

Border Patrol Agents as Interpreters Along the Northern Border

UNWISE POLICY, ILLEGAL PRACTICE

by LISA GRAYBILL

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ABOUT THE AUTHOR

Lisa Graybill served as the Legal Director of the American Civil Liberties Union (ACLU) of Texas from 2005-2012. Cases which Lisa litigated at the ACLU include ongoing litigation on behalf of immigrant women who were sexually assaulted at an immigration detention center; challenges to successive anti-immigrant housing ordinances in Farmers Branch, Texas; a successful challenge to a South Texas county's practice of jailing indigent teens for failure to attend school without offering an indigency determination; and litigation challenging the federal government's practice of detaining immigrant children and their families in substandard conditions. Before joining the ACLU of Texas, Lisa was a Trial Attorney in the Attorney General's Honors Program at the Special Litigation Section of the U. S. Department of Justice Civil Rights Division, where she worked on police misconduct and prison and jail conditions. Lisa is a native Texan; she graduated from Smith College with highest honors in 1991 and received her law degree from the University of Texas with honors in 1999.

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EXECUTIVE SUMMARY

Advocates along the Northern Border report a recent, sharp increase in the use of U.S. Border Patrol (USBP) agents to provide interpretation services to state and local law enforcement officers and emergency responders. This most often occurs when an officer or responder encounters an individual who does not speak English and proactively reaches out to USBP for assistance. But it has also occurred when USBP agents respond to an incident report in lieu of, or in addition to, local law enforcement officers. In other cases, USBP agents have reportedly begun responding to 911 emergency assistance calls, especially if the caller is known or perceived not to speak English. For example:

- Advocates in the **Buffalo Sector** report that USBP agents are routinely doing “ride-alongs,” though USBP has denied this. In Sodus, New York in October 2011, a farm worker named Fernando was driving near the trailer park where he and a number of other farm workers live when he was pulled over by a New York State Trooper. A State Trooper and a Border Patrol agent both emerged from the trooper’s vehicle and approached the driver’s side of Fernando’s car. Because Fernando was already in immigration proceedings, he was not detained, but his car was impounded. Fernando’s neighbors in the trailer park report that they consider USBP and local law enforcement to be essentially interchangeable.
- In neighboring Vermont in 2012, in the **Swanton Sector**, after a traffic stop led to the deportation of an undocumented immigrant, the local chief of police explained to Brendan O’Neill of Migrant Justice, “Look, we’re really small and to tell you the truth 80% of the time CBP [U.S. Customs and Border Protection, the parent agency of USBP] beats us to traffic stops because they are monitoring the radio.”
- In **Huron, Michigan**—part of the **Detroit Sector**—six men were taken into custody after allegedly calling 911 for an ambulance during a dispute with a construction supervisor. CBP spokesperson Kris Krogan said USBP agents got involved “for translation purposes” because there were unspecified language complications with the original 911 call. According to the *Huffington Post*, all six of the men were subsequently processed for removal.

Much of this activity appears to have been precipitated by the fact that the U.S.-Canada border has undergone a dramatic transformation, including an influx of newly assigned USBP agents. Immigrants, their advocates, and community members are reporting—and official statistics confirm—that there are simply too many USBP agents on the ground, apparently with too much time on their hands, who lack adherence to stated priorities. U.S. government funding for border enforcement generally, and enforcement along the Northern Border specifically, has grown exponentially since September 11, 2001. In Fiscal Year (FY) 1999, funding for the USBP was \$232 million; by FY 2002 it had risen to \$1.3 billion, and by FY 2010, total funding allocated to USBP was \$3.8 billion. Part of the dramatic rise in funding went to increase the number of USBP agents, which has more than doubled in the last decade— from 10,045 agents in 2002, to 21,144 agents as of September 30, 2011. The majority of these agents continue to be concentrated along the more heavily trafficked U.S.-Mexico border. However, between FY 2001 and FY 2011, the number of USBP agents assigned to the Northern Border increased by a remarkable 558%.

Given the rise of disturbing incidents, it is hardly surprising that community groups have begun to challenge the Border Patrol's practices, asserting that this practice violates federal laws, including Title VI of the Civil Rights Act of 1964, by failing to ensure that all persons have "meaningful access" to government services regardless of limited English skills.

On May 31, 2012, the Department of Agriculture's Office of the Assistant Secretary for Civil Rights (OASCR) found that the U.S. Forest Service had discriminated against Latinos in Washington State through its routine use of Border Patrol agents to provide interpretation assistance and law enforcement support. The OASCR decision concluded that the U.S. Forest Service's use of USBP agents to provide interpretation and backup assistance was "discriminatory on its face, and not solely in the circumstances of this case." OASCR explained that the use of Border Patrol agents for interpretation does not provide "meaningful access" because the increased threat of enforcement action for Latinos, whether lawfully present or not, discourages them from using the services of the Forest Service and may cause harm or humiliation. In addition, interpretation services provided by the Border Patrol do not satisfy applicable ethical standards because they are neither impartial nor confidential, and do not advise individuals of potential conflicts of interest and risks.

Involving USBP in local law enforcement matters breeds distrust between communities and the officers whose job is to serve and protect them. Using USBP agents to provide interpretation assistance during local law enforcement activities is functionally equivalent to having local law enforcement officers inquire about immigration status and has the same negative effect on community policing. When local law enforcement officers request interpretation assistance from USBP agents, they are inviting federal immigration enforcement officers into a domestic law enforcement situation where the federal officers would otherwise have no role. The foreseeable consequence of involving USBP agents is that, in addition to providing interpretation assistance, they will engage in immigration enforcement.

Once communities become aware that when a Spanish speaker calls the police, he or she is likely to encounter USBP as well, community members will avoid calling the police. This is true both for undocumented immigrants and for citizens who, because they live in a mixed-status household or because they have previously experienced harassment based on perceived immigration status, race, or nationality, wish to avoid interacting with USBP. The erosion of trust between community members and local law enforcement officers has negative implications for public health and safety: it makes it harder for officers to investigate crimes, reduces the likelihood individuals in dangerous situations will seek police assistance, and increases the likelihood that crimes, including violent crimes, will go unreported or unsolved.

RECOMMENDATIONS

The following recommendations are intended to promote Title VI compliance, maintain the integrity of the USBP mission on the Northern Border, and protect the rights of immigrants and their families who call the Northern Border home:

DHS

- ▶ Review USBP resource allocation and workload on the Northern Border to ensure USBP agents are focused on mission-appropriate tasks.
- ▶ Issue a directive prohibiting USBP agents from providing interpretation or other assistance to federal, state, or local law enforcement entities except in emergency situations involving public health or public safety, e.g. hurricane evacuation; under no circumstances should information obtained during such interactions be used for purposes of immigration enforcement.
- ▶ Move to terminate removal proceedings for all individuals identified by USBP agents while they were providing interpretation assistance to other law enforcement agencies or after they were called to the scene for the purpose of interpretation assistance.
- ▶ Require USBP agents to track information about stops, including the basis for USBP involvement, the reason for the stop, the observed race of the person(s) detained, and the outcome of the stop, and conduct monthly audits to ensure that such information is accurate and complete.
- ▶ Ensure that all USBP agents complete comprehensive training on applicable civil rights laws, both at the academy and through periodic in-service training.
- ▶ Direct the Office of Civil Rights and Civil Liberties to monitor and report on CBP's implementation of its Component Language Access Plan.

