

REPORT ON U.S. CUSTOMS & BORDER PROTECTION'S USE OF CHEMICAL AGENTS ON MIGRANTS AT THE US-MEXICO BORDER

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American Friends
Service Committee

About the Program

The US/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.

Documentation of US Immigration Law Enforcement

Our goal is to engage community partners and leaders to monitor and document instances of civil and human rights abuse 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 migrant workers and their families.



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*Images/photographs by AFSC staff & associates.

Front cover: CBP Readiness exercise at San Ysidro Port of Entry on January 10, 2019

Rear cover: November 25th, 2018 San Ysidro CA.

December 10, 2018 at Love Knows No Border event, Friendship Park.



Report Regarding December 31, 2018 / January 1, 2019 Incident where Border Patrol Used Chemical Agents at Migrants in Tijuana, Baja California, Mexico

Introduction

This report provides an account from the perspective of migrants that were present and affected by the events that unfolded on the evening of December 31, 2018 and the early morning hours of January 1, 2019 at the Tijuana-San Diego border, near Playas de Tijuana, where Border Patrol Agents fired chemical agents at migrants.

Customs and Border Protection (CBP) has used chemical agents to dissuade migrants in at least two events in the region within a 40-day period. In both incidents, CBP detonated tear gas and other chemical agents onto Mexican territory where migrants gathered. CBP's use of chemical agents represents an elevated pattern of aggression against migrants intending to seek asylum in the United States. While not a new phenomenon, it is alarming that CBP has responded with unwarranted force in the two recorded cases. This aggression is purportedly in response to migrants traveling in large groups, called caravans. Despite CBP having dealt with large migrating groups as recently as 2016 and 2017, the virulent political motivations

guiding the current Administration has generated a crisis where one does not need to exist. CBP's use of chemical agents to subdue migrants intending to turn themselves in to border enforcement agents, fulfills the optics of a "border crisis" narrative that serves the Administration's political objectives of seeking funds for unnecessary border wall infrastructure. The consequences of using chemical agents, however, can have deleterious effects to those on the receiving end.

The first recorded event where CBP deployed chemical agents against migrants took place on November 25 in an area adjacent to the Pedestrian West Port of Entry, known as Chaparral. On that same date, CBP agents fired chemical agents at a location east of the San Ysidro Land Port of Entry. The second recorded event, the focus of this report, took place between the evening hours of December 31, 2018 and early morning hours of January 1, 2019, at a construction site in the community of Playas de Tijuana adjacent to Highway 1D (Tijuana-Ensenada), east of the Paseo de Playas de Tijuana off-ramp (see Fig. 1).

Fig. 1: Construction site area in Playas de Tijuana where Border Patrol officials fired chemical agents at migrants on Dec. 31/ Jan. 1



Initial Findings

On January 3, AFSC's Latin America and Caribbean and US-Mexico Border Programs interviewed five individuals at the El Barretal migrant shelter in Tijuana. The individuals included two women, two men, and one minor. AFSC staff also interviewed a 32-year-old man from Honduras on January 17. Those interviewed were part of the group of migrants impacted by chemical agents on December 31. The following is a summary synopsis of their testimonies.

On the afternoon of December 31, a rumor had spread throughout El Barretal Shelter that a group of migrants were preparing to approach the border and attempt to enter at locations in between the Ports of Entry to seek asylum in the US. Approximately 300 people formed part of three groups that approached the border. The migrants shared that there were a lot of women and children in the group, with some of the minors being as young as two years old.

The migrants reported that people arrived at the

Fig. 3: Area where chemical agents were deployed on Dec. 31st



Fig. 2 AFSC staff interviewing migrants at El Barretal

Key Findings

- **Border Patrol described migrants as violent despite initiating violence against them**
- **Border Patrol deployed dangerous gas agents at groups of migrants, exposing children**
- **Border Patrol did not take in unaccompanied minors despite several having crossed into US territory**
- **Border Patrol turned migrants back to Mexico**

border wall area in two waves, with some arriving earlier than others. Some migrants left El Barretal at around 7 PM and traveled to Playas de Tijuana by bus, arriving near the border wall at around 8 PM. One migrant stated that some of them had gone down to the beach a rea of Playas de Tijuana. One group arrived at a construction site, also in the Playas de Tijuana area where they believed entry was most favorable. Approximately 20 Border Patrol vehicles on the US side of the border wall were present.

