

# CHILDREN AT THE CROSSHAIRS OF IMMIGRATION ENFORCEMENT

A SNAPSHOT OF THE IMPACT IN SAN DIEGO COUNTY



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## About the Program

The U.S.-Mexico Border Program advances human rights and self-determination of migrant communities through base-building, alliance-building, documentation and policy-impact. We support local community-based organizing campaigns, train and accompany community-based leadership to educate, advocate, mobilize, and organize constituents to secure just and humane immigration policies. Using a human rights framework and in collaboration with community partners, we advance policies affecting immigration and border issues and build alliances to protect migrant and non-migrant rights. Our goal is to engage community partners and leaders to monitor and document instances of civil and human rights abuses by law enforcement agencies. The objective of documenting law enforcement activity is to change policies and practices that violate human rights, and change the public discourse away from militarization of border communities, towards just and humane immigration policies that benefit workers and their families.

## Acknowledgements

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## In Memory Of

Darlyn Cristabel Cordova-Valle, 10, El Salvador  
Jakelin Caal Maquín, 7, Guatemala  
Felipe Gomez Alonzo, 8, Guatemala  
Juan de León Gutiérrez, 16, Guatemala  
Wilmer Josué Ramírez Vásquez, 2.5, Guatemala  
Carlos Hernandez Vásquez, 16, Guatemala  
Mariee Juarez, 1, Guatemala  
Unknown Name, 10 months, Honduras  
Jorge Alexander Ruiz Duban, 17, Honduras

Jasson Ricardo Acuña Polanco, 16, Honduras  
Heydi Gámez García, 13, Honduras  
Gael Cordova Herrera, 21 months, Honduras  
Gurupreet Kaur, 6, India  
Denilson Perez, 18 months, Guatemala  
Juana Anastasia Miranda Aguilar, 3, Guatemala  
Mereidy Rivera Reyes, 20 months, Guatemala  
Unknown Name, 15, China  
Alía Joseph Forestal, 2, Haiti



## INTRODUCTION

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Under President Trump's Administration, enforcement measures targeting migrants have exacerbated the violation of the rights of children. Some of the more egregious policy changes include systematically separating families, which have left thousands of children without their parents or custodial guardians. In some of those cases, parents have been deported to their home countries and it is unclear whether reunification will ever take place for them.

Equally distressing has been the horrendous conditions that families endure at Border Patrol's short-term custody facilities. Border Patrol agents state that these facilities are ill-equipped to attend to the specific needs of families. The deplorable conditions endanger the lives of children, which has led to medical neglect, serious injury, and even death<sup>2</sup>. While the detention of children and families is not unique to the current administration, we have seen an increase in the number of children entering federal custody, with that number reaching 69,550 in 2019<sup>3</sup>.

The Administration has also implemented policies that purposefully place children in harm's way as a way to confuse, frustrate, and deter asylum-seekers. The Migrant Protection Protocol<sup>4</sup> (MPP), for instance, forces migrants, including families, to be in Mexico while they await their immigration proceedings. In violation of

non-refoulement principles<sup>5</sup> and due process rights, the government places migrant children and their families in a position of great risk of injury and even death when they have to wait for months in Mexico or when they are sent to Guatemala<sup>6</sup>.

While the San Diego-Tijuana border region has been one of the focal points of the national immigration debate regarding the increase in asylum seekers arriving at the border, including the Central American exodus (also referred to as the migrant caravan), controversies around problematic enforcement measures are not new to the region. The ACLU's recent publication<sup>7</sup> of thousands of documents related to government neglect and abusive practices of children, from 2009 to 2014, demonstrate that this problem is systemic and predates the Trump Administration.

In this report, we highlight cases involving the abusive treatment of minors in the San Diego region, both foreign born and U.S. Citizens, by Customs and Border Protection, which includes the U.S. Border Patrol and the Office of Field Operations at the ports of entry, and Immigration and Customs Enforcement. AFSC staff interviewed impacted minors and their family members as part of this analysis. The intention of this report is to demonstrate how even in a small sample of documented cases, the enforcement-at-all-cost approach of immigration makes for a precarious experience when contact occurs between children and federal immigration agencies. It is an experience that leaves children with trauma and disillusionment. The recommendations point towards the need for meaningful oversight and accountability in the federal immigration agencies that historically have been permitted to operate with impunity.

Finally, the names of children and their parents have been changed to protect their identities.



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## U.S. BORDER PATROL

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The San Diego Border Patrol sector has jurisdiction over San Diego County and operates eight stations and numerous interior checkpoints. Border Patrol's role is to "detect and prevent" individuals who do not have the proper documentation from entering the US. Along the U.S.-Mexico border you can see the surveillance equipment utilized by the agency to identify people that are crossing the border in between ports of entry<sup>8</sup>. Agents are trained to track down such individuals and to take all measures to apprehend them. Border Patrol's ruthless, at times deadly, tactics have been well documented throughout the years, including their questionable vehicle pursuit policy<sup>9</sup>.

Border Patrol agents also have the ability to patrol communities along the perimeter of the country referred to as the 100-mile border zone<sup>10</sup>. This has resulted in Border Patrol terrorizing communities, including families and children, making unwarranted stops on highways, using aggressive arrest tactics<sup>11</sup>, and denying people their constitutional right to due process<sup>12</sup>.

AFSC has documented egregious acts of brutality and deaths as a result of excessive use of force since the U.S.-Mexico Border Program was founded in 1977. The agency has a history of not holding its agents accountable for mistreatment they have committed. Instead, agents have been praised for the number of individuals they have detained and for protecting the country at all cost, in the name of national security. While

we have not documented recent cases of deaths of migrants while in Border Patrol custody in the San Diego sector, there continues to be an overwhelming number of human and civil rights violations.

