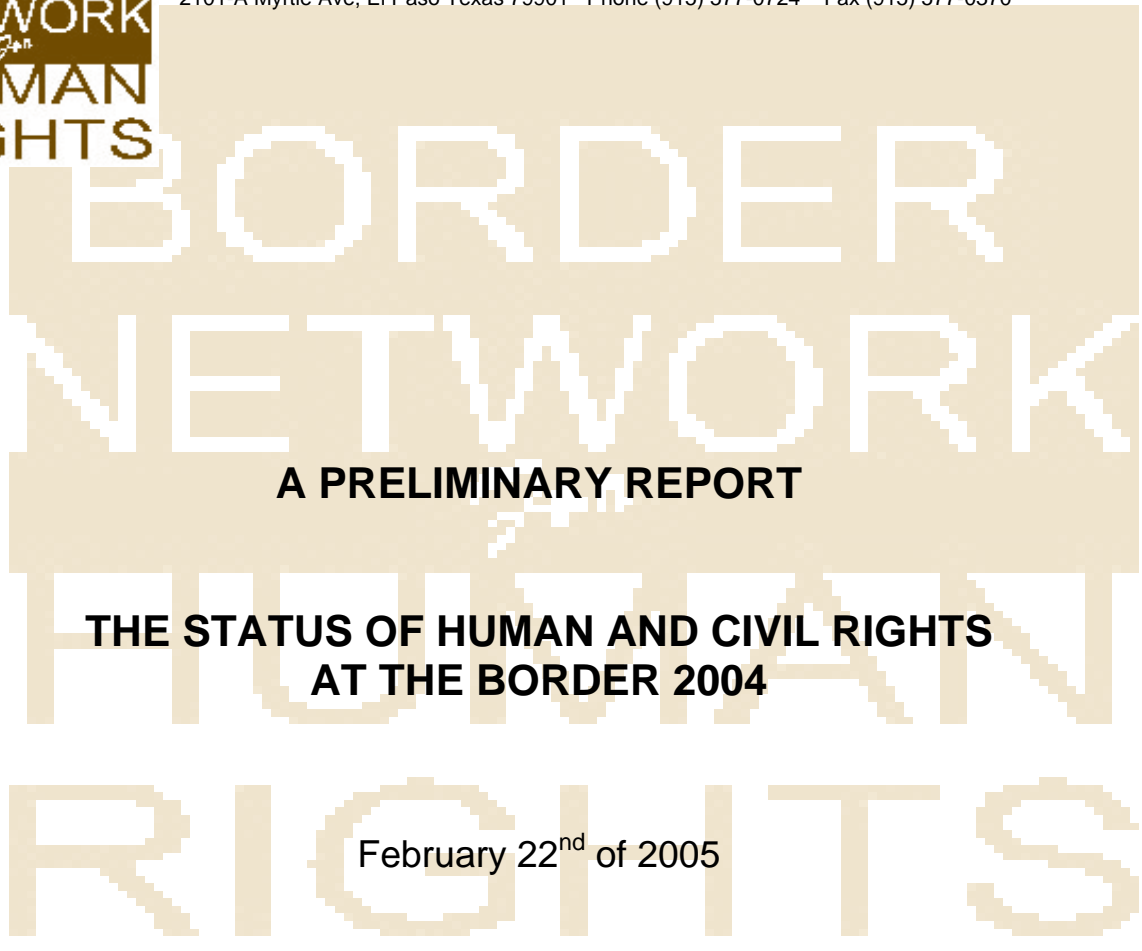




Border Network for Human Rights

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A PRELIMINARY REPORT

THE STATUS OF HUMAN AND CIVIL RIGHTS AT THE BORDER 2004

February 22nd of 2005

EL PASO, TEXAS – SOUTHERN NEW MEXICO

INTRODUCTION

The Border Network for Human Rights - BNHR is a partnership of many human rights community based committees on the US/Mexico border. BNHR's general purpose is to facilitate the education, organizing and participation of marginalized border communities to defend and promote human and civil rights; the objective being that these communities work to create political, economic, and social conditions where every human being is equal in dignity and rights. Currently, BNHR focuses its work in immigrant communities in colonias of El Paso and in southern New Mexico (Las Cruces, Anthony, Chaparral, Berino, Vado, Palmeras, etc.).

