



Advocacy for Human Rights in the Americas



EXECUTIVE
SUMMARY

A low-angle photograph of a border fence made of dark, vertical slats, receding into the distance under a bright blue sky with scattered white clouds. The sun is visible in the upper left corner, creating a lens flare effect.

Photo: Eric Gay/AP

NOT A NATIONAL SECURITY CRISIS

**The U.S.-Mexico Border and Humanitarian Concerns,
Seen from El Paso**

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KEY FINDINGS

Contrary to popular and political rhetoric about a national security crisis at the U.S.-Mexico border, evidence suggests a potential humanitarian—not security—emergency. This report, based on research and a field visit to El Paso, Texas and Ciudad Juárez, Mexico in April 2016, provides a dose of reality by examining one of the most emblematic of the U.S.-Mexico border's nine sectors, one that falls within the middle of the rankings on migration, drug seizures, violence, and human rights abuses. At a time when calls for beefing up border infrastructure and implementing costly policies regularly make headlines, our visit to the El Paso sector made clear that what is needed at the border are practical, evidence-based adjustments to border security policy, improved responses to the growing number of Central American migrants and potential refugees, and strengthened collaboration and communication on both sides of the border.

- **WITH 408,870 MIGRANT APPREHENSIONS AT THE U.S.-MEXICO BORDER IN FISCAL YEAR (FY) 2016, OVERALL UNDOCUMENTED MIGRATION IS AT LEVELS SIMILAR TO THE EARLY 1970S.** Apprehensions of migrants per Border Patrol agent are less than one-tenth what they were in the 1990s. With 19 apprehensions per agent, FY2015 had the second-lowest rate of the available data. It makes sense that staffing has leveled off since the 2005–2011 buildup that doubled the size of Border Patrol.
- **THE NUMBER OF MEXICAN MIGRANTS HAS FALLEN TO LEVELS NOT SEEN SINCE THE EARLY 1970S, AND DECLINES HAVE BEEN FAIRLY CONSISTENT.** Between FY2004 and FY2015 there were fewer apprehensions of Mexican citizens each year than in the previous year. Apprehensions of Mexicans in FY2016 increased by 2.5 percent. Even though the nearest third country is over 800 miles away from the U.S.-Mexico border, Mexicans comprised less than half of migrants apprehended there in FY2014, and again in FY2016.
- **OF THE MIGRANTS ARRIVING AT THE BORDER, MANY ARE CHILDREN AND FAMILIES FROM CENTRAL AMERICA WHO COULD QUALIFY AS REFUGEES IN NEED OF PROTECTION.** A United Nations High Commissioner for Refugees (UNHCR) analysis of credible fear screenings carried out by U.S. asylum officers revealed that in FY2015, 82 percent of women from El Salvador, Guatemala, Honduras, as well as Mexico, who were screened on arrival at the U.S. border “were found to have a significant possibility of establishing eligibility for asylum or protection under the Convention against Torture.”¹ This phenomenon is not a threat to the security of the United States. Nor is it illegal to flee one’s country if one’s life is at risk. Most Central American families and children do not try to evade U.S. authorities when they cross: they seek them out, requesting international protection out of fear to return to their countries.