## **The use of non-lethal weapons against migrants in Mexico**

Since the beginning of the migrant exodus, Customs and Border Protection agents, including Border Patrol, have used chemical agents on migrants, which included CS gas and pepper spray, on at least three separate occasions. On November 25, 2018 and on December 31, 2018-January 1, 2019, Border Patrol deployed chemical agents, smoke bombs and peppered balls into crowds of migrants claiming that they, the agents, were being threatened by rock throwers. Based on interviews AFSC conducted with migrants present during these attacks, about a third of those present were children<sup>13</sup>. Border Patrol claimed in a statement released on January 1, 2019 that there were children present, but that those targeted with chemical agents were people throwing rocks and not the migrants who were attempting to cross into the U.S.<sup>14</sup>.

On March 21, 2019, a Border Patrol agent pepper spray sprayed a Central American man standing near the border fence in Playas de Tijuana, Mexico<sup>15</sup>. He had his 1-year-old son on his back; the child was incidentally pepper sprayed. This incident was caught on camera by Univision<sup>16</sup>. The video footage clearly shows the agent reaching through the primary border fence to spray the man in the face. The man was not throwing rocks and was not physically attempting to climb the fence, nor did he present any danger to the Border Patrol agents standing in the United States.

According to the Customs and Border Protection Handbook, "any use of less-lethal force must be both objectively reasonable and necessary in order to carry out the Authorized Officer's/Agent's law enforcement duties. Less-lethal devices/weapons may be used in situations where empty-hand techniques are not sufficient to control disorderly or violent subjects"<sup>17</sup>. The incidents described above did not involve situations that warranted the use of excessive force and placed children at risk.

## **Unwarranted lengthy detention of minors**

On April 24, 2019, Border Patrol agents detained a 15-year-old Mexican teenager at the Jamul immigration checkpoint<sup>18</sup>. He was processed as a Material Witness since he was detained with a smuggler, and was taken to a Border Patrol station. Eric was held for 7 days. During that time, Border Patrol did not allow him to speak to an attorney and he was detained in a holding cell along with adults.

In October 2019, another minor and her mother were kept in custody by Border Patrol after they attended their immigration court hearing as a part of the Migrant Protection Protocols<sup>19</sup>. In this case, Border Patrol decided to keep them in custody instead of returning them back to Mexico. The minor and her mother were detained for 10 days without access to counsel. During their detention, the minor became ill and was not provided with medical care<sup>20</sup>.

The lack of appropriate medical during prolonged detention has resulted in at least 6 deaths of migrant children while in federal custody. While none have been attributed to the San Diego Sector, a growing number of children have died while in custody of Border Patrol. These deaths have prompted investigations and visits to Border Patrol facilities by legislators which revealed the unsanitary conditions caused by overcrowding and the lack of basic hygiene materials, such as hand soap, tooth brushes, the lack of access to bathrooms and showers,

inadequate food, a lack of clean drinking water, and excessively cold holding cells, commonly referred to as “hieleras”<sup>21</sup>.

During a recent visit to a Border Patrol substation, AFSC staff interviewed three families with infant children in Border Patrol custody<sup>22</sup>. They all expressed the lack of sanitary conditions. They all expressed that their personal belongings where they carried their toiletries had been taken from them. At that point they had been detained by Border Patrol for at least a week. They mentioned being given half cooked frozen burritos to eat, only allowed to shower twice a week, and not having soap or toothbrushes readily accessible. The objective of this visit was to confirm compliance with the Flores Settlement agreement — violations to the agreement were evident.

The Flores Settlement<sup>23</sup> ensures safeguards for minors that come into the custody of the Department of Homeland Security. The Flores Settlement Agreements state that minors cannot be detained for more than 72 hours when there is an Office of Resettlement-Health and Human Services facility in the area. Officers must make all efforts to have the minor transferred to one of these facilities once they believe that a minor is in their custody. This also applies to the practice of detaining families in custody. Families can be detained for up to 20 days together for initial processing when they are in expedited removal but seeking a credible fear interview. This is an exception to the 72 hour limit if the government has acted in “good faith and due diligence” to process the families as quickly as they can. Border Patrol was in clear violation of *Flores* by detaining both Eric and the 9 year-old girl detained past the 72 hours. The detention of the young girl and her mother demonstrated an unnecessary prolonged detention due to the fact that migrants under MPP are not to be unjustly detained.

## Interrogation of minors without parental or guardian consent

On March 29, 2019, Jaime, a fifteen-year-old Legal Permanent Resident, was walking in the city of Chula Vista from his home to his local Christian church when an unmarked car pulled up on the sidewalk<sup>24</sup>. The man driving the car was dressed in civilian clothes and yelled at him to get in the car. Jaime initially thought he was being kidnapped and was frightened. The male was in fact an immigration agent, but he did not identify himself, either verbally or by displaying his badge. Instead, the officer verbally harassed Jaime, using profanity

and ridiculing him for saying he was going to church. The officer told him that no one went to church at that time – it was approximately 6:30 pm on a Friday. Jaime called 9-1-1 because even after a few minutes he still did not know with certainty that the man was in fact an immigration agent. The agent threw the teenager’s phone on the ground, cracking the screen.

***“He said he was from immigration, but I didn’t believe him because he was treating me pretty bad. They threw me on the floor, they threw my cell phone and keys on the floor, and I was handcuffed...I was telling them that that I had been living in Chula Vista for three years and that I was legal and that I was a minor....they didn’t believe me. They asked me if I had my ID and I told them it was at home. They didn’t believe me because they said I should always have it in my pocket.”***

*- Jaime*

Five officers interrogated Jaime, with only one in an official Border Patrol uniform. The young man recalls feeling at ease once he saw the uniformed agent arrive since it served as confirmation that he was not being kidnapped. The agents told him that he was being stopped because he was seen getting out of a white van and was accused of being undocumented. The young man tried to explain that he has a green card, but the agents refused to let him explain. The agents told him that since he was born in Tijuana, Mexico, information the young man disclosed, he was without status in the United States. The young man recalls the agent trying to physically force him into the car. He was held in handcuffs for the majority of the interaction and was

left with bruised and swollen wrists. The following day, his parents took him to the hospital for an evaluation due to the injuries sustained.

