from  
4 Tucson.

5 In fact, we questioned, or we tried to  
6 question in the limited time we had, the sector  
7 assistant to the chief, George Lopez. Were you  
8 present for his --

9 MR. GOMEZ: No.

10 MS. GARCIA: Okay. We talked about  
11 the recommendations that this very body did to the  
12 Civil Rights Commission back in -- it was released in  
13 '97.

14 We went through them, and he could not  
15 answer it. He tried to tell us that there is a  
16 process in place, it works really well.

17 Kat Rodriguez testified this morning  
18 about the complaint procedure, the lack of all of  
19 these things; no community involvement, no boards, no  
20 regular complaint forum, no real system goes to  
21 different bodies. Sometimes they will call in to  
22 talk to a victim but most of time they won't.

23 And she said nobody has ever been  
24 disciplined as a result of any of the complaints that  
25 have been filed.

1                   So because we had limited time  
2 yesterday, they are giving us -- we're going to  
3 submit questions following up all of this about abuse  
4 and complaints and impunity to the Border Patrol so  
5 that we can get more deliberate -- you know, more  
6 answers to that.

7                   MR. GOMEZ: And it just seems that  
8 when you hear these kind of discussions in Nogales,  
9 Sonora, I really feel that impact on the number of  
10 actual reporting.

11                   So I'm sure that cases that actually  
12 are reported are much, much less than what's actually  
13 occurring, because people know -- I mean, people are  
14 already facing the impunity of the system over there,  
15 and realizing that it's the same -- that it could  
16 be -- it's possibly the same here.

17                   MS. GARCIA: Kat Rodriguez testified .  
18 that the complaints that Derechos Humanos gets are  
19 but a fraction of one percent of what goes on.

20                   DR. WEBB-VIGNERY: Yes.

21                   MR. PAZ: Ramon Paz from -- I don't  
22 know where I'm from now. Phoenix, we'll start with  
23 Phoenix.

24                   Just for your information, there's a  
25 gentleman behind you from Nogales, Sonora, who also

1 testified that perhaps the situation, as I gathered,  
2 is not as grave. But perhaps you could talk to him  
3 and together you could submit a document to us saying  
4 what you are addressing.

5 But Nogales, Sonora officials do not  
6 seem to think that it's a big problem.

7 MR. GOMEZ: Okay. The last thing just  
8 in closing is, I don't know if you're aware, but  
9 there's so much discussion that the economic  
10 situation is what makes a lot of this happen in  
11 respect to what's going on in Mexico.

12 When I look at the border cities, and  
13 you look at the prices in, say, Nogales, Sonora, that  
14 probably for the majority of things are more  
15 expensive than coming to Nogales, Arizona, Tucson --  
16 and we know that, you know, how much the economy does  
17 well here on this part because of the shoppers from  
18 Sonora, but there are so many not able to come.

19 But one of the things that the  
20 community does respond to in Nogales is the gasoline  
21 prices. They match Nogales, Arizona. And so when  
22 the gas goes higher in Nogales, Sonora, and the gas  
23 is lower in Nogales, Arizona, the gas goes down in  
24 Nogales, Sonora to try to maintain -- so that there's  
25 not that extensive crossing going on because of gas,

1 the price goes down.

2 And I'm wondering if that could be  
3 done for gas, why not for other necessary items.

4 I -- being able to cross freely across  
5 the border, I do my shopping in Nogales, Arizona,  
6 because it's cheaper.

7 Talking about food, the majority of  
8 the food is cheaper here in Nogales, Arizona than  
9 Nogales, Sonora. And we know that Nogales, Sonora,  
10 is a lot more expensive than the interior of Mexico,  
11 so we know that it's in response to the border.

12 If something could happen in respect  
13 to that, that would be great. If they said  
14 tomatoes are 10 cents here, they're going to be 10  
15 cents there, and it's close to 20 over there.

16 Housing is the same thing. If you  
17 look at the price of housing, it's more expensive  
18 than houses in Tucson.

19 The house I'm living in right now in  
20 Nogales, Sonora is -- the sale price is a hundred  
21 thousand dollars.

22 My house in Tucson is definitely --  
23 it's probably about the same size -- is definitely  
24 worth half of that.

25 And that's just everywhere that you

1 look. If you're looking to buy a home, you're  
2 looking at seventy to a hundred thousand dollars.

3 And if you're a maquila worker looking  
4 to rent, to just rent, I mean, we're talking about --  
5 probably the lowest you could probably find is about  
6 a hundred fifty to \$200 for a home that you're  
7 probably going to end up sharing because of the  
8 wages.

9 If there could be some kind of parity  
10 between -- I think a lot of that would -- might --  
11 because a lot of migration north is due to the  
12 maquila, the maquila industry, higher paying jobs;  
13 but in turn, really what is the benefit once people  
14 come here?

15 And I think for many people, then they  
16 take the extra step of the attempts to the U.S., when  
17 actually they were migrating north for the maquila  
18 and the higher wages, but in turn the economy is so  
19 expensive, everything's so expensive, it doesn't work  
20 out in end.

