

24 June 2011

The Honorable Patrick Leahy
United States Senate
Washington, D.C. 20510

The Honorable Lamar Smith
United States House of Representatives
Washington, D.C. 20515

Dear Senator Leahy and Representative Smith:

On behalf of our organizations and coalitions, we strongly express our great concern about the use of lethal force against rock-throwers by the U.S. Border Patrol. We ask that the Senate Immigration, Refugees, and Border Security Subcommittee and the House Immigration, Policy and Enforcement, and International Law Subcommittee investigate and seek to end this practice.

On June 21, 2011, a Border Patrol agent shot and killed a man who was allegedly trying to illegally enter the United States from Mexico. Initial reports indicate that the Border Patrol agent fired at the man as he was throwing rocks at the agent. This is not the first time that an incident of this kind resulted in the death of another human being, and caps a chronology of events and deaths stemming from disproportionate use of force by U.S. Border Patrol agents.

There were other fatal shootings involving Border Patrol agents reported between January and June of last year.

- In January, a 17-year-old who was also said to be throwing rocks was shot and killed by a Border Patrol agent near Nogales, Ariz.
- In March, a 19-year-old U.S. citizen who was allegedly running from agents was shot and killed near Douglas, Arizona, after a rock-throwing incident.
- The last death in San Diego, CA, involving federal agents was in May of last year when Mexican citizen and long-time Encanto resident Anastacio Hernandez Rojas, 42, was arrested in the U.S. after being deported. He got into a fight with U.S. Customs and Border Protection officers in which he was shot with a stun gun and died days later.
- On August 11, 2008, another instance of this disproportionate use of force took place at the U.S.-Mexico border near San Diego. Edgar Israel Ortega Chavez, whom Border Patrol alleges was throwing rocks, was in Mexican territory when he was shot by a Border Patrol agent.
- In 2010, an agent shot and killed a 15-year-old boy who authorities said was throwing rocks at him near the border in El Paso.

This latest incident has been condemned by Mexico's Foreign Relations Secretariat: "The Mexican government energetically condemns the death. ... (We) reiterate that the use of firearms to repel attacks with rocks, which is what preliminary information indicates may have occurred in this case, represents a disproportionate use of force." (*San Diego Union Tribune, June 22, 2011*)

We ask that the Office and Inspector General and your subcommittees investigate the U.S. Border Patrol's practice of shooting rock throwers. We also respectfully request that you ask Secretary of Homeland Security Janet Napolitano to make clear to her Border Patrol agents that it is not acceptable to use deadly force when confronted with rock throwers. Deadly force should always be

an action of last resort and only used if an imminent risk of death is present and no other tool exists to ameliorate a dangerous situation. To shoot stone throwers is exceptionally disproportionate and inhumane.

Finally, these cases reveal again why it is necessary to bring some transparency and accountability to federal law enforcement agencies. The number of law enforcement agents deployed on the southwest border has increased dramatically in recent years, but training, oversight, and accountability measures for the border enforcement agents have not kept pace.

We reiterate with new urgency, the longstanding call for increased transparency and independent oversight of federal law enforcement agencies in our communities.

The public has a vital interest in understanding and evaluating the Border Patrol's practices. The public needs to know that the agency complied with its own policies and procedures and whether the agency's response conformed to best practices. This overwhelmingly disproportionate use of force tarnishes the reputation of our law enforcement agencies and diminishes the confidence of the people in those meant to protect and serve us.

Thank you for your consideration.

Sincerely,

Signed:

NATIONAL ORGANIZATIONS

Amnesty International –USA
American Friends Service Committee

CALIFORNIA

American Civil Liberties Union of California (ACLU-CA)

COALITION OF ORGANIZATIONS

San Diego Immigrant Rights Consortium
ACCE San Diego
ACLU San Diego & Imperial Counties
American Immigration Lawyers Association- San Diego
American Friends Service Committee- San Diego Area Office
Angeles del Desierto
California Immigrant Policy Center
Catholic Charities
Catholic Relief Services
Center for Social Advocacy
City of San Diego Human Relations Commission
Employee Rights Center

Equality Alliance
Escondido Human Rights Committee
Interfaith Committee on Worker Justice
International Rescue Committee
La Raza Lawyers of San Diego
National Lawyers Guild
No Border Wall
Oceanside Human Rights Council
San Diego Foundation for Change
San Diego LGBT Center
South Bay Forum
Unitarian Universalist Refugee and Immigration Services and Education (UURISE)

ARIZONA

American Civil Liberties Union of Arizona

ORGANIZATIONS

Arizona Zoological Society
Border Action Network
Border Initiative
BorderLinks
Center for Economic Integrity
Cochiso College Center for Lifelong Learning
First Christian Church Migration Ministries
Frontera de Cristo
The Good Shepherd United Church of Christ
Mexicayotl Academy
Migrant Resource Center & Shelter
No More Deaths
School Sisters of Notre Dame
Sierra Club Borderlands Team

NEW MEXICO

COALITION OF ORGANIZATIONS

Taskforce for Immigrant Advocacy & Services
(TIAS)

ORGANIZATIONS

ACLU of New Mexico Regional Center for Border Rights
Encuentro Latino National Institute on Family Violence

TEXAS

South Texas Rio Grande Valley

COALITION OF ORGANIZATIONS

Rio Grande Valley Equal Voices Network:
American Civil Liberties Union of Texas
ARISE: Alamo/Pharr/San Juan
Brownsville Community Health Clinic:
Brownsville/Port Isabel
La Unión del Pueblo Entero: San Juan/Mercedes/Pharr
Movimiento Del Valle Por Los Derechos
Humanos: Brownsville/Port Isabel
Proyecto Azteca: San Juan
Proyecto Juan Diego: Cameron Park
Proyecto Libertad: Harlingen
SCAN: Rio Grande City
South Texas Adult Resource and Training Center:
San Benito
Southwest Workers' Union: Edinburg/Donna
Texas RioGrande Legal Aid:
Weslaco/Edinburg/Brownsville

ORGANIZATIONS

BARCA
Migrant Health Promotion
South Texas Civil Rights Project