KEY FINDINGS

- **VIOLENT CRIME RATES IN U.S. BORDER COMMUNITIES REMAIN AMONG THE LOWEST IN THE NATION, AND VIOLENCE HAS LARGELY DECREASED ON THE MEXICAN SIDE AS WELL.** The El Paso crime rate in 2015 was below the U.S. national average. Although homicides have increased in Ciudad Juárez during 2016, the security situation has dramatically improved from when the city was considered the murder capital in the world in 2010.
- **SEIZURES OF CANNABIS, WHICH IS MOSTLY SMUGGLED BETWEEN OFFICIAL PORTS OF ENTRY, ARE DOWN AT THE BORDER.** However, seizures of methamphetamine and heroin have increased, indicating that more drugs are probably getting across and, in the case of heroin, feeding U.S. demand that has risen to public-health crisis levels. Meth, heroin, and cocaine are very small in volume and are mostly smuggled at official border crossings. Building higher walls in wilderness areas along the border would make no difference in detecting and stopping these drugs from entering the country.
- **PORTS OF ENTRY ALONG THE BORDER ARE UNDERSTAFFED AND UNDER-EQUIPPED.** As evidenced by the El Paso sector's continued long wait times, ports of entry remain understaffed and under-equipped for dealing with small-volume, high-potency drug shipments, and for dealing more generally with large amounts of travelers and cargo. Much of the delay in hiring results from heightened screening procedures for prospective Customs and Border Protection (CBP) agents to guard against corruption and abuse, an important effort in need of additional resources. Screening delays are also the principal reason for a slight recent reduction in Border Patrol staffing.
- **ALTHOUGH NEW LOCAL REPATRIATION ARRANGEMENTS (LRAS) BETWEEN THE UNITED STATES AND MEXICO ARE A STEP FORWARD IN PROTECTING MEXICAN MIGRANTS RETURNED AT THE BORDER, SOME CHALLENGES STILL REMAIN IN THEIR IMPLEMENTATION.** Both governments announced in February 2016 the finalization of new LRAs to regulate the return of Mexican migrants at nine points of entry along the border. The agreements represent important efforts of both governments to curtail many of the practices that negatively affect this vulnerable population, such as nighttime deportation. In the El Paso sector, however, repatriated migrants are often returned without their belongings, such as cell phones, identification documents, and money, presenting them with challenges in accessing funds, communicating with family, and traveling in the country.
- **THERE ARE FEWER COMPLAINTS ABOUT BORDER PATROL DETENTION CONDITIONS AND ABUSE BY AGENTS IN THE EL PASO SECTOR COMPARED TO OTHER PARTS OF THE BORDER.** However, there are concerning reports about abuses by CBP agents at El Paso's ports of entry. A May 2016 complaint lodged by several border organizations points to troubling incidents of excessive force, verbal abuse, humiliating searches, and intimidation by agents at the ports of entry in El Paso and southern New Mexico that must be investigated and addressed.

KEY FINDINGS

- **STRONG LAW ENFORCEMENT AND COMMUNITY RELATIONS IN EL PASO HAVE PLAYED A KEY ROLE IN MAKING IT ONE OF THE SAFEST U.S.-MEXICO BORDER CITIES.** Consistently ranked one of the country's safest cities of its size, El Paso demonstrates the importance of communication and constructive relationships between communities and border law enforcement agencies. Local and federal authorities and social service organizations interviewed noted interagency coordination, open lines of communication, and strong working relationships throughout the sector. The local policy of exempting offenders of Class C misdemeanors from federal immigration status checks does much to ensure community members' willingness to cooperate with law enforcement without fear of deportation. However, reports of racial profiling do exist, and state-level policy proposals against "sanctuary cities," if passed, could threaten this trust.
- **MEXICAN FEDERAL AND MUNICIPAL OFFICIALS AND CIVIL SOCIETY PROVIDE IMPORTANT SERVICES FOR REPATRIATED MIGRANTS, AND COULD BE A MODEL FOR OTHER MEXICAN BORDER CITIES.** Mexico's National Migration Institute (*Instituto Nacional de Migración*, INM) works in close coordination with the one-of-its-kind Juárez municipal government's office to provide important basic services to repatriated migrants and assist them with legal services, recovering belongings left in the United States, and transportation to the interior of the country. Civil society organizations also provide similar important services to migrants and document abuses by U.S. and Mexican officials.
- **U.S.-MEXICO SECURITY COOPERATION IS INCREASINGLY FOCUSING ON INSTITUTIONAL REFORM ISSUES AT THE STATE AND FEDERAL LEVELS.** U.S. agencies provide support for violence reduction efforts in Ciudad Juárez, as well as support for police training and judicial reform for state and federal agents in Chihuahua.

RECOMMENDATIONS

This report offers a snapshot of one of the most emblematic of the U.S.-Mexico border's nine sectors. El Paso is within the middle of the rankings on migration, non-Mexican migration, drug seizures, violence, and human rights complaints.