21 That's just my last comment.

22 DR. WEBB-VIGNERY: Okay. Thank you  
23 very much.

24 MS. MAGANA: May I make a brief  
25 comment too?

1 DR. WEBB-VIGNERY: Yes.

2 MS. MAGANA: My name is Rocio Magana,  
3 R-o-c-i-o, last name M-a-g-a-n-a. And I'm an  
4 anthropologist working on my Ph.D. with the  
5 University of Chicago, and I've been doing research  
6 on this region for last three years or so. I've been  
7 here only in the summers. I haven't begun a  
8 formal -- made a decision to move here.

9 And I just wanted to make a brief  
10 comment as far as the conditions for the reporting of  
11 abuses.

12 I know that a big issue has been the  
13 search for data, the search for reports. And  
14 certainly there are abuses and the fact that we don't  
15 have reports does not mean that people are not -- are  
16 not, you know, feeling that they should report them.

17 Working with the Mexican consulate for  
18 doing some of the repatriation issues and some of the  
19 office work in the Department of Protection, I have  
20 become aware of people who have come forth saying,  
21 well, X, Y, Z has happened to me.

22 And at the moment that we say, okay,  
23 so we need to make a formal report, the process --  
24 the process is there somehow but the conditions are  
25 not, given where people can feel comfortable staying.



1 In order for them to make a formal  
2 report, they would have stay in the U.S., which means  
3 they would have to remain in the detention centers.

4 People don't want to stay in the  
5 detention centers for several reasons. They're kept  
6 very, very cold. The practical reason for that is to  
7 keep body smell down.

8 Certainly people have been in the  
9 desert for many days, they're not very clean, and  
10 they smell bad.

11 And I would invite you, if it's  
12 possible, to go visit one of the those detention  
13 centers. And bring a sweater because you will need  
14 that.

15 So they don't want to stay in the  
16 detention centers because it's extremely cold,  
17 they're dirty, it's depressing, they're crowded. So  
18 when they're faced with the possibility of making a  
19 report and staying in those conditions for another 26  
20 hours to 36 hours or so, they say Oh, sorry, rather  
21 go home.

22 So that's a big one.

23 The second one is, if they don't stay  
24 in the detention centers, they're going to be taken  
25 to a different detention facility, the one in

1 Florence or one of the jails.

2 And these people are saying I'm not  
3 criminal, I'm just here for a better job, I don't  
4 want more trouble, I don't want to worry my family, I  
5 don't want to suffer through that thing.

6 So what ends up happening, they may  
7 write a little statement and that will be the end of  
8 the story.

9 What happens when those statements are  
10 taken to meetings and whatever else, they become just  
11 stories, stories that cannot be verified, stories  
12 that -- most of them lack names. And it's really  
13 difficult.

14 Why don't they have like the names of  
15 the agents or whatever else? Because they didn't pay  
16 attention to it, they were extremely stressed when  
17 the abuse took place, sometimes because the agents  
18 are not wearing badges, and because the people refuse  
19 to stay so they can identify the agents in person.

20 So I think that until we have the  
21 conditions where people can feel comfortable or there  
22 would be a process to which they can feel safe and  
23 respected when they're making a report on a human  
24 rights or a civil rights abuse case, I think we are  
25 just going to end up with stories like this and we're

1 going to end up with ghosts stories of abuses and  
2 not -- and we don't have the hard facts.

3 So I think -- I would like to request  
4 that a little note to that extent would be made on  
5 the report saying that, you know, the conditions are  
6 not given for us to measure extent to which human  
7 rights and civil rights are being abused in this  
8 area.

9 And I guess that would be it.

10 DR. WEBB-VIGNERY: Thank you very  
11 much.

12 Is there anyone else who wishes to  
13 make a statement? Okay.

14 DR. HERNANDEZ: June, I just want to  
15 say on behalf of California, we want to thank you  
16 very much for inviting us to be part of this.

17 We are going to be asking the  
18 Commission to do some follow-up hearings in  
19 California and in Texas.

20 The work that the staff did and that  
21 you and your committee did I think needs to be  
22 applauded. It's not easy work, but it's work that  
23 has to be done. And I want to congratulate you and  
24 the Arizona SAC on a job very well done.

25 Thank you very much for having us

1 here.

2 DR. WEBB-VIGNERY: I believe that  
3 brings us to the end of our hearing.

4 So after I've read this closing  
5 statement, which has to go into the record, if we  
6 could meet as the Arizona staff to make our final  
7 recommendations for this hearing.

8 This concludes the session of the  
9 Arizona Advisory Committee to the U.S. Commission on  
10 Civil Rights.

11 We thank the participants for their  
12 candor and comments. We await the transcript of  
13 these proceedings.

14 Please remember that the record of  
15 this meeting will remain open for a period of 30 days  
16 following our conclusion today.

17 The Advisory Committee will evaluate  
18 the material it has collected and determine if  
19 additional such open meetings will be necessary.

20 And we stand adjourned.

21 (Hearing concluded at 12:30 p.m.,  
22 August 28, 2004.)

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