In the last three four years (2000-2004) the Border Network for Human Rights has coordinated community-based campaigns to document cases of law enforcement misconduct. Local residents were trained as Rights Promoters on how to identify and document law enforcement abuse. More than 50 Rights Promoters from various border communities in the region have been the leading force in observing, educating and documenting the status of human and civil rights in their own communities.

Today, February 22nd, on the Second Anniversary of the killing of the young immigrant Juan Patricio Peraza by Border Patrol agents, the Border Network for Human Rights (BNHR), along with the Dioceses of Las Cruces and El Paso, the Farm-Workers Center, and Poder de la Mujer is releasing preliminary results of the 4th Regional Campaign to Document Human Rights Violations in our border region.

For the year of 2004 human rights promoters of border communities in Southern New Mexico, Central and East of El Paso, Texas documented more then 100 cases of Human Rights Violations of three major categories: Abuse of Authority, Labor Rights and Domestic Violence.

The majority of the cases related to abuse of authority involved agents of the El Paso Police Department, the Sheriff Office and Immigration Agencies (ICE and Border Patrol). Within these reports emerged as extraordinary communities concern the fact that local police agents and county sheriffs acted as immigration agents, questioning and detaining border resident based on legal status. The incidents of this latter type of cases increased dramatically from previous years.

The 4th Human Rights Documentation Campaign collected identify cases of Labor Rights violations that addressed the issues of denial of pay for a work done, low salaries, etc. Additionally, a substantial amount of cases reporting Domestic Violence were also documented, signaling the importance of education and venues to stop family violence.

HUMAN RIGHTS DOCUMENTATION CAMPAIGN 2004

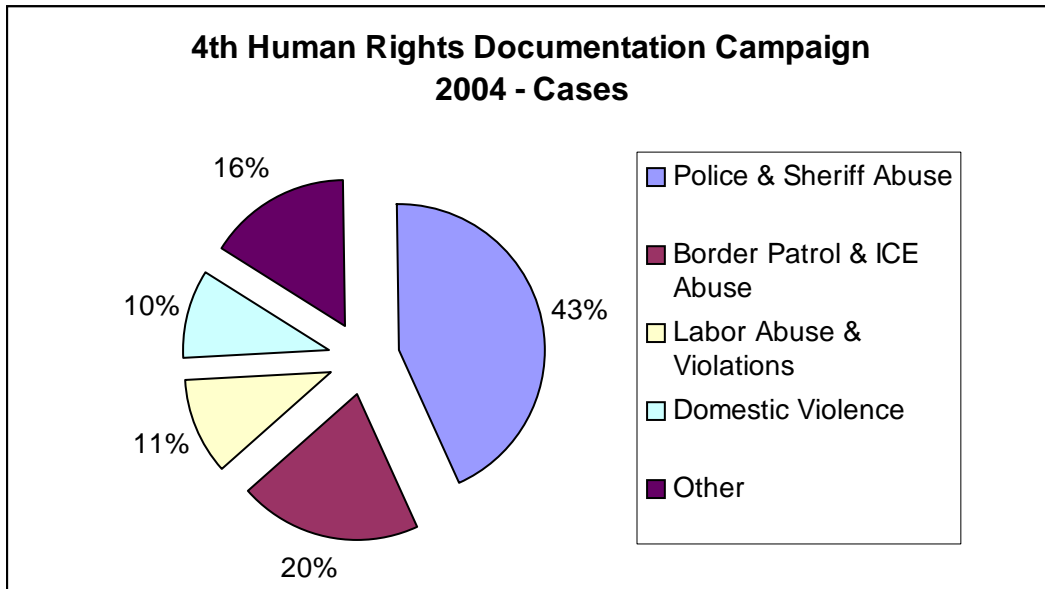
PRINCIPAL FINDINGS

The human rights documentation campaign conducted in the El Paso/Southern New Mexico region in 2004 collected around 100 cases of possible violation of human and constitutional rights of border residents.