DOJ

- ▶ Issue additional guidance to law enforcement entities and other recipients of DOJ funding clarifying that use of USBP agents to provide interpretation services violates Title VI;
- ▶ Investigate local law enforcement agencies that have a pattern or practice of discrimination based on national origin and/or limited English proficiency (LEP);
- ▶ Aggressively work to pull federal funding from recipients who refuse to comply voluntarily with Title VI;
- ▶ Admonish other federal agencies that use of federal agents for interpretation violates Title VI when access to such services is tied directly to immigration enforcement.

LOCAL LAW ENFORCEMENT AGENCIES

- ▶ Review federal agency guidance for Title VI LEP compliance for federal funding recipients.
- ▶ Develop internal Language Access Plans to ensure LEP individuals have “meaningful access” to local law enforcement services and 911 services without relying on CBP.
 - Use bilingual agency employees or telephonic/radio interpretation lines to communicate with LEP individuals
 - Issue agency-wide directive prohibiting officers from requesting translation assistance from USBP agents absent emergency circumstances and agreement by USBP not to use any information obtained for immigration enforcement purposes.
- ▶ Strengthen relationships with immigrant communities through community-oriented policing mechanisms.
- ▶ Require officers to track information about stops, including the observed race of the person(s) detained, the reason for the stop, the outcome of the stop, whether backup assistance was requested, and if so, what type and from whom.
- ▶ Ensure that all officers complete comprehensive training on applicable civil rights laws.

FOR 911 OPERATORS AND EMERGENCY RESPONDERS

- ▶ Hire bilingual operators and/or utilize telephonic/radio interpretation lines.
- ▶ Request interpretation assistance from USBP only in exceptional emergency situations, as a last resort, and on the condition that they agree not to use any information obtained for immigration enforcement purposes.
- ▶ In areas where CBP has been involved in 911 calls or emergency response, implement a community outreach and education plan to restore trust and reassure people that they can seek help in an emergency.

IMMIGRANT ADVOCATES

- ▶ Document potential violations of Title VI, including name of USBP and/or local law enforcement officer; agency; date; time; location; and details of incident. Be as specific and detailed as possible.
- ▶ Report potential violations to: the offending local law enforcement agency; the Department of Homeland Security’s Office of Civil Rights and Civil Liberties; the Department of Justice Civil Rights Division Federal Compliance and Coordination Section; the American Immigration Council; your local immigrants’ rights organization.

INTRODUCTION

Advocates along the Northern Border report a recent, sharp increase in the use of U.S. Border Patrol (USBP) agents to provide interpretation services to state and local law enforcement officers and emergency responders. This most often occurs when an officer or responder encounters an individual who does not speak English¹ and proactively reaches out to USBP for assistance. But it has also occurred when USBP agents respond to an incident report in lieu of, or in addition to, local law enforcement officers. In other cases, USBP agents have reportedly begun responding to 911 emergency assistance calls, especially if the caller is known or perceived not to speak English.

Given the strategic priority of the Border Patrol—preventing the entrance of terrorists into the United States—the growing use of USBP agents assigned to the Northern Border as interpreters raises serious questions. In fact, evidence suggests that USBP agents are exceeding their mandate and their authority, and possibly violating federal law, by increasingly engaging with local law enforcement officials under the guise of providing interpretation assistance, offering back up assistance, and responding to 911 calls—and capitalizing on these opportunities to question people about their immigration status. For example:

- Advocates in the **Buffalo Sector** report that USBP agents are routinely doing “ride-alongs,” though USBP has denied this. In Sodus, New York in October 2011, a farm worker named Fernando² was driving near the trailer park where he and a number of other farm workers live when he was pulled over by a New York State Trooper. A State Trooper and a Border Patrol agent both emerged from the trooper’s vehicle and approached the driver’s side of Fernando’s car. Because Fernando was already in immigration proceedings, he was not detained, but his car was impounded.³ Fernando’s neighbors in the trailer park report that they consider USBP and local law enforcement to be essentially interchangeable.
- In neighboring Vermont in 2012, in the **Swanton Sector**, after a traffic stop led to the deportation of an undocumented immigrant, the local chief of police explained to Brendan O’Neill of Migrant Justice, “Look, we’re really small and to tell you the truth 80% of the time CBP [U.S. Customs and Border Protection, the parent agency of USBP] beats us to traffic stops because they are monitoring the radio.”⁴
- In **Huron, Michigan**—part of the **Detroit Sector**—six men were taken into custody after allegedly calling 911 for an ambulance during a dispute with a construction supervisor. CBP spokesperson Kris Krogan said USBP agents got involved “for translation purposes” because there were unspecified language complications with the original 911 call.⁵ According to the *Huffington Post*, all six of the men were subsequently processed for removal.⁶

Much of this activity appears to have been precipitated by the fact that the U.S.-Canada border has undergone a dramatic transformation, including an influx of newly assigned USBP agents. Immigrants, their advocates, and community members are reporting—and official statistics confirm—that there are simply too many USBP agents on the ground, apparently with too much time on their hands, who lack adherence to stated priorities.

While the idea of a municipal police officer calling in a Spanish-speaking federal USBP agent to help him out by interpreting during a traffic stop may sound like a collaborative enterprise at best—and a harmless request for a favor from one officer to another at worst—in truth it represents a policy failure on multiple levels. USBP officers are taking advantage of their relationships with local law enforcement agencies or are exceeding their mandate in order to create additional opportunities to enforce immigration laws, irrespective of any law enforcement priorities or the impact on relationships between immigrant communities and local law enforcement. The bottom line is that when USBP provides interpretation assistance, it has negative consequences for the agencies involved, for affected communities, and for public health and safety.

This report examines recent changes in immigration enforcement along the U.S.-Canada border and the impact the increase in USBP agents has had. Next, it compares and contrasts the missions and responsibilities of USBP and local law enforcement agencies and describes the problems caused when these missions and responsibilities are intertwined. Then, the report provides an overview of federal law and federal agencies' responsibility to provide limited English proficient (LEP) individuals with meaningful access to programs and services, and explains how using USBP agents as interpreters violates the letter and the spirit of the law. This report proceeds to describe how the USBP and local law enforcement agencies are collaborating along the Northern Border and the impact it has had on communities. Finally, the report offers recommendations for the federal government, local law enforcement agencies, emergency responders, and immigrant advocates.

UNDERSTANDING THE NORTHERN BORDER REGION

The northern border of the continental United States (“Northern Border”), which separates the U.S. from Canada, spans some 4,000 miles and 12 states.⁷ It is more than twice as long as its southern counterpart separating the U.S. from Mexico, which covers 1,954 miles and four states.⁸ Yet the Northern Border tends to receive far less attention from the media, politicians, and advocates than its southern counterpart.

The Northern Border was once considered the “longest open border in the world.”⁹ Particularly in comparison to the Southern Border, the Northern Border historically has been lightly patrolled, easily penetrable, and low security.¹⁰ This is due at least in part to the fact that it is much less heavily trafficked.¹¹ Additionally, the Northern Border states are less populous than the Southern Border states, and the population on both sides of the Northern Border has traditionally been more homogenous.

In the last decade, however, security and staffing along the Northern Border have increased exponentially. With those increases have come some of the problems long associated with the Southern Border: agent saturation; mission creep and turf battles between different agencies; overly aggressive enforcement; and—the most dangerous, from a public safety perspective—distrust between law enforcement and the community members they are supposed to serve and protect.

Those communities have historically included migrant agricultural workers, who regularly make the journey up to the Northern Border region to pick crops ranging from apples in Washington State, to potatoes in Idaho, to cherries in Michigan, to more apples in New York State and Vermont and blueberries in Maine. Migrants also work in the poultry and beef slaughterhouses that dot the

Midwestern states and at dairy farms across the Northern Border region. The majority of migrant agricultural workers in the U.S. are originally from Latin America, and many are lawfully present in the United States. Nonetheless, their darker skin and communication in Spanish or accented English may set them apart from other Northern Border state residents and make them vulnerable to discrimination, including discrimination by law enforcement.