As the migrants approached the wall, they could hear the agents shouting insults at them. According to the migrants, at one point the agents told the group that they could cross the border fence and that they would be processed for asylum. The migrants also shared that Border Patrol Agents encouraged the migrants to cross. A woman with her two-year-old was the first to make an attempt to cross the border wall. As the woman was preparing to cross, tear gas was detonated near the area where the woman was attempting to enter. The migrants could hear the agents laughing after the deployment of the chemical gas agents.

One of the migrants interviewed described how

several men in the group ran towards the wall to offer help and get the children away from the plume of gas. The man shared that he saw a young boy, approximately five years old, lying on the ground. He picked up the child and ran towards the paved road, away from the wall. As he was carrying the toddler, he was hit in the back by what he believes to be a metal canister shot by a Border Patrol Agent. He reported feeling sore but was not seriously injured.

The migrants described tripping over rocks and falling to the ground as the group ran away from the border area and upon feeling the effects of a burning chemical gas agent. They also described hearing multiple shots of gas and smoke canisters being deployed by the Border agents across the international divide and well into Mexican territory. Gas and smoke filled the area and reached the paved road, over 360 feet from the primary border wall (see Figure 1 pg.2). The group described feeling impacted by rounds as they ran from the border wall. Some of the migrants suffered cuts and scrapes as they attempted to leave the area and had collapsed as a result of the intoxicating chemical agents used to repel them.

One of the young men interviewed suffered a serious knee injury during the incident (see figure 4). He was injured as he tried fleeing the deployed gas and smoke. He reported that his right knee became very swollen, impairing his ability to walk. He was seen by medics a day after and had yet to recover on the day AFSC staff interviewed him on January 17. The interviewed migrants stated that one male migrant had crossed into US territory and was allegedly beaten by Border Patrol Agents. The male migrant was not processed by Border Patrol, but was forced back at the point of initial entry over the border wall. While the migrants interviewed were unable to witness the alleged beating, they witnessed the injuries once he was back on Mexican territory. This migrant was not staying at El Barretal Shelter and we were unable to locate him.

The minor in the group interviewed was a fifteen-year-old from Honduras. He was at the border wall on the beach area of Playas de Tijuana. He and other minors climbed over the border fence and tried to turn themselves into Border Patrol, but agents told them to climb back over the wall. The minor stated that he and other migrants tried multiple times to



Fig 4: Injured man interviewed on Jan 17, 2019

speaking to the agents and to turn themselves in to request asylum. Agents did not question the group about their age or if they had a fear of returning back to their country and intimidated them with verbal commands to return.

The group was asked about reports of migrants throwing rocks at Border Patrol Agents and they stated that the group was not violent. They did not witness any rock throwing. One migrant said that they had their hands up as they approached the primary border wall in order to demonstrate to the agents that they did not have anything resembling weapons or rocks.

According to the interviewed migrants, the Mexican Federal Police were nearby when the incident occurred. The Mexican authorities did not provide assistance of any kind during or after the gassing. Some migrants requested transportation back to the shelter, at least for those that were impacted by the chemical agents, but the authorities refused and simply watched.

Border Patrol Agents used chemical gas agents, smoke bombs, and projectiles directly at the group. The migrants interviewed also described Border Patrol using sound instruments to disperse the crowd. Two migrants said their hearing was temporarily impaired and they felt disoriented and nauseated. This equipment has yet to be more thoroughly identified.

AFSC staff traveled to the site where the incident took place on the Mexican side of the international border. AFSC staff witnessed what appeared to be

a sound cannon mounted on top of a Border Patrol vehicle. The workers at the construction site offered a tear gas canister they had collected that had not detonated. Staff also located remnants of smoke and air gun projectiles throughout the area (Fig. 5).