Preliminary Statistics:

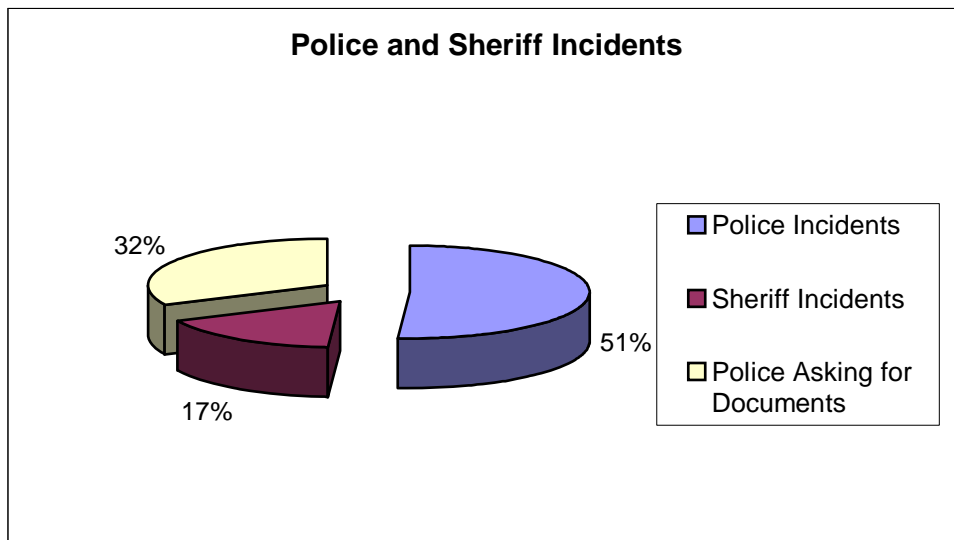
Total number of Incidents Processed and File (as of February 2005): 85

- 35 Incidents involving Police & Sheriff Abuse or 43% of total.
- 17 Incidents involving Border Patrol & ICE Agent Abuse or 20% of total.
- 10 Incidents involving Labor Abuse or 11% of total.
- 9 Incidents involving Domestic Violence or 10% of total.
- 14 Incidents in “other” categories or 16%



Police & Sheriff Abuse Initial Breakdown:

32% of the total incidents involving Police & the Sheriff consisted of local officials performing Federal Immigration Tasks.



Documented Cases:

El Paso Police Officers Asking for "Immigration Documents"

Location of the Incident: 7th Street and Oregon

The Victim, Mr. Jose Chavez (a lawful permanent resident) was out looking for work as he always does everyday; however this day he decided to eat his lunch in the corner of 7th & Oregon when he was approached by Two Police officers on bicycles and they told him that he can't eat his lunch in the street like that and to show him his "Immigration Documents". Jose did not want to show and the officers thinking that he did not know English called him a "wetback" and then the officer called the US Border Patrol to take him away. Mr. Jose then passed himself as undocumented just so that he could go for the ride and see what occurs, there he realized that there was a lot of Discrimination and Racial Profiling and simply because we aren't Anglo they think we are here illegally.

Location of the Incident: Mrs. Gonzalez's home (Segundo Barrio)

Mrs. Gonzales stated that her, sister's husband and kids were deported. The family was at home watching TV and the kids were playing; however, one of the kids called 911 on the phone by mistake. A Police officer showed up to the house to see if anything happened. The officer upon finding that nothing serious had happened then asked the family for their "Immigration Documents"; however, the Family did not have any. So the Police Officer left the home and waited outside the house until the Border Patrol showed up and took the family away.

Location of the Incident: North Loop

Date and Time of the Incident: January 2005

Mr. G's son was driving on North Loop Street with a friend when he noticed a Police Car was following him. The Police Officer then stopped Mr. G's son and quickly asked for identification; however, the son only showed him his Mexican Drivers License and then he asked the officer why he was being stopped. The officer did not respond and simply told the Victims he had just called the Border Patrol and that they were going to be deported back, also that a Towing Truck was on its way to pick-up their vehicle. The officer also stated that the Victim should sell his vehicle because through the license plates he could be stopped again.