This can make for unexciting reading. Indicators are mostly going in the right direction, and many trends are positive: migrant apprehensions are far from overwhelming Border Patrol; reports of abuses are few; law enforcement-community relations are constructive; and violent crime rates for cities on the U.S. side are low. The areas of concern are within the realm of what is manageable. Radical policy shifts or dramatic security buildups are hardly called for, and make no sense to local residents and authorities. The data show a similar reality in nearly every other border sector, with the exception of the Rio Grande Valley in southeast Texas, and the Tijuana-San Diego crossing, where a recent wave of Haitians seeking humanitarian parole has put a strain on social service providers and federal and local government agencies.

An observer of U.S. politics would not perceive this. Our national conversation about border security and cross-border migration is anything but “unexciting.” It is marked by constant, urgent references to insecurity, crises, and emergencies, and loud calls to implement costly, questionable barriers and procedures.

What WOLA saw and heard in El Paso and Ciudad Juárez did not rise to the level of a security crisis. It did, however, point to an increase in migration that could present challenges to U.S. agencies and local service providers. Even as Mexican migration declines, the number of Central Americans—many of them families and children, many of them fleeing violence—continues to increase, and does so especially rapidly in El Paso.

When we view the situation not as a national security emergency but as a humanitarian one, our priorities for addressing it change. Instead of building walls and deploying more agents between ports of entry, WOLA offers this list of recommendations that is more appropriate to the reality of life at this part of the border. As they consider current and future policy, the Obama administration and its successor should:

- **EXPAND AND STRENGTHEN ITS EFFORTS TO PROVIDE ADEQUATE SCREENING AND PROTECTION TO CENTRAL AMERICANS.** A growing number of Central American families and unaccompanied children from the Northern Triangle are fleeing threats to their lives or safety by organized crime, gangs, human traffickers, or domestic violence. In addressing what the UNHCR has referred to as a “looming refugee crisis,” the United States should continue to expand its efforts to provide adequate screening and protection to this population.² This includes continuing to strengthen its efforts in the region, such as the expansion of the Central American Minors (CAM) Refugee/Parole Program, which provides in-country screening to qualifying children from Guatemala, El Salvador, and Honduras, and their caregivers, so that they can join their parents in the United States, and continuing to work with other governments in the region, particularly Mexico, in expanding their protection capacity.³

RECOMMENDATIONS

- **CONTINUE TO COORDINATE WITH LOCAL SERVICE PROVIDERS TO ASSIST CENTRAL AMERICAN AND OTHER MIGRANT FAMILIES.** El Paso organizations quickly responded to the 2014 crisis at the border by providing shelter and services to many Central American families sent to the sector during this time. CBP and U.S. Immigration and Customs Enforcement (ICE) should continue to coordinate with these services providers to support families as they make decisions to unify with family members or others in the U.S. while awaiting immigration hearings.
- **INCREASE ACCESS TO LEGAL REPRESENTATION FOR UNACCOMPANIED CHILDREN AND FAMILIES.** A January 2015 TRAC analysis found that in cases of adults with children who were prioritized for removal after the immigration increase in 2014, less than 30 percent of the over 26,000 individuals were able to find legal representation—and that without representation, only 1.5 percent of the families were allowed to stay in the U.S.⁴ In February 2016, U.S. senators and representatives introduced in both chambers the Fair Day in Court for Kids Act of 2016. If enacted, this bill mandates “that unaccompanied children and vulnerable immigrants receive legal representation” in removal proceedings, providing them with important support in navigating the immigration system and increasing their possibility of obtaining protection in the United States.⁵
- **ELIMINATE FAMILY DETENTION CENTERS.** The migrant families from Central America who are turning themselves in to CBP agents are seeking protection in the United States, and should be considered potential asylum seekers, not illegal immigrants. In light of widespread complaints about poor condition and abuse in family detention centers, the impact on the physical and mental health of prolonged detention on women and their children, and due process violations, including arbitrary detention and obstacles to obtaining legal representation, The Department of Homeland Security (DHS) should accept the recommendation made by the Advisory Committee on Family Residential Centers and end family detention. Although limits put on family detention in recent months are welcome, DHS should continue to implement and expand alternatives to detention, and work to release and place families with community ties in the United States, only detaining the parents when they present a substantial flight risk or danger to the community.⁶
- **COMPLY WITH THE NEW LOCAL REPATRIATION ARRANGEMENTS AND INCREASE EFFORTS TO RETURN MIGRANTS’ BELONGINGS TO THEM.** WOLA recognizes the importance of the new LRAs and calls on DHS to continue to work to abide by the conditions established for the deportation of Mexican nationals at the border. Though the Arrangements affirm that feasible steps will be taken to return migrants belonging to them when they are released from DHS custody, the problem persists and is particularly acute in the El Paso sector. All U.S. agencies involved in the custody and removal of Mexican migrants from the country should increase their efforts to ensure that migrants receive their belongings when they are deported, and that an appropriate procedure is in place for individuals to be able to reclaim their belongings if this does not occur. We call on both