## **Improper processing of unaccompanied minors**

The surge of migrants arriving at the Tijuana border has resulted in more frequent procedural violations at all levels, including violations of policies created to protect and expeditiously process children traveling alone. These children are categorized as “unaccompanied alien children,” most commonly referred to as unaccompanied minors. According to the Office of the United Nations High Commissioner for Refugees, these children are vulnerable and should therefore be allowed into the territory to which they seek admission<sup>25</sup>. Once unaccompanied minors enter the U.S., they are given a Notice to Appear in immigration court and are transferred to facilities deemed fit by Health and Human Services and the Office of Refugee Resettlement. AFSC and other organizations have documented cases in which unaccompanied minors are not allowed to enter the U.S. and are sent back to Mexico to wait “in line”. This invisible line refers to an unlawful metering system that was initiated in 2016 when the San Diego-Tijuana border region saw an increase of Haitian migrants<sup>26</sup>.

AFSC interviewed a 15-year-old from Honduras that climbed over the border wall in the Playas de Tijuana area, in the beach area of Border Field State Park, on New Year’s Eve, during the tear gassing incident<sup>27</sup>. Even though he was successful in climbing the wall and he made it onto U.S. soil, Border Patrol agents forced him to return to Mexico. The minor recalls that they told him to go back the way he came. He climbed back over the wall and made his way back to the Barretal migrant shelter approximately an hour away.

International protections exist for unaccompanied minors that are, in theory, supposed to prevent situations like the aforementioned from occurring. The failure to afford these minors the protections they are entitled to places them in danger. In December 2018, two unaccompanied minors were kidnapped, tortured and murdered in Tijuana. These were deaths that may have been avoided if the minors were properly processed and not made to wait in Mexico<sup>28</sup>.



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## CUSTOMS AND BORDER PROTECTION OFFICE OF FIELD OPERATIONS

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CBP's Office of Field Operations oversees all ports of entry. Customs officers are responsible for ensuring that certain products do not enter the country, for example controlled substances. These officers are also tasked with verifying the identities of individuals that enter the U.S. and determining their admissibility which is based on whether or not they have the proper documentation at the time. Documentation can include a valid passport, a tourist visa, border crossing card, or a travel document, amongst others. According to the agency, officers have the right to search individuals and their belongings at ports of entry and airports without needing to provide a justified explanation if they believe that the finding of a search would result in the person being excluded from entering the U.S.<sup>29</sup>

The agency has been widely criticized for its unlawful searches and interrogations of activists, journalists and attorneys, including U.S. Citizens, associated with the migrant caravans arriving at the U.S.-Mexico border<sup>30</sup>.

CBP has also come under scrutiny by local advocate groups and attorneys due to the length of time migrants are detained at the port of entry and for their practice of turning away unaccompanied minors<sup>31</sup>.

## Detention of U.S. Citizen Minors

In August 2018, Marco was accompanying a U.S. Citizen, a 7-year-old girl who was returning to California after residing in Oaxaca with her family<sup>32</sup>. She primarily speaks *Mixteco* and is not fluent in Spanish. Her parents had provided Marco proof of her U.S. citizenship and a notarized letter granting him permission to bring her to the United States. However, when they attempted to cross the border at the Otay Mesa port of entry, they were sent to secondary revision and Marco was accused of attempting to bring someone into the U.S. without proper documentation. Instead of confirming her biometric information at the port, the minor was transferred to San Diego County's Polinsky Center, a facility that is part of Child Welfare Services, and Marco's car was seized. Marco was ultimately allowed to pick her up himself once they confirmed her identify as a U.S. Citizen.

On March 18, 2019 two U.S. citizen siblings, Laura and Carlos, 9 and 14 years old respectively, attempted to cross the border at the San Ysidro port of entry as they regularly did to attend school<sup>33</sup>. They both had their U.S. Passport Cards and school identification cards with them. The siblings were sent to secondary inspection and detained. CBP officers claimed that Laura was not, in fact, who she claimed to be, and that she was really her cousin, a Mexican national.

Carlos was detained for over 12 hours during which he was interrogated and forced to write and sign a declaration stating that his sister was in fact his cousin. The officers interrogating him threatened to charge him with human trafficking if he did not write and sign the declaration.

Laura was held in a cell with women and children. She recalls officers telling her that if she did not reveal her "true" identity she would not see her brother again. The terrified minor repeatedly explained to them that she was not lying and implored that they look at her school identification card and passport pictures again. Officers told her that her nose and ears did not match those in the pictures. CBP detained Laura for 32 hours before releasing her to the Mexican Consulate after they intervened. The Mexican Consulate were the ones to contact the mother about the release, not CBP. Laura and Carlos's mother never received an explanation from CBP as to why they wrongfully detained her children. It is important to note that CBP told Laura and Carlos' mother that Laura had been released to a parent in Tijuana, which was a lie.

***"They [CBP] told her she wasn't who she said she was because her eyes, nose and ears weren't the same [as in her old passport picture]. That she was too big to be 9-years-old. She said would cry because she was alone. Multiple officers questioned her. She was held in a windowless room with other kids and pregnant children. She says that her back hurts from laying on the mat and that she was really cold. My son was held in another room with adult men and other male minors."***

*-Carlos and Laura's mother*

In July 2019, CBP detained another minor from Oaxaca at the San Ysidro port of entry<sup>34</sup>. After spending a few years in Oaxaca, Mexico, the minor's family wanted her to return back to the U.S. since she is a U.S. citizen. The family gathered her birth certificate and other supporting documents and made arrangements for a trusted individual, a friend of a family friend, to accompany her through the port of entry and then drive her to Salinas, CA.

According to CBP officers, the minor was a Mexican national attempting to enter the U.S. with documents that did not belong to her. She was processed as an unaccompanied minor and transferred to the Office of Refugee Resettlement and remained in their custody

for 20 days. In this case the Mexican Consulate intervened and provided supporting documents to the government to prove the minor's identity.