Location of the Incident: Intersection of Tigua & Arizona

Date and Time of the Incident: January 15, 2005 8 pm

The Victim had just dropped off a lady whom she just gave a ride to, when she noticed a Police Car following her. Mrs. Rojas was nervous and did not make a complete stop in an intersection and was then stopped by the Police Officer. The Police Officer than proceeded to ask for her "Immigration Documents." The officer, upon, finding out that she did not have any type of papers, told her that he was going to call the Border Patrol. Mrs. Rojas begged him not to and that she would pay for the infraction and that she needed to get back to work; however, she was still deported. (Mrs. Rojas is married to a US Citizen)

Location of the Incident: Alameda Street

Date and Time of the Incident: July 04th afternoon 2004

The City Police stopped the Victim while driving on Alameda street for some expired stickers, they asked her for her ID, but she did not have it and then the Police Officer then called the Border Patrol and they then took the Victim away and deported her and her 13 year old son.

Location of the Incident: ELPD Station

Date/Time of Incident: December 27th 2004

The Victim went to a Police Department in El Paso, TX to file a report & robbery of her purse, with her ID's and personal information. The Police officer then stated that he needed her ID in order to make the report; however, she again reminded him that it was in the purse that was robbed. The officer then asked her for her "immigration papers" and she stated that she did not have any. He then told her that she could not make the report because she was here "undocumented" and that she had to leave or else he would call and have her deported. That those were her 2 choices: stay and make the report but be deported or leave and not make any reports at all.

Local Police/Sheriff/Border Patrol Collaborating in Immigration Enforcement Operations

Location of the Incident: La Feria Market Anthony, Texas

Date/Time of Incident: January 19th 2005

Victim had gone grocery shopping in "La Feria" in Anthony NM and as he was returning to his vehicle he noticed that the store was being surrounded by Police Agents. The Victim thought nothing much of it except that perhaps there had being a robbery, but as he neared his car he was approached by three Agents whom precede to ask him where he was from. The Victim responded that he was from here & the USA; however, the agents proceeded to ask for proof. The Victim had just left his home so he did not bring anything with him. The victim the asked the agents to identify themselves, and very reluctant they identified themselves as US Border Patrol Agents. The victim then told these Agents to simply check his Social Security number in the system to prove himself, but they replied that they did not have the time to do that. The Victim then told the Agents that he then had nothing to discuss with them and that he was going to leave. However, one of the Sheriff held his arm & told him that he they were not done with him. The victim then told the Sheriff to have a little respect and that was not his problem, he had done nothing wrong. The Sheriff then let him go and in a very rude manner told him to leave and not to return again. The victim then told them those agents that this was a free democratic country and not communist, as well as that it was very sad to see "Latinos" abusing their own people. The Agents again told the Victim to leave and not return, and, as he was leaving they blocked the exit for a couple of hours. The victim also noted that through those tactics they took around 40 or 50 people away, took them all away in a very rude and violent manner on unmarked white vans.

Other Police and Sheriff Incidents

Location of the Incident: Carol T Welsh School (Sparks)

Date and Time of the Incidents: August 2004

Type of the Possible Abuse: Inappropriate Use of Fire Arms

The Victim Luis was working at Carol T Welsh School when he decided to take his lunch break, so he and a friend sat down on a bench out side to eat there lunch when the victim notice noticed a couple of police cars driving around the school and one stopped in front of the school. So Mr. Dominguez then peeked over the rock wall to try and see what was going on, and a police officer got of the his vehicle with his gun on hand. The police officer saw Luis and pointed the gun at him while telling him to put his hand up and walk towards the officer. Luis told the officer he was a worker at the school and the officer lowered his gun and apologized. The officer said that they had received a call that someone was in the roof of the school possibly trying to burglarize it. When in reality it was just some kids who lost their ball and were looking for it on top of the roof of the school. Luis felt that the officer was very negligent in pointing the gun at him and should have been more careful, because his life could have been in danger.

Other ICE or Border Patrol Incidents

Location of the Incident: Transmountain Road

Type of Possible Abuse: Wrongful Search

The Victims (2 adults & a girl) where driving down Transmountain Road and where being followed by a US Border Patrol Vehicle. After 10 miles or so they where stopped. They were told to stay in the car and the agents proceeded to search and throw items out of the vehicle. Afterwards they asked the Victims for their paperwork. The Agents then asked Liza (Victim 1) if her daughter was a US Citizen and Liza proceeded to show the agents the proof she was a Citizen; however, the agents merely ripped those papers and stated to Liza that her daughter could stay or she could accompany her Mother back to Mexico. Liza chose to bring her daughter back with her and she was told to chose between staying in detention or choosing Voluntary Deportation, Liza Chose Voluntary Deportation. One of the ladies was taken to the Detention Center in Fabens and was later released to Cd. Juarez after approximately three hours.