The U.S. Border Patrol's Mandate and Structure on the Northern Border

The U.S. Border Patrol is a sub-agency within CBP. According to the Department of Homeland Security's website, the "Border Patrol is the mobile uniformed law enforcement arm of the Department of Homeland Security (DHS)."¹² Furthermore, the "priority mission of the Border Patrol is preventing terrorists and terrorists' weapons, including weapons of mass destruction, from entering the United States, as well as enforcing federal immigration law. While the Border Patrol's emphasis on terrorism has changed dramatically since its inception over 86 years ago, its primary mission remains unchanged: to detect and prevent the illegal entry of aliens into the United States."¹³ Along the U.S.–Canada border, the U.S. Border Patrol is divided into seven sectors. From west to east, including the continental border states they cover, the Northern Border Sectors are: the Blaine Sector (Western WA); the Spokane sector (Eastern WA; ID, Western MT); the Havre Sector (Eastern MT); the Grand Forks Sector (ND, MN); Detroit (IL, IN, MI, OH); Buffalo (NY); Swanton (NH, VT) ; and Houlton (ME) {See Figure 1.}

Figure 1: Office of Border Patrol Sectors



Source: U.S. Customs and Border Protection, "Office Of Border Patrol - Sectors"
http://www.cbp.gov/linkhandler/cgov/careers/customs_careers/border_careers/bp_agent/sectors_map.ctt/Sectors_Map.pdf

In June 2012, DHS issued the Northern Border Strategy (NBS), the “first unified strategy” for USBP activity along the Northern Border. The goals of the NBS are the following:

1. Deter and prevent terrorism and other illegal activity;
2. Safeguard and facilitate the secure flow of lawful trade and travel;
3. Ensure community resilience to natural and man-made disasters.¹⁴

USBP itself recently issued a 2012-2016 Strategic Plan, which emphasizes its mandate to prevent terrorists and terrorist weapons from entering the United States, and identifies “risk management” and the disruption of transnational criminal organizations as other goals.¹⁵

While both DHS’s Northern Border Strategy and USBP’s Strategic Plan emphasize cooperation with state and local law enforcement officials as important for achieving mutual law enforcement objectives, notably absent from either plan is any mention of a role for USBP agents in providing interpretation assistance to local law enforcement officials. Providing interpretation assistance is not an explicit part of USBP agents’ mission or mandate.

Post-9/11 USBP Expansion on the Northern Border

U.S. government funding for border enforcement generally, and enforcement along the Northern Border specifically, has grown exponentially since September 11, 2001. In Fiscal Year (FY) 1999, funding for the USBP was \$232 million; by FY 2002 it had risen to \$1.3 billion, and by FY 2010, total funding allocated to USBP was \$3.8 billion {See Figure 2}.¹⁶

Between FY 2001 and FY 2011, the number of USBP agents assigned to the Northern Border increased by a remarkable 558%

Part of the dramatic rise in funding went to increase the number of USBP agents, which has more than doubled in the last decade—from 10,045 agents in 2002, to 21,144 agents as of September 30, 2011.¹⁷ The majority of these agents continue to be concentrated along the more heavily trafficked U.S–Mexico border.¹⁸ However, the U.S.A. PATRIOT Act specifically authorized tripling the number of agents stationed along the Northern Border, and USBP fulfilled this mandate, going from 340 agents in FY 2001 to 1,008 agents in FY 2005.¹⁹ Since 2005, that number has doubled again: as of FY 2011, there were 2,237 USBP agents stationed along the Northern Border. In sum, between FY 2001 and FY 2011, the number of USBP agents assigned to the Northern Border increased by a remarkable 558% {See Figure 3}.²⁰

During this period, apprehensions of undocumented immigrants on the Northern Border decreased, from just over 11,000 in FY 2001 to 6,806 in FY 2009 {see Figure 4}.²¹

While it is possible that the increase in USBP agents along the Northern Border discouraged some undocumented immigrants from entering the United States, many experts argue that the contemporaneous decline in the American economy may have played a more significant role.²² What is certain is that the Northern Border has been flooded with USBP agents in the last decade—and according to some sources, there is not enough work for them to do.

Figure 2:
U.S. Border Patrol Appropriations, FY 1989–FY 2012

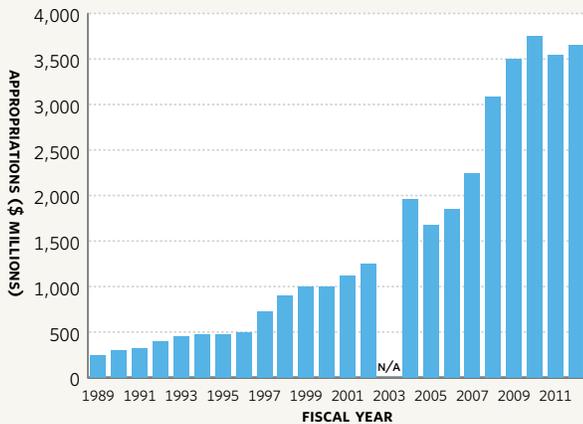


Figure 3: Border Patrol Agents at the Northern Border

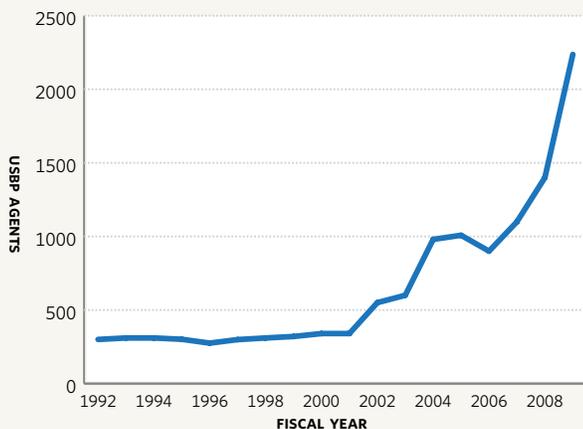


Figure 4: Northern Border Apprehensions

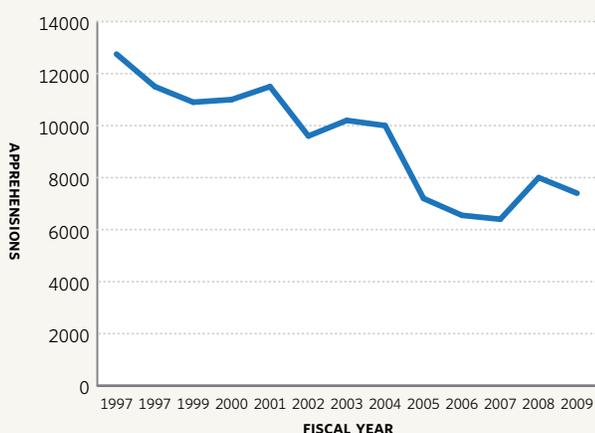


Figure Sources

Fig. 2: Marc R. Rosenblum, *Border Security: Immigration Enforcement Between Ports of Entry* (Washington, DC: Congressional Research Service, January 6, 2012), p. 13.

Fig. 3: Chad C. Haddal, *Border Security: The Role of the U.S. Border Patrol* (Washington, DC: Congressional Research Service, August 11, 2010), p. 22

Fig. 4: Chad C. Haddal, *Border Security*, p. 24.

Too Many Agents, Not Enough Work?