CBP's Inspector Field Manual describes the guidelines and protocols for officers as they carry out their duties<sup>35</sup>. The manual includes vague guidance when describing the length of time U.S. Citizens can be held for questioning and inspection at ports of entry. It states that individuals claiming to be U.S. Citizens can be detained for a "temporary period of time" and that if probable cause cannot be determined that they are not in fact U.S. Citizens within a reasonable amount of time, then they must be released. There is no clear explanation as to how many days or hours constitutes a temporary or reasonable amount of time. That decision appears to be left to the officer's discretion. The manual also provides guidance on how officers should carry out interviews of minors. The guidance includes smiling at the minor, not dominating the interview, avoiding insensitivity and not blaming the child. It is important to note that these recommendations are included in the section for encountering abducted or runaway children. This was the only guidance for interviewing minors that AFSC was able to obtain.

It is unclear if the incidents described above were flagged by officers as potential abduction or runaway cases. What is clear is that the officers did not apply the little guidance they received on how to interact with the minors. Officers should not intimidate children that are in their custody. Furthermore, it is alarming that U.S. Citizen minors are being detained for what one could argue is a prolonged period of time due to the officer's inefficiency and inability to properly confirm identities.

## **Handcuffing of family members during secondary inspections**

Maria and her family were returning home from a vacation in Mexico. When they were crossing at the San Ysidro port of entry, they were sent to secondary inspection. Maria's two youngest children needed to use the restroom and were allowed to use the facilities in the building. When she came out of the bathroom, CBP agents surrounded her and her children. They began yelling at her. Maria was handcuffed and placed on a bench with her husband and adult son. The two youngest sat on a separate bench in the same room. During the time that they were being investigated, the youngest children watched as how the CBP officers yelled at their parents and brother and how they handcuffed and shackled them to the bench. After some time, CBP released them without an explanation as to what provoked the inspection. The children were frightened and repeatedly asked their mother why that happened to their family.

Customs and Border Protection officers and their leadership have repeatedly stated in meetings with community-based organizations that officers have the right to question and search any person that they see fit when they are presenting themselves at ports of entry. What always seems unclear is how it is that individuals, especially families, are flagged for these thorough inspections. AFSC filed a complaint on behalf of Maria on May 3, 2019 to the appropriate offices. CBP, San Ysidro Port of Entry, responded with a letter that stated that the search and interactions with the family was in compliance with their Personal Search Handbook<sup>36</sup>.



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## IMMIGRATION AND CUSTOMS ENFORCEMENT

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Immigration and Customs Enforcement (ICE) is comprised of Enforcement Removal Operations (ERO) and Homeland Security Investigations (HSI). In general, the primary task of ICE ERO is to identify and remove immigrants who are undocumented or who have some form of status but are deemed deportable. Unlike other immigration officers, they have been granted the authority to work in the interior of the country as well as along the border and ports of entry. The San Diego field office's jurisdiction includes San Diego and Imperial Counties.

The tactics ICE officers use nationwide to identify and arrest immigrants have been well documented, given the increase in awareness of the agency's alarming and cruel practices<sup>37</sup>. ICE officers have been seen forcefully entering homes<sup>38</sup>, pulling people out of cars<sup>39</sup>, and using social media as a surveillance method<sup>40</sup>. Officers have also caused confusion, frustration and anger nationwide due to the fact that they do not wear uniforms as other law enforcement agencies do<sup>41</sup>.

Daniel: **You stopped us for no reason.**  
ICE Officer: **Alright, I'm telling you right now that I need to identify you guys right now. I will tell you why I pulled you over in a second, but I need to identify you guys.**  
Daniel: **No, but you need to tell us why you pulled us over.**  
ICE Officer: **Because you were speeding.**  
Daniel's father: **No, I wasn't speeding.**  
ICE Officer: **Let me see your driver's license, are you driving without a license?**

Interaction between ICE, Daniel and his father un July 2019  
transcribed from a cell phone recording of the incident

In the second quarter of FY19 (January 2019-March 2019), ICE ERO conducted 36,977 administrative arrests and removed 62,968 people nationwide. In San Diego County, 569 arrests were made and 6,095 removals were processed by the local ICE ERO field office during the same period<sup>42</sup>.

The amplification of arrests and removals by ICE is a direct result of the Executive Order issued by the Trump Administration on January 25, 2017. The Executive Order called for an increase in interior enforcement and did away with the previous enforcement priorities, making all undocumented individuals a priority for removal regardless of their criminal history<sup>43</sup>.

This directive was implemented with no regard to the potential impact it would have on families and their children, and with no additional protocols put in place that would safeguard the children of those detained during enforcement operations.

## **Failure to identify safe placement of minors when parents are detained**

ICE Enforcement Removal Operations (ERO) identifies and targets individuals for removal in communities on a daily basis. ICE ERO conducts a period of intelligence gathering prior to the day in which they attempt the apprehension. During this period, officers have an idea of who resides in the home, including the time that the targeted immigrant leaves and returns from the home. Therefore, it is safe to assume that ICE is most likely aware of any children that are present in the home and when the child leaves to school in the morning. Despite this information, there is an increasing trend in the practice of arresting immigrants when they are taking their children to school in the mornings.

In the cases of Enrique and Alex, two fathers ICE targeted in different incidents, they were on their way to take their daughters to school when immigration officers stopped them.

An ICE officer in civilian clothes driving an unmarked vehicle pulled over Alex and his 15-year-old daughter shortly after having left their home<sup>44</sup>. Alex's daughter was confused and didn't know what was going on, primarily because she could not identify what agency the officers represented. One arresting officer went as far as telling the teenager that her dad was a criminal. Alex was handcuffed, placed in the back of an ICE vehicle and driven to the downtown San Diego ICE office for processing. One of the ICE officers did ask his daughter if

she had someone to pick her up, to which she stated that she was not sure. ICE did not make any additional efforts to ensure that she did in fact have someone to care for her after the arrest. Alex's daughter was left on the sidewalk and he was not allowed to ensure that someone could pick her up.

ICE agents in civilian clothes approached Enrique and his 17-year-old daughter soon after they got in their car one morning<sup>45</sup>. Officers approached the car with guns drawn, shouting at Enrique to roll down the window. Enrique complied and he was handcuffed and placed in the unmarked ICE vehicle. His daughter crossed the street and took the bus to school. She later shared that she thought they were being kidnapped because the officers were not wearing uniforms.