RECOMMENDATIONS

countries to develop an effective alternative to return migrants' money to them in a form other than U.S. checks, which are costly or impossible to cash in Mexico, or debit cards that present their own obstacles. Both countries should also regularly assess the ever-changing security situation in Mexico's border cities as well as the social services available in order to determine which Mexican cities are most apt to receive Mexican migrants who are repatriated from the interior of the United States.

- **ADDRESS ABUSES AGAINST U.S. AND FOREIGN NATIONALS AT EL PASO'S PORTS OF ENTRY.** In 2015, organizations from across the southwest border launched the "Dignity Crossing" campaign to document the experiences of border residents who cross the ports of entry. The complaint lodged by the ACLU of New Mexico and other organizations in May 2016 regarding abuses at the El Paso ports of entry and ports in southern New Mexico is a reflection of some of the cases that were documented through this campaign. DHS should not only investigate the individual cases in this complaint, but also work to strengthen its accountability mechanisms and trainings of CBP officers in order to address the broader set of abuses that occur at the nation's ports of entry.⁷
- **HIRE MORE PERSONNEL AND IMPROVE CAPABILITIES AT THE PORTS OF ENTRY ALONG THE BORDER.** The official border crossings are where the majority of illegal drugs (with the exception of marijuana) pass from Mexico into the United States. Yet, as evidenced by the El Paso sector's continued long wait times, the ports of entry are still seriously understaffed, despite local jurisdictions' recent efforts to help CBP defray personnel costs. The staffing shortfalls remain despite 2014 legislation that would hire 2,000 more officers at ports of entry throughout the country, increasing personnel strength by nearly a third. As of November 2015, CBP had only achieved a net gain of approximately 818 officers.⁸ Much of the delay in hiring owes to heightened screening procedures for prospective agents. While we applaud the effort to screen agents to minimize the likelihood of corruption or abuse, this effort clearly needs more resources devoted to it. It should not take a year and a half to screen an applicant. While this is not an area of our expertise, CBP's heavy reliance on polygraph screenings—which is currently mandated by law—deserves closer review to ensure that qualified candidates aren't being rejected based on ambiguous results. Finally, DHS and Congress must work together to help CBP fill its US\$5 billion in identified infrastructure needs at ports of entry.
- **CONTINUE TO ALLOW LOCAL LAW ENFORCEMENT TO EXEMPT THOSE WHO COMMIT PETTY CRIMES FROM FEDERAL IMMIGRATION STATUS CHECKS.** In Texas, Class C misdemeanors are low-level crimes like traffic offenses or petty theft of property valued under US\$50. El Paso authorities have a strong point when they contend that sharing identification about such offenders with ICE would hamper their ability to do their job. Combating crime and protecting populations requires a relationship of trust: anticipating crimes or apprehending perpetrators often depends on information gathered from community members. In El Paso, some of these information sources may not have

RECOMMENDATIONS

documented immigration status, or may have undocumented friends and relatives. The police need these individuals to come forward without fear of deportation. The policy of exempting perpetrators of Class C misdemeanors thus makes eminent sense.