One of the sources claiming there is not enough work to justify the USBP staffing presence on the Northern Border is an unlikely one—USBP agent Christian Sanchez. Agent Sanchez joined the USBP in May 2003, and was stationed on the Southern Border until 2009. According to Agent Sanchez’s recent testimony before the Congressional Transparency Caucus, while deployed on the Southern Border he was “very busy, doing the real, important work” such as “Line Watch Operations, sign-cutting, common carrier inspections, traffic checkpoints, sensor response and All Terrain Vehicle (ATV) patrol.”²³ In 2009, Agent Sanchez requested a transfer because he and his family were priced out of the expensive San Diego housing market where he had been based. He was transferred to the Port Angeles station in the Blaine Sector, on the Northern Border.

In contrast to his experience on the Southern Border, Agent Sanchez reported that when he arrived at Port Angeles, the other agents told him there “was no work” to do in Port Angeles and he quickly discovered that to be true, testifying that since “there was rarely any casework to be done... I just roved from X to X, wasting gasoline.”²⁴ Sanchez also testified that during the first two years he was deployed at Port Angeles, the staff increased from four to 40 agents, even though there wasn’t enough enforcement work to keep them occupied. According to Sanchez, “During our work shifts, other agents and I always talked about how coming to work was like the ‘black hole,’ swallowing us up slowly, with no purpose, no mission.”²⁵

After he began to speak up about the waste and misuse of government resources he was observing, Agent Sanchez began to experience retaliation from his superiors and was stripped of his duties as a Chaplain.²⁶ In September, 2012, Sanchez successfully resolved a whistleblower complaint against the USBP.²⁷

“During our work shifts, other agents and I always talked about how coming to work was like the ‘black hole,’ swallowing us up slowly, with no purpose, no mission.”

Agent Sanchez is not the only one who has questioned the necessity of having so many USBP agents deployed to the Northern Border, or noted the dangerous consequences. In Jefferson County, Washington (**Blaine Sector**), Mike Brasfield, the recently retired county sheriff, has noted that USBP agents have been reaching further and further afield in their search for undocumented immigrants. Brasfield speculated that the agency “needs to be producing something” to “justify the money it’s been getting.”²⁸

Reporting on Sanchez’s claims, Nina Shapiro, a reporter for the *Seattle Weekly*, wrote that “this undoubtedly helps explain why Border Patrol cars are often spotted roving around Forks [Washington], home to a sizable Latino population, and why agents seem to be stopping people at random, without the ‘reasonable suspicion’ legally required. It’s one way of looking busy.”²⁹ Bob Wilson, who recently retired from USBP after 25 years of service and served his final six years as the supervisor of a USBP station in the Spokane Sector, noted that “too much of a good thing isn’t always good” in describing the glut of 30 agents now assigned to his former station. According to an article Wilson published in the *Examiner*, agents from Metaline Falls Station have apprehended a total of two undocumented immigrants entering at the Canadian border since the station was created, and agents are “bored.”³⁰ The American Civil Liberties Union of Vermont has accused USBP of “security theater” in creating checkpoints unlikely to deter terrorists but highly disruptive to travelers.³¹

The imbalance suggested by the high number of USBP agents and the decreasing number of apprehensions is not unique to the Northern Border. The same issues have been reported on the more heavily staffed and more heavily trafficked Southern Border. But the ratio of Northern Border agents to apprehensions in FY 2011—three apprehensions per agent, as compared to 18 apprehensions per agent on the Southern Border for the same time period—suggests the problem is more significant on the Northern Border.³²

State and Local Law Enforcement Responsibilities in the Northern Border States

Whereas Border Patrol is responsible for enforcing federal immigration law, state and local law enforcement entities have a very different mission—to protect the health, safety, and welfare of the residents of their particular jurisdictions, documented and undocumented alike. Most state police agencies, which are sometimes referred to as highway patrols, are primarily focused on state highway traffic enforcement. A sampling of the mission statements from several Northern Border states’ police agencies follows:

- The Montana Highway Patrol articulates its mission as “to safeguard the lives and property of the people using the highway traffic system of Montana through education, service, enforcement, and interagency cooperation.”³³
- Similarly, the Minnesota State Patrol “provides for safe and efficient movement of traffic on Minnesota’s roads and highways; assists motorists at crashes; partners with allied city and county agencies; and inspects school buses and commercial vehicles.”³⁴
- The Michigan State Police Department’s mission is to “Protect public safety while respecting the rights and dignity of all people.”³⁵

- According to the New York State Division of State Police’s website, the agency’s mandate is “To serve, protect and defend the people while preserving the rights and dignity of all.” Its five mission priorities are preventing crime; ensuring highway safety; rendering general assistance; promoting peace and order; and providing high quality support to “members” and others through community partnerships.³⁶

The delineation of duties between county sheriffs’ departments and municipal police agencies varies depending on state law and other factors. Generally, the county sheriff’s department is charged with operating the county jail, and may serve as or supplement the municipal police force in smaller, more rural counties. Municipal police departments investigate violations of state law and local ordinances, enforce traffic laws, and protect public safety. For example, the Buffalo, New York Police Department describes its mission as “to improve the quality of life in Buffalo,” which it accomplishes through maintaining the peace, providing safety and security for its citizens, and reducing the fear of crime and solving problems.³⁷

Neither state nor local law enforcement entities like police and sheriffs’ departments are charged with enforcing immigration law, and many oppose political efforts to persuade or legal efforts to require them to do so because of the negative impact it has on community policing. In 2006, Harold Hurtt, the President of the Major Cities Chiefs Association (MCCA), and then-Houston, Texas Police Department Chief, announced nine recommendations from the MCCA to the President and the U.S. Congress regarding immigration. As Hurtt’s letter accompanying the recommendations explained, the involvement of local police in enforcing federal immigration law “undermines the trust and cooperation with immigrant communities which are essential elements of community oriented policing.”³⁸

At least one Northern Border state has explicitly barred its state law enforcement agency from inquiring about immigration status,³⁹ and a number of Northern Border counties⁴⁰ and cities⁴¹ have adopted similar prohibitions. These prohibitions reflect the recognition that local law enforcement agencies that call upon USBP for interpretation services are perceived as working hand-in-hand on immigration enforcement, thereby undermining any trust that the local community may have had in the local police.

INTERPRETER SERVICES: LEVERAGING “COOPERATION” INTO DEPORTATIONS

Despite the implications for community-police relations, immigration attorneys and advocates across the Northern Border region report that USBP agents routinely show up at the scene of local law enforcement traffic stops or other activities, sometimes in response to requests for interpretation assistance and sometimes, apparently, on their own initiative. These incidents have occurred in various Northern Border states and different USBP sectors.

For example, on March 15, 2011 near **Duluth, Minnesota**, in the **Grand Forks Sector**, a house painter named J.C.⁴² was riding in a car driven by a U.S.-citizen co-worker. The men were on their way from Minneapolis to Duluth for a painting job when a Minnesota State Patrol officer stopped the car for an unknown alleged traffic violation. The State Patrol officer called the Duluth Border Patrol Station and requested assistance with a “language barrier” and “in identifying the subjects.”⁴³ USBP

agents took J.C. and all of the other passengers into custody. J.C. who fled his home country because he dated the daughter of a drug king-pin who was subsequently murdered, is currently seeking asylum in the United States.⁴⁴

A similar incident was reported in **Oakes, North Dakota**, also part of the **Grand Forks Sector**. According to an Associated Press report, on May 21, 2010, “the U.S. Border Patrol reported that it detained 32 male farm laborers in Oakes after the workers acknowledged they were in the country illegally. The men were detained on Wednesday, after Oakes police made a traffic stop on May 14 and asked the Border Patrol for help with Spanish translation.” Border Patrol agent Brent Everson reported that some of the men were Mexican nationals, and that some would remain in detention and others would be placed in removal proceedings.⁴⁵

In the next sector to the east, the **Detroit Sector**, on September 19, 2011, Jose Becerra-Cruz was traveling in a passenger van with eight or nine other individuals on Interstate 80 near **Oberlin, Ohio**. An Ohio State Highway Patrol (OSHP) trooper pulled the van over for an alleged traffic violation. The OSHP incident report states: “Vehicle stopped for traffic violation. During contact it was revealed that there were 20 occupants within that did not have valid licenses and were not legal residents. The vehicle was towed and Border Patrol contacted. US Border Patrol took custody of the occupants and responsibility for further investigation.”⁴⁶ The USBP report of the same incident makes clear that the OSHP trooper called USBP to provide “translation assistance.”⁴⁷ All the occupants of the van were taken into custody and processed for removal.