In both cases, the ICE officers involved in the arrests did not ask the fathers if there was someone that could take care of their daughters. According to an ICE policy issued on August 29, 2017, officers are supposed to make all reasonable efforts to arrange care for minors when they are present during an arrest<sup>46</sup>. They should also make certain that an appropriate placement is made. In cases where a safe placement cannot be made, the policy states that ICE should coordinate with Child Welfare Services or with a local law enforcement agency.

## Threats of use of force

In July 2019, ICE officers pulled over a father and his 17-year-old son, Daniel, in Escondido, CA for speeding as claimed by the officer<sup>47</sup>. Daniel informed the officer that he can't simply pull over people for no reason. The officer replied by saying, "Yes I can." Daniel was recording the incident and at the moment that officers began to pull his father out from the car, an officer flashed a flashlight in his direction to disrupt the recording. The teenager continued to record and ask for a reason for the detention. A third officer then told the teenager, "Sit down or I will spray you with OC right now!". "OC" is the abbreviation for oleoresin capsicum, commonly known as pepper spray.

***"Now we're going to make this simple for you unless you want the same thing to happen to you, you're going to answer my questions..."***  
*-ICE officer interacting with Daniel*

The ICE Use of Force Policy issued on July 7, 2004 and reissued in 2010, delineates the various methods of force that are approved for officers to use in specific situations. The use of chemical agents, is referred to as a "Soft Technique" and one that can be used when "empty-hand techniques are not sufficient to control disorderly or violent subjects, but where deadly force is not justified"<sup>48</sup>.

***"Look what they're doing to my dad!"***  
*-Daniel*

Verbally threatening a minor with the deployment of chemical agents when he was not acting in a violent manner is an unmistakable violation of policy and overstep of authority.



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## PSYCHOLOGICAL IMPACT

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In 2018, the California Immigrant Policy Center and the Children's Partnership released *Healthy Mind, Healthy Future: Promoting the Mental Health and Wellbeing of Children in Immigrant Families in California*, a report that analyzes the impact immigration enforcement has on children and families specifically during the current administration<sup>49</sup>. According to the study, there has been a notable increase in the anxiety and fear amongst children due to the possibility of a detention or deportation. In addition, more children are being diagnosed with mental health disorders with the most common ones being anxiety and depression. Findings clearly demonstrate that toxic stress caused by the fear of immigration enforcement can have long-term adverse effects on a child's mental and physical health. Examples of these long-term effects include PTSD, cancer and premature death<sup>50</sup>. The report also contends that children were more likely to display signs of depression, which can include feelings of sadness, becoming withdrawn and not wanting to engage in activities that she or he used to. Parents were also found to be more likely to experience mental health conditions that would require some form of treatment. This, in turn, adds additional stressors to the children.

It is evident that the current sociopolitical climate is adversely affecting children and families, as noted above. If fearing the *thought* of a detention or deportation of a family member or friend is significantly impacting

children, the trauma that can result from personally experiencing cruel immigration enforcement tactics can be more damaging to a child. Families are constantly living in fight-or-flight mode, always being on edge about the possibility of a detention occurring. Being in this frame of mind daily can result in physical health issues, such as high blood pressure, and mental health conditions<sup>51</sup>.

The cases highlighted above involve interactions with immigration officials that have become traumatic events for the children involved. Minors reported feeling a heightened sense of anxiety, feeling scared, experiencing trouble sleeping, and not wanting to go to school. In some of the cases discussed in this report, parents sought out counseling services for their children given the impact of the trauma.

Being detained and grossly interrogated and threatened was distressing for both Laura and Carlos. Carlos experienced difficulty sleeping in the days following the detention; his mother also noticed a change in his behavior. Before the incident, Carlos was outgoing and social. After the incident, his mother noticed that he was quiet and reserved. Laura did not want to go to school because for fear that law enforcement officers were going to show up looking for her. She also experienced separation anxiety and did not want her mother to leave her side. What alarmed her mother the most was the regressive behavior of bed-wetting. Both siblings received support from school counselors and were referred to clinicians for mental health treatment.

The impact of Enrique's daughter witnessing him being arrested by ICE officers at gunpoint, and her initial fear that he was being kidnapped, caused her to experience nightmares. Her family sought out therapy to help her cope with the incident. As Alex's daughter retold the incident, she remembered feeling extremely nervous and almost having a panic attack. After being left on the street by the officers, she contemplated calling her mother and feared that she would also be picked up by ICE if she picked her up.

While Maria's children were not interrogated or detained themselves, they nonetheless were significantly impacted by what they witnessed: their parents and brother being arrested, chained to a bench and yelled at. Maria sought out therapy for her children in the days after the incident because of the nightmares they began to have.

***"I thought maybe I'm not going to see him again. I got really nervous but I tried to calm myself down because, well what was I going to do...I think I was going to have a panic attack because I'm 15, I didn't know what to do. I didn't know if I should call my mom because I was scared that they would pick her up too. All I could do was wait."***

*- Alex's daughter the day of the arrest*

The use of toxic agents, such as pepper spray, on minors can have both physical and psychological effects. The psychological effects can be long lasting especially when the impacted person has previously experienced trauma. The challenges Central American migrants endure during their arduous journey to the US-Mexico border are countless. There are well documented cases of minors being raped, kidnapped, murdered, in addition to not having access to safe housing and food, at times. Deploying CS gas and projectiles at crowds of migrants, both adults and minors, demonstrates Border Patrol's psychological warfare agenda<sup>52</sup>.