Location of the Incident: Anthony NM (Southern NM)

Date and Time of the Incident: January 15, 2005

Type of Possible Abuse: Entry with No Warrant

Petra called the BNHR Office around 11:30 am on January 15, 2005 and stated that an Immigration Agent was at her home in an unmarked car and plain civilian clothes and in a very authoritative manner he was asking families for "Immigration Documents." The agent drove his White Ford Expedition inside the yard and took some of the family members away. He entered the house without a search warrant and asked people for their papers. Petra stated that this individual has followed their family around before and does not leave them alone.

Location of the Incident: I-10 and Horizon Exit

Type of Possible Abuse: Racial Profiling

Mr. Soto had just picked up to co-workers at the Petro Gas Station/Truck stop, and was taking them back to the office when an unmarked police vehicle pulled them over. Mr. Soto believed he was being stopped for speeding; however, the plain-clothes officer identified himself as a Federal Agent and that he wanted to know who were the people he just picked up. While Mr. Soto was being questioned outside the vehicle, his two other co-workers were being questioned inside the vehicle. After about 30 minutes of questioning and identification check-up, they were finally let go. They felt they were stopped merely because of their appearance and mannerism.

Incidents Occurred at International Bridges and Port of Entry

Location of the incident: Santa Fe Bridge

Date/Time of Incident: November 2001

Type of Possible Abuse: Wrongful Detention/Inappropriate Cavity Search

The Victim was coming back from Cd. Juarez with her two sons in their car and was then being at the bridge, the agent then asked her to get out and come to an office inside & her sons were taken to another office. Inside the agents then ordered her to take her clothing off for inspection, the victim asked "why" but the agents did not pay her any attention. She told the Agents that she was nervous and did not want to do it, but after orders from the Agents, she unwillingly undressed and was searched and was given a body cavity search as well. However, the Agents found nothing and told her that she fit the profile of a Drug runner who hides drugs under clothing and in her body. Afterwards the Agents told her that she could leave, and she did leave humiliated and crying. Upon returning home, she told her husband but he merely told her that it was her fault for going to Juarez in the first place. Ever since that incident she has been emotionally and physically very bad. Due to her traumatic experience, she now refuses to go to Juarez again for fear of the incident happening again.

Location of the incident: Santa Fe Bridge/Detention Center

Type of Possible Abuse: Wrongful Detention

Edilberto and a friend were together picking some items up at a house and loading them to a truck; when some Agents in a white unmarked Ford Expedition arrived and made themselves in to the backyard to them and asked them for their "immigration documents." Edilberto showed them his Social Security Card and they stated that was not valid and they then detained them and took them for detention to the bridge in Santa Teresa. Edilberto then asked to make a phone call, where they asked him if he wanted to go to the Detention Center, and signed his voluntary deportation because he was afraid to go to the Detention Center. However, while in the offices he again showed his Social Security Cards copy of his acceptance letter and the INS Agents simply rejected those papers. There was some discrepancy or question as to be able to deport Edilberto, because two agents stated that he could not be deported and two others stated that he could be deported. Edilbertos's friend called a family member, the family member stated that they have been told that the Victims were still in Santa Teresa and the family went but was unable to find them. The family then asked to speak with the Chief and they then showed the Chief the proof and the agent then stated that he could not be deported.

Labor Abuses & Violations

Description of Incident:

3 consistent called in reference to Vista Hills Nursing Home employees complaining about their employer. The employees state that the new Administration verbally abuses their employees with insults. That the Nursing home brings in new patients all the time without increasing the workforce, so they employees face an increase in hours with not enough pay, and they state the ones who suffer are the patients and their lack of attention.

Description of Incident:

Mr. Jaime and Mr. Encarnacion both complain against the "Greenbay Corporation" and state that the management has become very abusing and controlling. Both men were fired from the

Company after more than five years without cause and reason. They also stated that there are various employees that also complain about the Company but stay quiet for fear of termination from their jobs.