Also in the **Detroit Sector**, near **Livonia, Michigan**, Tiburcio Briceno was stopped by a Michigan State Police (MSP) officer on February 8, 2011, for allegedly running a red light as he drove through town. Mr. Briceno, who works as a delivery driver for an auto parts company, presented a valid chauffeur’s license. He is a U.S. citizen who was born in Mexico, and speaks some English but is not fluent. The officer detained Mr. Briceno, threatening to “kick [his] butt” if he was lying about his immigration status.⁴⁸ According to the incident report completed by the officer, he “contacted the Detroit Station of the U.S. Border Patrol due to the language barrier issue I was having with BRICENO.” The Border Patrol agent who responded confirmed that Mr. Briceno was in fact a U.S. citizen, and drove him to the towing company, where he had to pay \$105 to retrieve the company van he had been driving.

These issues are not limited to the central Northern Border USBP Sectors. Indeed, USBP involvement in local law enforcement activities has been particularly well documented in the **Blaine and Spokane USBP sectors** on the West Coast. For example, according to a recent complaint filed by the Northwest Immigrant Rights Project (NWIRP), USBP agents regularly respond to requests for interpretation assistance by Washington state and local law enforcement agencies, then use the opportunity to engage in immigration enforcement. One example detailed in NWIRP’s complaint involves an incident in February, 2012 in which a woman was riding in a vehicle that was pulled over for speeding by the Washington State Patrol (WSP). The woman, identified as “A.B.” in the complaint, is the mother of two young U.S.-citizen children and was fourteen weeks pregnant. After USBP agents were called to the scene for assistance with interpretation, A.B. was ultimately detained and placed in removal proceedings. The incident was taped by a WSP dashboard camera⁴⁹ which captures the following exchange as the Border Patrol agents were preparing to depart and a WSP trooper thanked the Border Patrol agents for coming out:

USBP Agent: “No problem, give us a call anytime.”

WSP trooper: “Oh yeah, we’ll, we like to, we just have to do it in a roundabout sort of way.”⁵⁰

In a report entitled *The Growing Human Rights Crisis Along Washington’s Northern Border*, the advocacy group OneAmerica described the collaboration between USBP agents and local law enforcement as a “dangerous fusion.” The report details the results of 109 interviews conducted in three Washington counties over several months. Over twenty cases of immigrants being detained and deported as a result of USBP agents arriving at the scene of a traffic stop to provide interpretation were reported.⁵¹ For example, one incident described in the report arose when Sira, her husband, and their younger son were pulled over on the way to a grocery store for a noisy muffler. After the Sheriff instructed them to have the owner of the car come pick it up, after which they would be free to go, they called their eldest son to pick them up. A few minutes later, USBP agents arrived to interpret, and Sira began to have a panic attack. While paramedics were caring for her in a nearby ambulance, USBP agents arrested her husband and her elder son, who have since been deported.⁵²

Documents produced by DHS’s Office of Civil Rights and Civil Liberties (CRCL) in response to a Freedom of Information Act request filed by the American Immigration Council’s Legal Action Center on behalf of an alliance of immigration advocacy groups along the Northern Border, reveal that the agency has been aware of USBP’s involvement in interpretation for local law enforcement agencies since at least June 2011. These documents include a detailed summary of incidents in Washington State (Blaine sector), Montana (Havre Sector), California (El Centro Sector), and Louisiana (New Orleans sector), all of which were taken from public accounts.⁵³ CRCL notes in draft correspondence that these incidents generally are routine matters for local law enforcement that involve no federal interest. The draft correspondence indicates further that during such encounters, “Border Patrol officers may develop cause to believe a subject is without lawful immigration status and may initiate an immigration investigation, either as a result of the interpretation or *because the CBP officers themselves ask the individuals being detained by the LEA (or victims or witnessed being interviewed) questions about their birthplace or immigration status....*” (Emphasis added.)⁵⁴

Taken together, these reports are deeply troubling because they suggest USBP regularly provides, or purports to provide, interpretation assistance leading to immigration enforcement across the Northern Border, through interaction with a range of state, county, municipal, and other federal law enforcement entities.

Border Patrol Participation in 911 Dispatch Activities

In addition to responding to local law enforcement requests for interpretation assistance during traffic stops and other routine encounters, USBP agents have reportedly begun responding to 911 emergency assistance calls, especially if the caller is known or perceived not to speak English. This is dangerous from both a public health perspective and a public safety perspective, to the extent immigrants may be deterred from calling 911 even when they need emergency services because they fear USBP will respond instead. It is further evidence of mission creep by USBP, possibly as a result of a lack of other enforcement activity.

In May 2010, near **St. Albans, Vermont**, in the **Swanton Sector**, Diego⁵⁵ was working at the dairy farm where he had been employed for three years when his co-worker Jorge⁵⁶ accidentally called 911 by misdialing an international country code. When the 911 operator answered, his co-worker said “I don’t speak English,” and hung up the phone. About 20 minutes later, the state police arrived at the barn where the men were working, accompanied by U.S. Border Patrol agents. When Diego realized the Border Patrol had arrived, he left the barn, afraid of what might happen. Jorge was a twenty-year-old migrant who came to the United States from Mexico to work because his father was sick and had been hospitalized for several months, leaving Jorge responsible for supporting his five younger brothers and sisters. Jorge and two other co-workers were taken into custody, and Jorge was subsequently deported.⁵⁷

When describing the event, Diego said, “No one would expect or imagine this. We were just working. We were surprised. We had been working well, everything was calm, we worked quietly, without any problems with anyone. We never left the farm. We hadn’t done anything wrong, we had not committed any crimes at all. None of us had any kind of criminal records.” Now, Diego says, “I wouldn’t call 911, not after what happened, not if I broke my leg or was bleeding or anything. Not after what happened with my friends.”⁵⁸

On or about January 30, 2012, Emilio experienced chest pains and thought he was having a heart attack. He called 911 and officers with the **Geneva, New York**, Police Department responded and took him into custody. **Buffalo Sector** USBP agents met them at the Geneva Police Station and, after verifying that Emilio was undocumented, permitted him to go to the emergency room at the local hospital. Emilio and his partner, Magdalena, had three children, two of whom are U.S. citizens; Magdalena was pregnant with their fourth child at the time. After Emilio was released from the emergency room, USBP agents detained him. He was placed in removal proceedings and has since been deported to Honduras.⁵⁹

Nearby, on June 18, 2011, in **Geneva, New York**, also in the **Buffalo Sector**, Isabel was upstairs in her room, when she heard someone talking to her husband Javier in English downstairs. She went downstairs and found an Ontario County Sheriff’s Department Deputy talking to her husband. The officer told them that somebody had called 911, but Isabel and Javier informed him that they had not. The officer asked if they spoke English, and they said they spoke a little bit of English. The officer asked if they had papers, and they said no. The officer then told them someone was coming to speak Spanish, and Javier and Isabel realized the officer had called Border Patrol. USBP agents arrived and took all eight adults and three children living in the house into custody.⁶⁰