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## SUMMARY OF FINDINGS

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- ✘ Three of the minors interviewed initially believed that they were being kidnapped when they were stopped by ICE. Having officers in civilian clothes conducting enforcement operations in the community is problematic, especially when officers are not properly displaying their badge or refuse to identify to which law enforcement agency they belong.
- ✘ ICE has failed to enforce its policy that is meant to ensure that USC and LPR minors are cared for by people of trust when operations are conducted and when parents are detained.
- ✘ CBP is detaining USC children, primarily indigenous children, at the port of entry and falsely accusing those that travel with them of alien smuggling or aiding and abetting without the necessary proof.
- ✘ ICE is arresting adults when they have their children present and employ abusive practices that jeopardize the well-being of the minors.
- ✘ CBP has failed to follow the safeguards set forth by the *Flores* agreements to protect children and families in custody. This in turn has resulted in children not being granted appropriate medical treatment when necessary, and in deaths.
- ✘ DHS agencies do not have clear guidance on how officers and agents should interact with minors. The cases documented clearly depict how minors are interrogated and threatened in the same way adults are.

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## RECOMMENDATIONS

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- ✘ End the practice of detaining children and their families in CBP and ICE detention facilities or processing stations.
- ✘ Do away with the practice of arresting and detaining immigrant parents that have a minor child in their custody. In such cases, apply the Alternatives To Detention options<sup>53</sup>.
- ✘ Adequate health screenings and appropriate medical treatment should be provided to migrants in custody, especially to children.
- ✘ Those in detention need to have access to hygiene products, clean water and appropriate facilities to bathe. Cells in detention center and processing centers should not be set at freezing temperatures, instead they should set at a comfortable temperature. The lights in cells should be dimmed at night to ensure the physiological integrity of individuals to determine the time of night or day.

- ✘ Immigration and Customs Enforcement must uphold their internal policy on how officers should respond to cases in which minors are present during *any* aspect of their enforcement. They should not continue the practice of abandoning children on the streets after arresting their parents.
- ✘ Immigration officers should undergo bi-annual mental health trainings in order to understand the long-term impact trauma caused by their enforcement tactics in general, but with particular focus on the impact on children.
- ✘ DHS should eliminate the practice of interrogating minors by immigration officers since they do not possess the skills to interview minors. A cross-sector effort should be made between County Health and Human Services agencies and DHS to allow County social workers to interview minors in custody.
- ✘ In the case that CBP and ICE have policies or memos on the treatment of children in their custody (in addition to the *Flores* agreements), they should be made accessible to the public.
- ✘ Arrests of immigrants should not take place at or near “Sensitive Locations”, which include schools and educational institutions, hospitals and community clinics, community centers, and places of worship.
- ✘ ICE and CBP should not be granted additional funding to continue detaining, separating and deporting children and their families. We call on legislators to Defund Hate<sup>54</sup>.
- ✘ Mechanisms for upholding immigration officers accountable for their actions must be developed and implemented. The current oversight agencies, such as DHS’s Office of Civil Rights and Civil Liberties (CRCL) and the Office of the Inspector General (OIG), have failed to hold CBP and ICE accountable for gross violations of human and civil rights.
- ✘ Ending the costly, inefficient, and inhumane policies, like Operation Gatekeeper, that have militarized the U.S.-Mexico border region and have undermined the quality of life of border communities.

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## CONCLUSION

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The American Friends Service Committee’s U.S.-Mexico Border Program in San Diego has documented consistent patterns of mistreatment and abusive practices by the Department of Homeland Security’s immigration enforcement agencies, including Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE). These often involve physical and verbal abuse that encroach on civil and human rights. While important attention this year has been placed on how the Trump Administration has separated thousands of children from their parents at the border, it is necessary to also highlight how enforcement tactics detrimentally impact children who reside in the borderlands and call this region home.

This collection of cases demonstrates the precarious nature of an enforcement-heavy approach at responding to immigration matters in San Diego County. By no means is this report a comprehensive account of incidents that occurred in San Diego County. In fact, our staff documented other cases where immigration enforcement agencies harmed children, but for a variety of reasons, were not included in this report. This report, *Children at the Crosshairs of Immigration Enforcement: A Snapshot of the Impact in San Diego County*, urges policymakers

to prioritize greater measures of accountability and oversight in the federal immigration agencies charged with enforcement of immigration law. Future solutions to the immigration crisis we are experiencing requires a holistic approach, one that addresses the damage the U.S. has caused other countries, the impact of our trade agreements, and one that places the human dignity of migrants at the center<sup>55</sup>.

It is our hope that this report might encourage more families victimized by CBP or ICE agents to come forward and share their stories. In this way, collectively, we can better address and put an end to the systemic conditions that allow immigration enforcement agencies to operate with impunity.

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- 1 This list includes only minors who have lost their lives in fiscal year 2019. A comprehensive list of deaths at the border has been compiled by the Southern Border Communities Coalition and can be accessed at [https://www.southernborder.org/deaths\\_by\\_border\\_patrol](https://www.southernborder.org/deaths_by_border_patrol)
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  - 3 Christopher Sherman et al., "US held record number of migrant children in custody in 2019", *Associated Press*, November 12, 2019, available at <https://apnews.com/015702afdb4d4fbf85cf5070cd2c6824>
  - 4 U.S. Department of Homeland Security, "Migrant Protection Protocols Announcement", January 24, 2019, available at <https://www.dhs.gov/news/2019/01/24/migrant-protection-protocols>
  - 5 United Nations Human Rights, Office of the High Commissioner, "The principle of non-refoulement under international human rights law", available at <https://www.ohchr.org/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>
  - 6 Ted Hesson et al., "Trump administration prepare to send asylum seekers to Guatemala", *Reuters*, November 20, 2019, available at <https://www.reuters.com/article/us-usa-immigration-guatemala-asylum/trump-administration-prepares-to-send-asylum-seekers-to-guatemala-idUSKBN1XU2SI>
  - 7 American Civil Liberties Union San Diego and Imperial Counties, "Government documents show Customs & Border Protection officials have abused migrant children", available at <https://www.aclusandiego.org/cbp-child-abuse-foia/>
  - 8 See U.S. Department of Homeland Security, United States Border Patrol, Mission statement and overview, available at <https://www.cbp.gov/border-security/along-us-borders>
  - 9 Kavitha Surana et al., "Chasing Danger: How border patrol chases have spun out of control, with deadly consequences", *Los Angeles Times* and *ProPublica*, April 4, 2019, available at <https://www.latimes.com/projects/la-me-ln-border-patrol-immigrant-chases-crashes/>
  - 10 American Civil Liberties Union, "The constitution in the 100-mile border zone", available at <https://www.aclu.org/other/constitution-100-mile-border-zone>
  - 11 Alene Tchekmedyan, "Video of woman being pulled away from her daughters in immigration arrest sparks anger", *Los Angeles Times*, March 8, 2018, available at <https://www.latimes.com/local/lanow/la-me-ln-national-city-border-patrol-detention-20180308-story.html>
  - 12 American Civil Liberties Union, *Lopez-Venegas v. Johnson Settlement*, available at <https://www.aclu.org/cases/immigrants-rights/lopez-venegas-v-johnson>
  - 13 American Friends Service Committee, US-Mexico Border Program, "Report on U.S. Customs & Border Protection's Use of Chemical Agents on Migrants at the U.S.-Mexico Border", January 30, 2019, available at <https://www.afsc.org/document/report-us-cbp%E2%80%99s-use-chemical-agents-migrants-us-mexico-border-january-2019>
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  - 15 AFSC filed a complaint to the Department of Homeland Security's Office of Civil Rights and Civil Liberties, the Office of Inspector General, and to Border Patrol on behalf of the wife of the affected migrant. The complaint was filed on April 4, 2019.
  - 16 Luis Megid, "El momento en que un agente de la Patrulla Fronteriza rocía gas lacrimógeno en el rostro de migrantes", *Univision*, March 26, 2019, available at <https://www.univision.com/local/atlanta-wuvg/shows/noticiero-univision/el-momento-en-que-un-agente-de-la-patrulla-fronteriza-rocia-gas-lacrimogeno-en-el-rostro-de-migrantes-video>
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<sup>18</sup> This case was brought to the attention of AFSC by the minor's attorney. AFSC did not interview the minor.