Customs and Border Protection's Response

The day after the incident CBP issued a [statement](#) on "Illegal Border Crossings in San Diego Sector." The statement painted the migrants as violent and as rock throwers. This problematic description initially describes migrants as involved in rock-throwing, then it states "minimal countermeasures" were not directed at migrants.

(CBP Statement) To address the rock throwers assaulting agents and risking the safety of migrants attempting to cross who were already on the U.S. side, both smoke and minimal countermeasures were deployed. Agents deployed smoke, pepper spray and CS gas to a position upwind of the rock throwers and south of the border fence

According to the official statement, Border Patrol agents only used "smoke, pepper spray, and CS gas" at the group. However, firsthand reports mention the agents shooting the gas and smoke at the entire group, as well as in the direction of migrants fleeing the scene. AFSC staff also recovered pepper ball projectiles from the scene. While marketed as less-than-lethal weapons, they can incapacitate an individual and direct impact to a minor could be

deadly.

(CBP Statement) The deployments were not directed at the migrants attempting entry on the U.S. side or at the fence line. The rock throwers were located south of the fence, in an elevated position both above the border fence area and the incursion attempt.

CBP stated that the gasses used against the group were meant to target the "rock throwers" and not those attempting to enter US territory. CBP used a similar justification for the November 25, 2018 event. In both instances, migrant testimonies suggest CBP agents were the aggressors and unnecessarily used violence when migrants were attempting to turn themselves in to the US authorities. Detonating CS gas and other chemical agents in close proximity to children is unjustifiable and a reflection of the agency's overzealous enforcement that places vulnerable lives at risk.

(CBP Statement) Agents were not in a position to safely assist the children due to the large number of rocks being thrown at them...No agents witnessed any of the migrants at the fence line, including children, experiencing effects of the chemical agents, which were targeted at the rock throwers further away.

After the November 25 incident where CBP fired chemical agents at migrants, CBP denied that women and children were present. This time around, the agency recognized children were present, but

Figure 5: Objects recovered and documented from incident site at Playas de Tijuana.



used the rock-throwing narrative as a way to justify that they could not assist the children because of safety precautions. The statement also mentions that the agents did not witness any children being exposed to the chemical agents. This was likely due to the lack of visibility created by the deployment of a large amount of gas agents during the night, but could also be CBP's attempt of absolving itself of any responsibility for injuries migrants could have sustained as a result of the chemical agents.