On the other side of the United States, late in the morning of April 15, 2012, the Spokane Police Department (SPD) ombudsman Tim Burns and an SPD officer accompanying him responded to reports of a woman threatening to hurt herself with a knife.⁶¹ Although the SPD had the situation under control, two Border Patrol agents showed up uninvited. Burns reported that, later the same day, while he was responding to a burglary call that turned out to be a civil dispute, the same thing happened again—Border Patrol agents arrived at the scene without being invited. The report quotes Burns as saying, “To really have that much of a physical presence, it is concerning...Why is Border Patrol here when this is clearly a municipal enforcement matter?”⁶²

The cities of Lynden, Sumas, and Blaine, Washington—all on the northwest border of Washington State, in **Whatcom County** in the **Blaine Sector**—have the unusual distinction of being the only cities in the country to be served by a 911 dispatch center operated not by a local or state entity, but rather by USBP. The Whatcom County 911 dispatch website states that “Border Patrol dispatch center’s role is limited to routing the 911 calls to the police departments in Blaine, Lynden, and Sumas.”⁶³

“For us 911 as an emergency number is not possible; it no longer exists.”

Nonetheless, when Jesus Martinez’s father called 911 to request assistance for his son Alex, both Whatcom County Sheriff’s deputies and Border Patrol agents responded, likely because Jesus Martinez made his request for assistance in Spanish. Mr. Martinez’s son, Alex Martinez, was mentally ill and acting erratically. Within an hour of when Jesus Martinez placed the call, Alex had been shot thirteen times, at least once by a USBP agent, allegedly because he approached the officers with a hammer or a flashlight in his hand. Alex, a father himself, was a U.S. citizen. According to a report issued by the advocacy organization OneAmerica on April 17, 2012, CBP has failed to heed the calls of the Martinez family to investigate the actions of its employees preceding Alex’s death.⁶⁴

After Alex Martinez’s death, researchers with OneAmerica interviewed 24 community members who said they would be too scared to call 911. The report quotes one community member, Martin, as stating simply that, “For us 911 as an emergency number is not possible; it no longer exists.”⁶⁵

USBP agents’ involvement in interpretation in local law enforcement matters—during ride-alongs with the police, when responding separately to a call, or when responding to a 911 emergency call—has serious implications for law enforcement agencies, for immigrants, and for entire communities. Rather than merely providing language assistance, the presence of USBP means that everyday interactions with the police can lead to immigration enforcement actions against local residents and their family members, even if they are victims of, or witnesses to, crimes. As previously discussed, this risk jeopardizes community-police relations and undermines public health and safety.

RISING LEGAL CHALLENGES TO USBP’s ACTIONS

Given the rise of disturbing incidents, it is hardly surprising that community groups have begun to challenge the Border Patrol’s practices through administrative channels. On March 21, 2012, the ACLU of Michigan wrote Col. Kriste Kibbey Etue, the Director of the Michigan State Police (MSP), to request an investigation into the above-referenced incident involving Tiburcio Briceno and a written report detailing the findings; to demand a formal apology and the reimbursement of the \$105 Mr. Briceno had to pay when his company car was towed; and to request that the MSP issue a written reminder to staff that “a) a person’s race, ethnicity, or language ability cannot be used to presume that the person is in the country illegally; and b) Officers should use existing interpretation services/ language lines for translation/interpretation, rather than calling on immigration enforcement agencies.”⁶⁶ The MSP has agreed to undertake an investigation, which is still ongoing.⁶⁷ The ACLU’s letter alleges that the MSP’s discriminatory conduct violated its own rules on citizen identification, the Equal Protection Clause of the U.S. Constitution, and Title VI of the Civil Rights Act of 1964.

On May 1, 2012, the Northwest Immigrant Rights Project (NWIRP) filed a civil rights complaint with the U.S. Department of Justice (DOJ) and DHS challenging local, state, and federal law enforcement

agencies' practice of calling in U.S. Border Patrol agents as interpreters for routine matters. The complaint asserts that this practice violates federal laws, including Title VI, by failing to ensure that all persons have access to government services regardless of limited English skills.⁶⁸

..the U.S. Forest Service's use of USBP agents to provide interpretation and backup assistance was "discriminatory on its face, and not solely in the circumstances of this case."

The concept of "meaningful access" is well established under Title VI, which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives federal funds or other federal financial assistance.⁶⁹ Because most state and local law enforcement entities receive some form of federal financial assistance, they are bound by Title VI and prohibited from engaging in practices that are discriminatory. The U.S. Supreme Court has interpreted "national origin discrimination" to include the failure to provide information in languages other than English to persons with limited English proficiency (LEP).⁷⁰

Furthermore, on August 11, 2000, President Clinton signed Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency." Executive Order 13166 requires each federal agency to "examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency."⁷¹ Executive Order 13166 also requires each agency providing federal financial assistance to non-federal entities to promulgate a Title VI guidance document specifically tailored to the recipients of that agency's funding.⁷² Both DOJ and DHS have issued internal guidance and guidance to recipients of DOJ and DHS funding.⁷³ Some federal agency components and funding recipients have been particularly slow to implement LEP access plans.⁷⁴ For example, DHS only implemented final guidance to its funding recipients in 2011, and finally issued a Language Access Plan for agency personnel in February 2012, more than a decade after Executive Order 13166 was issued.⁷⁵

On May 31, 2012, in response to another complaint filed by NWIRP, the Department of Agriculture's Office of the Assistant Secretary for Civil Rights (OASCR) found that the U.S. Forest Service had discriminated against Latinos in Washington State through its routine use of Border Patrol agents to provide interpretation assistance and law enforcement support.⁷⁶ In that case, a Guatemalan woman and her partner were picking salal, a green used in floral arrangements, in the National Forest on the Olympic Peninsula. On their return home, the two were stopped near Forks, WA by a Forest Service officer, who then called USBP, ostensibly for interpretation assistance and "back-up." When a USBP agent showed up, the woman's partner, Benjamin Roldan Salinas, fled, ultimately falling into the Sol Duc River. Friends and family had been searching for him for over three weeks when his decomposing body was discovered downstream.⁷⁷

The OASCR decision concluded that the U.S. Forest Service's use of USBP agents to provide interpretation and backup assistance was "discriminatory on its face, and not solely in the circumstances of this case."⁷⁸ OASCR explained that the use of Border Patrol agents for interpretation does not provide meaningful access under Executive Order 13166 or USDA's anti-discrimination regulations because the increased threat of enforcement action for Latinos, whether lawfully present or not, discourages them from using the services of the Forest Service and may cause harm or humiliation. In addition, interpretation services provided by the Border Patrol do not satisfy applicable ethical standards because they are neither impartial nor confidential, and do not advise individuals of potential conflicts of interest and risks.

LONG-TERM IMPACT OF USBP PRACTICES

Involving USBP in local law enforcement matters breeds distrust between communities and the officers whose job is to serve and protect them. Using USBP agents to provide interpretation assistance during local law enforcement activities is functionally equivalent to having local law enforcement officers inquire about immigration status and has the same negative effect on community policing. When local law enforcement officers request interpretation assistance from USBP agents, they are inviting federal immigration enforcement officers into a domestic law enforcement situation where the federal officers would otherwise have no role. The foreseeable consequence of involving USBP agents is that, in addition to providing interpretation assistance, they will engage in immigration enforcement.