<sup>19</sup> This case was documented by Al Otro Lado. While AFSC did not conduct the documentation, it was included in this report since it reflects a practice of continued disregard for the life and well-being of Central American migrants.

<sup>20</sup> Max Rivlin-Nader, "Sick 9-year-old girl held by border patrol released", *KPBS*, October 14, 2019, available at <https://www.kpbs.org/news/2019/oct/14/sick-girl-illegally-detained-by-cbp-released/>

<sup>21</sup> Tom McCarthy, "Ocasio-Cortez details 'horrifying' conditions at migrant detention facility", *The Guardian*, July 1, 2019, available at <https://www.theguardian.com/us-news/2019/jul/01/aoc-border-facility-horrifying-cbp-officers-tweets>; Tom K. Wong and Vanessa Ceceña, "Seeking Asylum: Part 2", U.S. Immigration Policy Center at UC San Diego, October 29, 2019, available at <http://usipc.ucsd.edu/publications/usipc-seeking-asylum-part-2-final.pdf>

<sup>22</sup> AFSC interviewed families at a Border Patrol station on October 3-4, 2019.

<sup>23</sup> Apprehension, processing, care, and custody of alien minors and unaccompanied alien children, 84 Federal Register 44392 (August 23, 2019), available at <https://www.federalregister.gov/documents/2019/08/23/2019-17927/apprehension-processing-care-and-custody-of-alien-minors-and-unaccompanied-alien-children> (effective date October 22, 2019); Congressional Research Service, "The "Flores Settlement" and alien families apprehended last the U.S. Border: Frequently asked questions", September 17, 2018, available at <https://fas.org/sqp/crs/homesecc/R45297.pdf>

<sup>24</sup> AFSC interviewed the impacted minor and his parents in San Diego, CA on April 16, 2019.

<sup>25</sup> Office of the United Nations High Commissioner for Refugees Geneva, "Guidelines on policies and procedures in dealing with unaccompanied children seeking asylum", February 1997, available at <https://www.unhcr.org/3d4f91cf4.pdf>

<sup>26</sup> Stephanie Leutert et al., "Asylum processing and waitlists last the U.S.-Mexico border", *Robert Strauss Center, Center for U.S.-Mexican Studies, Migration Policy Centre*, December 2018, available at [https://www.strausscenter.org/images/MSI/AsylumReport\\_MSI.pdf](https://www.strausscenter.org/images/MSI/AsylumReport_MSI.pdf)

<sup>27</sup> American Friends Service Committee, U.S.-Mexico Border Program, "Report on U.S. Customs & Border Protection's Use of Chemical Agents on Migrants at the U.S.-Mexico Border", January 30, 2019, available at <https://www.afsc.org/document/report-us-cbp%E2%80%99s-use-chemical-agents-migrants-us-mexico-border-january-2019>

<sup>28</sup> Ed Vulliamy, "Tricked, abducted and killed: the last day of two child migrants in Mexico", *The Guardian*, February 16, 2019, available at <https://www.theguardian.com/world/2019/feb/16/tijuana-migrant-child-murders-mexico-us-asylum>

<sup>29</sup> U.S. Department of Homeland Security, Customs and Border Protection, "Immigration Inspection Program", February 21, 2014, available at <https://www.cbp.gov/border-security/ports-entry/overview>

<sup>30</sup> Complaint filed by the ACLU Foundation of Southern California on behalf of Nora Phillips, Erika Pinheiro and Nathaniel Dennison to the US District Court for the Central District of California on July 23, 2019, available at [https://www.aclusocal.org/sites/default/files/aclu\\_socal\\_phillips\\_20190723\\_complaint.pdf](https://www.aclusocal.org/sites/default/files/aclu_socal_phillips_20190723_complaint.pdf)

<sup>31</sup> Lisa Frydman et al., "Blocked from safety: Unaccompanied children along the U.S.-Mexico border", *Kids In Need of Defense*, April 29, 2019, available at <https://supportkind.org/wp-content/uploads/2019/06/Blocked-From-Safety-KIND-Border-Report-FINAL.pdf>

<sup>32</sup> AFSC conducted a phone interview with the adult that was accompanying the minor on August 15, 2018. Ongoing support was provided after the initial interview.