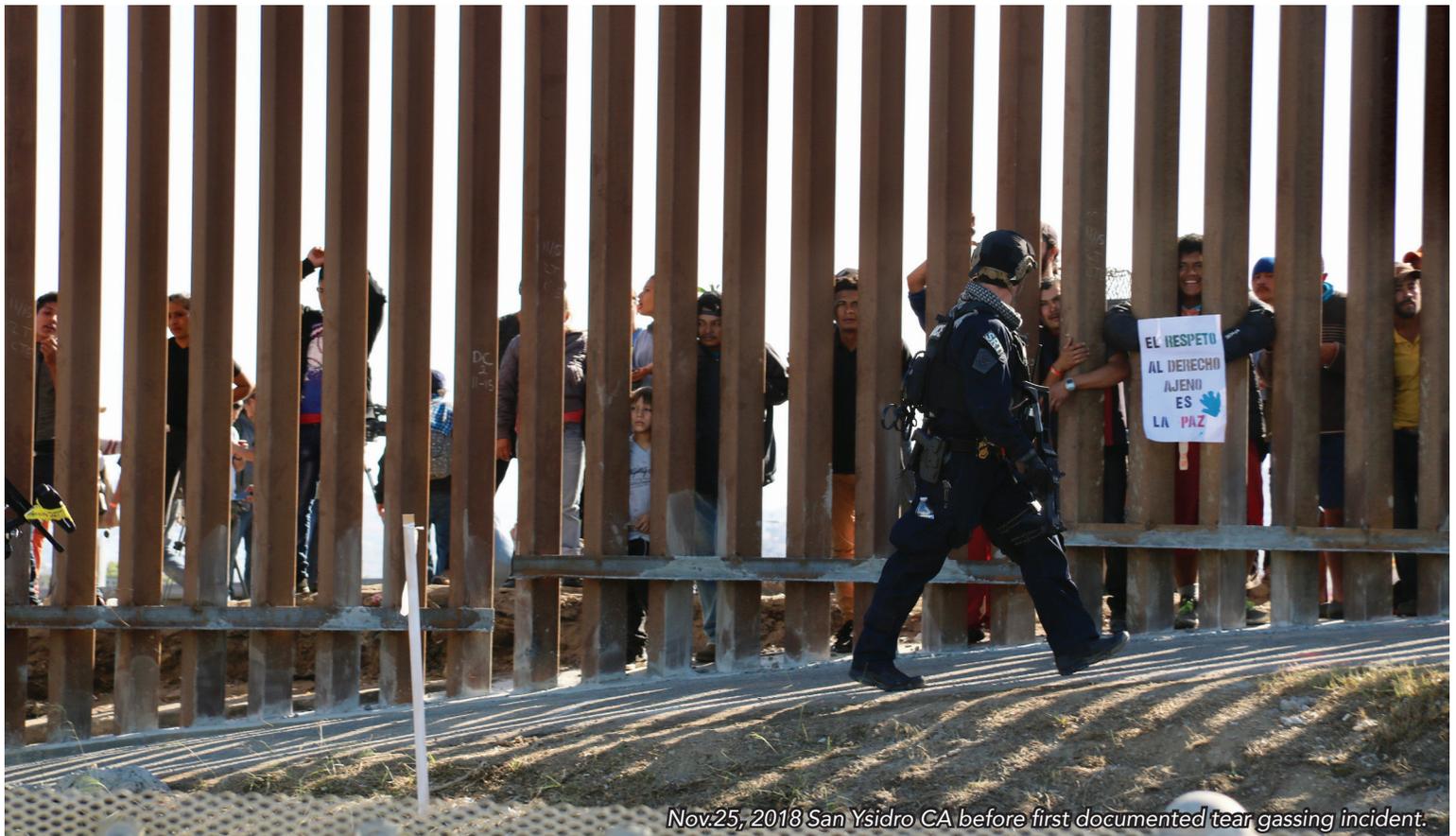
Conclusion and Inquiry Request

CBP's use of chemical agents against migrants seeking asylum represents an escalation of unwarranted use of force during a tense political climate. Furthermore, CBP is using the arrival of migrants in caravans as an excuse to escalate its force, generate a false crisis narrative, and not uphold its international obligations of respecting the right for migrants to pursue asylum in the United States.

The events on November 25, 2018 and December 31, 2018/January 1, 2019 occur in a context wherein increased numbers of Border Patrol Agents are patrolling the US-Mexico border, buttressed by military personnel and additional physical infrastructure in the affected areas.

The American Friends Service Committee's US-Mexico Border Program makes a request for a thorough investigation into the incidents that led CBP to use chemical agents against migrants in Tijuana. The investigation should address the following points:

- **The criteria that mandates CBP's determination in use of chemical agents**
- **The quantity of gas canisters, smoke bombs, and CS gas used on the events of November 25, 2018 and December 31, 2018/January 1, 2019.**
- **CBP agents turning back migrants with potential asylum claims. Particular attention to be given to unaccompanied minors.**
- **A review of CBP public communications related to these events and inquiry as to possible misleading information contained therein.**
- **The communication, if any, that occurred between CBP agencies and Grupo Beta/INM and any other Mexican authority counterparts.**
- **The authority that grants CBP the ability to use chemical agents on foreign soil.**



Nov.25, 2018 San Ysidro CA before first documented tear gassing incident.



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The American Friends Service Committee (AFSC) is a Quaker organization that promotes lasting peace with justice, as a practical expression of faith in action. Drawing on continuing spiritual insights and working with people of many backgrounds, we nurture the seeds of change and respect for human life that transform social relations and systems.