Once communities become aware that when a Spanish speaker calls the police, he or she is likely to encounter USBP as well, community members will avoid calling the police. This is true both for undocumented immigrants and for citizens who, because they live in a mixed-status household or because they have previously experienced harassment based on perceived immigration status, race, or nationality, wish to avoid interacting with USBP. The erosion of trust between community members and local law enforcement officers has negative implications for public health and safety: it makes it harder for officers to investigate crimes, reduces the likelihood individuals in dangerous situations will seek police assistance, and increases the likelihood that crimes, including violent crimes, will go unreported or unsolved.

Notably, an e-mail dated July 28, 2011 from Margo Schlanger, former DHS Officer for Civil Rights and Civil Liberties, to Ronald D. Vitiello, Deputy Chief, Border Patrol, refers to a “meeting several weeks ago, on the topic of provision of interpretive services and how to avoid having it chill immigrant calls to police, etc.”⁷⁹ The e-mail refers further to an agreement (presumably by USBP) to “some kind of written guidance.” According to Schlanger, “This is becoming a hotter topic by the day, and we really need to figure out an appropriately robust response.” CRCL notes from a subsequent meeting with CBP on June 29, 2011 regarding USBP’s provision of interpretation services to other law enforcement agencies similarly indicated that “CBP will provide CRCL with a draft guidance or muster on the topic of avoiding harm to community policing/victims/witnesses when providing assistance with language interpretation.”⁸⁰ To date, neither CBP nor USBP appear to have issued such guidance.

Reliance on USBP agents to provide interpretation assistance may actually increase the risk of miscommunication between local law enforcement officials and non-English speakers. USBP agents are not trained as professional interpreters and many speak only rudimentary Spanish. In contrast, teleinterpretation lines staffed by certified professional interpreters are widely available and, in fact, are routinely utilized by many law enforcement entities, including ICE. The use of trained professional interpreters ensures communication is accurate and complete and decreases the likelihood that individuals will be wrongfully detained or denied emergency services.

While it may appear that USBP and local police agencies are complying with Title VI by having USBP serve as interpreters, in reality they are violating both the letter and the spirit of Title VI because they are not providing LEP individuals with nondiscriminatory and meaningful access to information in other languages. These practices deny meaningful access because they create a heightened risk of

immigration enforcement actions for non-English speakers. Non-English speakers engaging with local law enforcement officials are forced to interact with and, inevitably, undergo questioning by USBP agents regarding their immigration status as the price for obtaining language assistance. This burden falls disproportionately on individuals who are Spanish speakers or are perceived to be Spanish speakers, thus subjecting them to discrimination.

CONCLUSION AND RECOMMENDATIONS

For law enforcement officers and the communities they serve, the difference between providing “meaningful access” to services for LEP individuals and failing to do so can literally represent the difference between life and death. In “Lost in Translation,” an article published in *The Police Chief Magazine*, author and former federal prosecutor Bharathi Venkatramen cited an example from her own experience: a case in which officers returned fleeing human trafficking victims to the custody of their traffickers due to language barriers impeding communication with the traffickers.⁸¹ Other examples include a police department’s inability to communicate with an elderly Korean man, leading officers to drop him off in the wrong neighborhood, where he was robbed and beaten to death; and a delay in the interpretation of a 911 call from a Vietnamese victim of domestic violence, which may have allowed enough time for her abuser to kill her.⁸² As Venkatramen observes, ensuring meaningful access isn’t just about complying with federal law; it is about ensuring police departments are effective in controlling crime and serving their communities.⁸³

Providing interpretation assistance to local law enforcement officers is also not the best use of USBP agents’ time or U.S. taxpayer dollars. The priority mission of USBP on the Northern Border is to detect and prevent terrorists and their weapons from entering the United States. It is difficult to see how a USBP agent providing interpretation assistance to a local police officer during a routine traffic stop facilitates that mission. Some critics, and even one whistleblower USBP agent, have alleged that USBP agents are intervening in local law enforcement activities and “volunteering” to interpret because there simply isn’t enough actual border enforcement work for them to do along the Northern Border. If that is true, the solution is not to use federal employees whose training is in border enforcement to serve as interpreters for local cops; the solution is to redirect the USBP agents to mission-appropriate locations and assign them mission-appropriate tasks, reprogram USBP funding, or reduce personnel altogether.

Following its determination in the Forest Services case, OASCR ordered the Forest Service to take significant steps to remedy its discriminatory policies and practices by developing and implementing a national language access policy to ensure that individuals with limited English proficiency have meaningful access to services and benefits; developing and implementing a national law enforcement data collection policy to reduce racial profiling; requiring Forest Service offices in the Olympic National Forest to post notices informing the public of the decision and provide information on how to file civil rights complaints; and requiring the Forest Service officer who stopped the complainant and his supervisor to complete 40 hours of civil rights training.⁸⁴ Similar actions need to be taken throughout the law enforcement system along the Northern Border to remedy these ongoing violations.

The information analyzed in this report suggests that USBP agents deployed on the Northern Border are engaging in local law enforcement activities that are outside the scope of USBP's mission and create a significant risk of discrimination on the basis of national origin, specifically, limited English proficiency, in violation of Title VI. Accordingly, the following recommendations are intended to promote Title VI compliance, maintain the integrity of the USBP mission on the Northern Border, and protect the rights of immigrants and their families who call the Northern Border home:

DHS

- ▶ Review USBP resource allocation and workload on the Northern Border to ensure USBP agents are focused on mission-appropriate tasks.
- ▶ Issue a directive prohibiting USBP agents from providing interpretation or other assistance to federal, state, or local law enforcement entities except in emergency situations involving public health or public safety, e.g. hurricane evacuation; under no circumstances should information obtained during such interactions be used for purposes of immigration enforcement.
- ▶ Move to terminate removal proceedings for all individuals identified by USBP agents while they were providing interpretation assistance to other law enforcement agencies or after they were called to the scene for the purpose of interpretation assistance.
- ▶ Require USBP agents to track information about stops, including the basis for USBP involvement, the reason for the stop, the observed race of the person(s) detained, and the outcome of the stop, and conduct monthly audits to ensure that such information is accurate and complete.
- ▶ Ensure that all USBP agents complete comprehensive training on applicable civil rights laws, both at the academy and through periodic in-service training.
- ▶ Direct the Office of Civil Rights and Civil Liberties to monitor and report on CBP's implementation of its Component Language Access Plan.

DOJ

- ▶ Issue additional guidance to law enforcement entities and other recipients of DOJ funding clarifying that use of USBP agents to provide interpretation services violates Title VI;
- ▶ Investigate local law enforcement agencies that have a pattern or practice of discrimination based on national origin and/or limited English proficiency (LEP);
- ▶ Aggressively work to pull federal funding from recipients who refuse to comply voluntarily with Title VI;
- ▶ Admonish other federal agencies that use of federal agents for interpretation violates Title VI when access to such services is tied directly to immigration enforcement.

LOCAL LAW ENFORCEMENT AGENCIES

- ▶ Review federal agency guidance for Title VI LEP compliance for federal funding recipients.
- ▶ Develop internal Language Access Plans to ensure LEP individuals have “meaningful access” to local law enforcement services and 911 services without relying on CBP.
 - Use bilingual agency employees or telephonic/radio interpretation lines to communicate with LEP individuals
 - Issue agency-wide directive prohibiting officers from requesting translation assistance from USBP agents absent emergency circumstances and agreement by USBP not to use any information obtained for immigration enforcement purposes.
- ▶ Strengthen relationships with immigrant communities through community-oriented policing mechanisms.
- ▶ Require officers to track information about stops, including the observed race of the person(s) detained, the reason for the stop, the outcome of the stop, whether backup assistance was requested, and if so, what type and from whom.
- ▶ Ensure that all officers complete comprehensive training on applicable civil rights laws.