- **CONTINUE TO SUPPORT MEXICO'S FIGHT AGAINST CORRUPTION, AND FOR JUDICIAL AND POLICE REFORM.** The El Paso–Ciudad Juárez border zone is essentially a single metropolitan area with a fence running through it. Making people feel safe south of the fence, then, is a major interest for citizens on both sides. Doing that requires helping Mexico to strengthen its criminal justice institutions, and break any links that exist between government personnel—including security forces—and organized crime. Some U.S. programs, mostly funded by the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL), aim to do this by improving professional training, strengthening internal control bodies, and improving the justice system's ability to carry out complex investigations of criminal networks. These programs deserve support, as long as institutions and leaders on the Chihuahua side of the border clearly share the same goals and exhibit the political will to work toward them, and to swiftly punish corruption or abuse when it occurs.
- **REFRAIN FROM BUILDING ADDITIONAL SECTIONS OF THE BORDER WALL.** The El Paso sector clearly shows both the advantages and limits of fence construction along the U.S.–Mexico border. Within densely populated areas, where unauthorized border-crossers can quickly blend themselves within the population, Border Patrol views that fence as giving them a necessary advantage. Elsewhere, though, fencing is a waste of money: proponents must consider more fully the sheer vastness of the remote zones along the approximately 1,970-mile U.S.–Mexico border. In much of this territory, fencing would cost billions of dollars to build and billions more to maintain, while deterring few migrants, most of whom could easily climb over without fear of Border Patrol personnel arriving in time to apprehend them. Right now, the border has 353 miles of “pedestrian” fencing (which a person on foot cannot pass through), and 300 miles of “vehicle” fencing (which a car cannot pass through). Advocates of a border wall, including major party candidates for national office, are essentially proposing to build at least 1,617 more miles of pedestrian fencing. Building that much 14-foot fencing through empty wilderness areas would be a monumental, costly folly. Any additional border security funds would be far better spent on increasing personnel strength at ports of entry, and deploying Border Patrol agents in a way that would allow them to respond more quickly when ranchers report menacing individuals passing through their property.

NOTES

¹ United Nations High Commissioner for Refugees, *Women on the Run*, October 2015, <http://www.unhcr.org/5630f24c6.html>.

² United Nations High Commissioner for Refugees, “UNHCR warns of looming refugee crisis as women flee Central America and Mexico,” October 28, 2015, <http://www.unhcr.org/en-us/news/press/2015/10/5630c2046/unhcr-warns-looming-refugee-crisis-women-flee-central-america-mexico.html>.

³ U.S. Citizenship and Immigration Services, “In-Country Refugee/Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors-CAM),” August 31, 2016, <https://www.uscis.gov/CAM>.

⁴ TRAC Immigration, “Representation is Key in Immigration Proceedings Involving Women with Children,” February 18, 2015, <http://trac.syr.edu/immigration/reports/377/>.

⁵ U.S. House of Representatives, Committee on the Judiciary, H.R. 4646, Fair Day in Court for Kids Act of 2016, February 26, 2016, <https://www.congress.gov/bill/114th-congress/house-bill/4646.r>.

⁶ “Thematic Hearing Request, Human Rights Situation of Child and Family Migrants and Immigration Detention in the U.S.,” January 20, 2016, <http://www.humanrightsfirst.org/sites/default/files/IACHRhearingrequest.pdf>.

⁷ American Civil Liberties Union of New Mexico Regional Center for Border Rights, American Civil Liberties Union, and Southern Border Communities Coalition, “Complaint and Request for Investigation of Coercion, Abuse of Power, and Excessive Force by Customs and Border Protection at Ports of Entry along the U.S.-Mexico Border,” May 17, 2016, <https://www.aclu-nm.org/wp-content/uploads/2016/05/RCBR-2016-POE-Admin-Complaint-Recommendations-FINAL-VERSION.pdf?556820>.

⁸ Senator Ron Johnson, *The State of America’s Border Security*, U.S. Senate, Committee on Homeland Security and Government Affairs, November 23, 2015, <https://www.hsgac.senate.gov/media/majority-media/icymi-johnson-releases-border-report>.

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ABOUT WOLA

WOLA is a leading research and advocacy organization advancing human rights in the Americas. We envision a future where public policies in the Americas protect human rights, recognize human dignity, and where justice overcomes violence.