Description of Incident:

The Victim states that he works in the Fields as a "Farm-Workers" and that when he is working in the Fields they should normally pay him \$.60 a bucket, but instead pay him \$.45 a bucket. The Victim also states that they pay him is cash as to not report to the IRS, that the Farmworkers do not have access to any bathrooms, and that they constantly harass and ridicule the workers with insults

Domestic Violence

Description of Incident:

The Victim, a young 19-year-old woman constantly argues with her husband, and has suffered various physical confrontations and abuse from him. However, every time she tries to get something done the officer simply tells them that they should take care of things themselves or else go to jail.

Description of Incident:

The Victim, Carolina called the Police Department because of arguments between the husband & wife, and two officers arrived at their house. She tried to explain the situation of his abusive behavior and then the officers got his testimony as well; however, Carolina feels that the officers did not pay any real attention to her because they started to laugh and joke with her husband. The victim feels that, even though her husband was drinking and was abusing her, the officers did not really give her the attention she needed

ANALISYS OF FINDINGS

1. The cases collected during the 2004 Human Rights Documentation Campaign showed a disturbing pattern of local police officers and county sheriffs acting as immigration agents. In 12 cases (32% of all police and sheriff complains) border residents were detained by police officers or sheriffs and then asked to show immigration documentation. This supposed to be the work of federal immigration agents, not of local police officers. But beyond the legality of such practices, these are leading to greater problem of public safety and security. Border residents now could be fearful of contacting the police department or the sheriff office to report crimes or emergency situations since now the know that police agents could ask them for their legal status.
2. It is also important to say that in this year (2004) the amount incidents reported where the Border Patrol and other immigration agencies were involved substantially decreased in comparison to the last four years. Such incidents represented only a 20% of the total of cases reported, while the cases involving police and sheriff represented a strong 43% of the total.
3. In both the El Paso and Southern New Mexico there is strong evidence that racial profiling is used as the initial motivation for law enforcement officers to approach individuals living in border communities. While driving, shopping, or walking on the

street, Latinos were stopped for questionable reasons and asked to show their immigration papers.

4. Human rights abuses along the El Paso/Southern New Mexico border region are not simply legal problems that can be resolved through litigation; rather abuses are social problems that create a climate of fear and intimidation in the daily life of border residents. In addition, some of the actions of law enforcement agents place the health and safety of border residents at risk.
5. In the case of killing of the young Mexican immigrant Juan Patricio Peraza the local community still claims for justice.

RECOMMENDATIONS

On Abuse of Authority

Local

- I. The City Council of El Paso and the authorities of El Paso County need to clarify the role and jurisdiction of its local police and sheriff as to immigration enforcement
- II. We respectfully ask the City Council and the Mayor Office to consider the creation of a Human Rights and Civilian Oversight Commission to observe local and federal agencies as to their actions
- III. We recommend Federal and Local agencies to train and certify their agents on Constitutional and Human Rights.

State

- I. There is a need of Public Hearings in the Texas and New Mexico Legislature regarding the current border enforcement and their impacts on Human and Civil Rights.
- II. The Texas Legislature needs to consider making driver license accessible for everyone that drive in Texas road. This is a public safety issue.

National

- I. The US Congress have to respond to President's Bush call by discussing and approving an Immigration Reform that guarantees community security and permanent residency to hard working immigrant families, including a human an constitutional border enforcement.
- II. The US Congress needs to create a Human Rights Commission to oversee and ensure the respect of the Constitution and Human Rights from the Federal Agencies and to facilitate the process of complaint
- III. It is of outmost urgency to start a process of de-linking immigration policies from those focus on terrorism and crime.

On Domestic Violence

Local

- I. More collaboration among Police and Domestic Violence agencies when called to a D.V. home in order for the agencies to provide at the moment services to the victim and show sensibility to the victim
- II. Train the police agents on issues such as: VAWA, U-VISA and Victim Compensation.
- III. Clarification on the Police role as to the collaboration with Immigration in Domestic Violence cases

On Labor Abuse

Local

- I. To support the creation of an Orientation Center that will provide labor rights information and education as well as skills development in English and other requirements that would eliminate barriers to employment.
- II. To promote bilingual Labor rights information and education by the media and educational institutions.

State and Federal

- I. Ask the state and Federal agencies responsible for labor rights enforcement to reach out to the Spanish speaking