FOR 911 OPERATORS AND EMERGENCY RESPONDERS

- ▶ Hire bilingual operators and/or utilize telephonic/radio interpretation lines.
- ▶ Request interpretation assistance from USBP only in exceptional emergency situations, as a last resort, and on the condition that they agree not to use any information obtained for immigration enforcement purposes.
- ▶ In areas where CBP has been involved in 911 calls or emergency response, implement a community outreach and education plan to restore trust and reassure people that they can seek help in an emergency.

IMMIGRANT ADVOCATES

- ▶ Document potential violations of Title VI, including name of USBP and/or local law enforcement officer; agency; date; time; location; and details of incident. Be as specific and detailed as possible.

- ▶ Report potential violations to:

- The offending local law enforcement agency (usually through that agency's internal affairs division)
- The Department of Homeland Security's Office of Civil Rights and Civil Liberties.

A complaint form is available online at

<http://www.dhs.gov/xlibrary/assets/crcl-complaint-submission-form-english.pdf>

Mail your complaint to:

Department of Homeland Security
CRCL/Compliance Branch
245 Murray Lane, SW
Building 4 10, Mail Stop #0190
Washington, DC 20528

By email:

<http://www.dhs.gov/xlibrary/assets/crcl-complaint-submission-form-english.pdf>

- The Department of Justice Civil Rights Division
Federal Compliance and Coordination Section:

By phone:

Title VI Hotline: 1-888-TITLE-06 (1-888-848-5306) (Voice / TTY)

Online:

A complaint form is available online in several languages, but cannot be submitted electronically; it must be mailed in.

<http://www.justice.gov/crt/about/cor/complaint.php>

By mail:

Mail your complaint to:
U.S. Department of Justice
Civil Rights Division
Federal Coordination and Compliance Section, NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

- The American Immigration Council
By e-mail: clearinghouse@immcouncil.org
- Your local immigrants' rights organization.

ENDNOTES

- 1 Between 1990 and 2010, the number of limited English proficient (LEP) individuals in the United States grew by an estimated 80%. By 2010, there were 25.2 million LEP individuals living in the United States, representing about 9% of the entire population of the United States population over five years of age. Five language groups represent nearly 80% of the LEP population: Spanish (66%); Chinese (6%); Vietnamese (3%); Korean (2.5%) and Tagalog (2%). See Migration Policy Institute, *LEP Data Brief: Limited English Proficient Individuals in the United States: Number, Share, Growth, and Linguistic Diversity* (Washington, DC: December 2011) p.6, available online at <http://www.migrationinformation.org/integration/LEPdatabrief.pdf>.
- 2 Not his real name.
- 3 Memorandum to New York Assemblyman Steve Englebright, Assemblywoman Deborah Glick, Assemblyman Francisco Moya, Assemblyman Guillermo Linares, and Jim Larson from John (Lory) Ghertner, Migrant Support Services of Wayne County, Kids for College, and Andrea Callan, Statewide Advocacy Coordinator, New York Civil Liberties Union, Re CBP collaboration with state and local law enforcement, December 22, 2011, p. 2 (citing interview with "Graciela," neighbor of "Fernando, conducted by Andrea Callan on October 23, 2011).
- 4 Interview with Brendan O'Neill, Migrant Justice, June 15, 2012.
- 5 Christina Constantini, "Six Men in Michigan Face Deportation Proceedings After Placing 911 Call in Huron County," Huffington Post, April 28, 2012. Available online at http://www.huffingtonpost.com/2012/04/28/michigan-deportation-six-men-911-call_n_1461537.html
- 6 Ibid.
- 7 See Janice Cheryl Beaver, *U.S. International Borders: Brief Facts* (Washington, DC: Congressional Research Service, November 9, 2006), available online at <http://www.fas.org/sgp/crs/misc/RS21729.pdf>. The northern border states are as follows, from west to east: Washington, Idaho, Montana, North Dakota, Minnesota, Michigan, New York, Ohio, Pennsylvania, Vermont, New Hampshire, and Maine. These figures do not include Alaska because the U.S. Border Patrol does not patrol the Alaska-Canada border.
- 8 International Boundary and Water Commission, U.S.-Mexico Continental Boundary, available on-line at http://ibwc.state.gov/Files/US-Mx_Boundary_Map.pdf (last visited June 30, 2012). The four southern border states are as follows, from west to east: California, Arizona, New Mexico, and Texas.
- 9 Chad C. Haddal, *Border Security: The Role of the U.S. Border Patrol* (Washington, DC: Congressional Research Service, August 11, 2010), p. 20. Available online at: <http://www.fas.org/sgp/crs/homesec/RL32562.pdf>.
- 10 Ibid. (noting that the difference in staffing and strategy between the Northern and Southern borders is "due to the enormity of the northern border, its varied and challenging geography, and the general lack of large American population centers along the border.") Available online at: <http://www.fas.org/sgp/crs/homesec/RL32562.pdf>.
- 11 See Jenny Guarino, *Special Report: A Decade of Decline in Person Crossings from Mexico and Canada into the United States* (Washington, DC: U.S. Department of Transportation, Bureau of Transportation Statistics, Research and Innovative Technology Administration, February 2011), noting that in 2009, 75% of the 252 million person-crossings into the United States took place along the Southern Border.
- 12 Border Patrol Overview and History Homepage, January 5, 2011, http://www.cbp.gov/xp/cgov/border_security/border_patrol/border_patrol_ohs/.
- 13 Ibid.
- 14 Department of Homeland Security, Fact Sheet: 2012 DHS Northern Border Strategy, June 5, 2012, available online at <http://www.dhs.gov/ynews/fact-sheets/21012-dhs-northern-border-strategy-fact-sheet.shtm>.
- 15 Written Testimony of U.S. Customs and Border Protection Office of Border Patrol Chief Michael Fisher for a House Committee on Homeland Security, Subcommittee on Border and Maritime Security hearing titled "Measuring Border Security: U.S. Border Patrol's New Strategic Plan and the Pat Forward," May 8, 2012. Available online at <http://dhs.gov/ynews/testimony/20120508-cbp-bp-strategic-plan-hsc.shtm>.
- 16 Marc R. Rosenblum, *Border Security: Immigration Enforcement Between Ports of Entry* (Washington, DC: Congressional Research Service, January 6, 2012), p. 12 (internal citations omitted), available online at <http://www.ilw.com/immigrationdaily/news/2012,0525-crs.pdf> (last visited July 4, 2012).
- 17 Ibid., p. 14 (citing USBP, "Border Patrol Agent Staffing By Fiscal Year," http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/staffing_92_10.ctt/staffing_92_10.pdf).
- 18 Ibid., p. 15, Fig. 3 (showing USBP agents total and by region, FY 1980-FY 2011).
- 19 Chad C. Haddal, *Border Security: The Role of the U.S. Border Patrol* (Washington, DC: Congressional Research Service, August 11, 2010), p. 22. Available online at: <http://www.fas.org/sgp/crs/homesec/RL32562.pdf>.
- 20 Ibid.
- 21 Ibid., pp. 23-24.
- 22 See Jeffrey Passel, D'Vera Cohn, and Ana Gonzalez-Barrera, *Net Migration from Mexico Falls to Zero—and Perhaps Less* (Washington DC: Pew Hispanic Center, April 23, 2012), available online at <http://www.pewhispanic.org/2012/04/23/net-migration-from-mexico-falls-to-zero-and-perhaps-less/>.
- 23 Testimony of Christian Sanchez Before Congressional Transparency Caucus, July 29, 2011, available at <http://www.skagitirc.org/IRC%20Materials/Sanchez%20Testimony%20-%20BorderPatrol.pdf>.
- 24 Ibid.
- 25 Ibid.
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