<sup>33</sup> AFSC interviewed the mother of the children in San Ysidro, CA on March 20, 2019. Complaints were submitted to CBP San Ysidro Port of Entry, the Department of Homeland Security's Office of Civil Rights and Civil Liberties, and to the Office of Inspector General on April 8, 2019. Ongoing support was provided after the initial interview.

<sup>34</sup> This case was referred to AFSC by the Binational Front of Indigenous Organizations, an international community-based organization. AFSC staff provided reached out to the Mexican Consulate for support and contacted the CBP San Ysidro port of entry directly about the case. AFSC interviewed the adult accompanying the minor on August 22, 2019.

<sup>35</sup> Charles Miller (Editor), "U.S. Customs and Border Protection: Inspector Field Manual", available at <https://www.shusterman.com/pdf/cbpinspectorsfieldmanual.pdf>

<sup>36</sup> U.S. Department of Homeland Security, U.S. Customs and Border Protection, Personal Search Handbook, Office of Field Operations, CIS HB 3300-04B, July 2004, available at [https://foiarr.cbp.gov/docs/Manuals\\_and\\_Instructions/2009/283167437\\_7/1102030829\\_Personal\\_Search\\_Handbook2.pdf](https://foiarr.cbp.gov/docs/Manuals_and_Instructions/2009/283167437_7/1102030829_Personal_Search_Handbook2.pdf)

<sup>37</sup> Immigrant Defense Project and Center for Constitutional Rights, "ICEwatch: ICE raids tactic map, a brief summary of ICE raids trends to accompany raidsmat.immdfense.org", July 2018, available at <https://www.immigrantdefenseproject.org/wp-content/uploads/ICEwatch-Trends-Report.pdf>

<sup>38</sup> Adam Harris, "When ICE Raids Homes", *The Atlantic*, July 17, 2019, available at <https://www.theatlantic.com/family/archive/2019/07/when-ice-raids-homes-immigration/594112/>

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- <sup>40</sup> McKenzie Funk, "How ICE picks its targets in the surveillance age", *New York Times*, October 2, 2019, available at <https://www.nytimes.com/2019/10/02/magazine/ice-surveillance-deportation.html>
- <sup>41</sup> Maya Rhodan, "Plainclothes officers arrested immigrants at a courthouse. Can they do that?", *TIME*, September 18, 2017, available at <https://time.com/4946747/immigration-plainclothes-brooklyn-courthouse/>
- <sup>42</sup> FY19 Q2 Administrative Arrests and Removals by AOR, Department of Homeland Security, Immigration and Customs and Enforcement, available at [https://www.ice.gov/sites/default/files/documents/Report/2019/FY19%20Q2%20Arrests\\_Removals%20by%20AOR.pdf](https://www.ice.gov/sites/default/files/documents/Report/2019/FY19%20Q2%20Arrests_Removals%20by%20AOR.pdf)
- <sup>43</sup> Executive Order: Enhancing public safety in the interior of the United States, The White House, January 25, 2017, available at <https://www.whitehouse.gov/presidential-actions/executive-order-enhancing-public-safety-interior-united-states/>
- <sup>44</sup> AFSC interviewed the minor and her father on March 5, 2019, the day of the detention, in San Diego, CA.
- <sup>45</sup> Enrique was detained by ICE as part of a worksite raid that took place in San Diego, CA on February 13, 2019. AFSC interviewed the affected workers and their families after their release from ICE custody as a way to understand how ICE conducted that specific raid.
- <sup>46</sup> U.S. Department of Homeland Security, Immigration and Customs and Enforcement, Policy Number 11064.2: Detention and Removal of Alien Parents or Legal Guardians, FEA No. 306-112-002b, August 29, 2017, available at <https://www.ice.gov/doclib/detention-reform/pdf/directiveDetainedParents.pdf>
- <sup>47</sup> AFSC was in contact with the family after the arrest occurred in July 2019. The office was provided with a video recording of the interactions with ICE.
- <sup>48</sup> U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, "Interim Use of Force Policy", July 7, 2004, available at <https://www.dhs.gov/sites/default/files/publications/ice-use-of-force-policy.pdf>
- <sup>49</sup> The Children's Partnership and the California Immigrant Policy Center, "Healthy mind, healthy future: Promoting the mental health and wellbeing of children in immigrant families", September 22, 2018, available at <https://www.childrenspartnership.org/research/healthy-mind-healthy-future-promoting-the-mental-health-and-wellbeing-of-children-in-immigrant-families/>
- <sup>50</sup> Christopher Sherman et al, "US held record number of migrant children in custody in 2019", *Associated Press*, November 12, 2019, available at <https://apnews.com/015702afdb4d4fbf85cf5070cd2c6824>
- <sup>51</sup> Josue De Luna Navarro, "For undocumented immigrants, our enforcement policies drive a public mental health crisis", *USA Today*, November 12, 2019, available at <https://www.usatoday.com/story/opinion/voices/2019/11/12/daca-undocumented-immigrants-mental-health-stress-trauma-column/2562126001/>
- <sup>52</sup> Ian M. Kysel, "Toxic Treatment: The abuse of tear gas weapons in California juvenile detention", *American Civil Liberties Union Foundation of Southern California*, May 22, 2019, available at [https://www.aclusocal.org/sites/default/files/aclu\\_social\\_toxic\\_treatment\\_report\\_2019.pdf](https://www.aclusocal.org/sites/default/files/aclu_social_toxic_treatment_report_2019.pdf)
- <sup>53</sup> Detention Watch Network, "Alternatives to Detention", available at <https://www.detentionwatchnetwork.org/issues/alternatives>
- <sup>54</sup> AFSC and the Defund Hate Campaign call on Congress to halt the funding of DHS agencies that detain and deport individuals and families. Additional information and resources can be accessed at <https://www.afsc.org/defund-hate>
- <sup>55</sup> In 2013, American Friends Service Committee released "A New Path: Toward Humane Immigration Policy". This documents presents seven principles that should be incorporated into the foundation of just immigration policies. The full report is available at <https://www.afsc.org/sites/default/files/documents/%20New%20Path%20full%20version%20.pdf>





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