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Terror in Twilight: Border Patrol Involvement in Local Policing

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Forks Human Rights Group

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TERROR IN TWILIGHT:

*The Real-Life Legacy of U.S. Border Patrol on
the Olympic Peninsula of Washington State*

A collaboration between

Forks Human Rights Group
and

Fred T. Korematsu Center for Law and Equality
Seattle University School of Law

December 2013

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¹ Bridge over the Sol Duc River, photo by author, 2013.

Benjamin's Story

On May 14, 2011, an officer of the United States Forest Service pulled over Benjamin Roldan Salinas and his wife in their van as they headed home to Forks, Washington after a long day of harvesting salal in the forest. The officer asked to see their harvesting permit, which they showed. The couple was answering the Forest Service officer's questions when minutes later Border Patrol arrived on the scene, purportedly to interpret. Benjamin and his wife started to run. The Forest Service officer grabbed the woman by the hair, handcuffed her, and put her in the back of his car. Benjamin kept running with Border Patrol officers in hot pursuit. He fell into the cold and fast-moving Sol Duc River and soon went under, unable to swim. Border Patrol searched for him for four hours. When they stopped, members of the local community pleaded with the Clallam County Sheriff to mount a search and rescue effort, but were told no because they now considered Benjamin a potentially dangerous fugitive, based on the fact that he ran. Every day for three weeks, up to 150 local volunteers conducted their own search along the river. They eventually found Benjamin's body three weeks later on June 6, 2011, tangled in a root wad in a treacherous part of the river. The community raised money to return his body to Mexico. (Endnote 1.)

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Administrative support was provided by Junsen Ohno, Alicia Reise, Tayshia Farra, and Mary Jane Brogan.

This report is based largely on the work of the Forks Human Rights Group (FHRG)/Comite de Derechos Humanos de Forks documenting Border Patrol's activities in their community. We acknowledge the coordination of Lesley Hoare, along with the contributions of present and former group members, including the many community members whose names cannot be listed here. Maru Mora Villalpando of Latino Advocacy helped bringing the report to final fruition.

The Korematsu Center at Seattle University has also underwritten the expenses of creating and printing this report. The Korematsu Center engages in research, advocacy, and education to advance social justice. It is named for Fred T. Korematsu, who defied a U.S. government order to appear at a West Coast assembly center for transfer to an internment camp for Japanese Americans during World War II. He took his case to the Supreme Court and lost in 1944, but was vindicated 39 years later when his wartime conviction was overturned in 1983.

I. BACKGROUND AND SUMMARY



Rainforest near Forks, photo courtesy of FHRG, 2013.

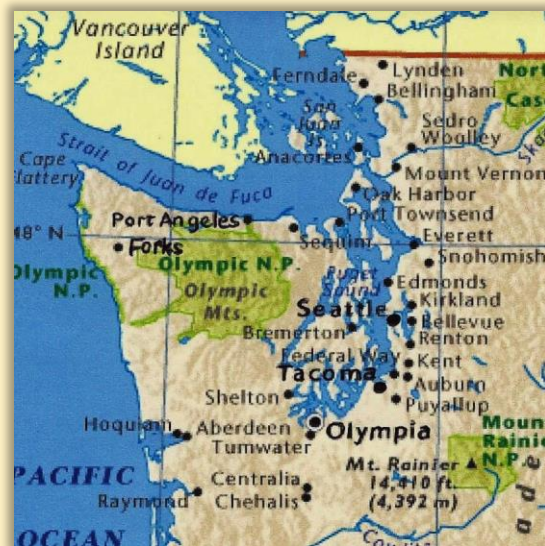
A. Forks, Washington

The town of Forks may be best-known to the general public as the misty rain forest setting of *The Twilight Saga*, a popular, best-selling fantasy book and movie trilogy about vampire romance.² Members of the Latino community in Forks, however, live with very real fear, not of vampires or of the supernatural, but of the United States Border Patrol. Since 2008, Border Patrol on the Peninsula has invoked its mission of securing the nation's borders against terrorist incursions,³ while in practice hunting down immigrant forest workers, many of whom are long-time residents of the area, regardless of their immigration status, and regardless of whether they pose any kind of threat to public safety. Border Patrol has engaged primarily in interior immigration enforcement against people who happen to live near the border. This has resulted in splintering local families and has created for some the feeling of living in a war zone.

Forks is a community of 3,500 people, tucked in the woods on the west end of the Olympic Peninsula of Washington State. This is the far northwest corner of the continental United States, a rugged region long inhabited by Native American tribes, loggers, and fishermen. The Peninsula is bordered on the north by the Strait of Juan de Fuca, which extends 120 miles from the open Pacific Ocean on the west to Puget Sound on the east. It has no international

land border and one ferry point of entry in the city of Port Angeles, Washington, fifty-five miles east of Forks.⁴ A single main road, U.S. Highway 101, loops the perimeter of the Peninsula, and the mountainous Olympic National Park sits at its center.

The region was originally covered by dense forests of giant fir, red cedar, hemlock, and spruce. Since the 1800s, the forest has yielded a bounty of old growth timber, spruce for early airplanes, and pulp to supply local paper mills.⁵ By the 1980s, most of the big timber had been cut, and environmental protection measures had put much of the remainder off limits, but the floral industry's demand for secondary forest products such as salal created a new kind of harvesting job, one which is very labor intensive because salal grows in dense woods and must be gathered by hand. In the 1980s, floral wholesalers brought crews of Latino workers over from eastern Washington during a labor shortage, and some of those workers decided to stay.⁶ Since that time, Forks has become home to a Latino community which in the 2010 census comprised a quarter of the city's population.⁷



Olympic Peninsula, Washington State

B. U.S. Border Patrol Post 9/11

Following the terrorist attacks of September 11, 2001, Congress criticized Border Patrol for its lack of a coherent policy to secure the nation's northern border and allocated funding for its expansion.⁸ As a result, staffing at the Port Angeles Border Patrol Station on the Olympic Peninsula increased exponentially, from four officers in 2006 to forty-two in 2012. Border Patrol opened a new \$11.9 million headquarters in Port Angeles in September 2012.⁹

In addition to expanding its infrastructure, the Department of Homeland Security (DHS), which oversees Border Patrol, has created incentives and mandates for local law enforcement agencies to collaborate with Border Patrol, with the goal of interoperability between them. These mandates impact at least thirteen state, federal, and tribal law enforcement agencies operating on the west end of the Peninsula alone.¹⁰



U.S. Border Patrol, Port Angeles Station, photo by author, 2013

These policies have resulted in heavy involvement of Border Patrol in routine local police matters, and heavy involvement of local law enforcement agencies in primary immigration enforcement. Although each agency has its own jurisdiction and rules to follow, the distinctions between them have become blurred and distorted. As in the case of Benjamin Roldan Salinas, this has sometimes had tragic and deadly consequences.

The stated reason for interoperability is to increase security in border communities.¹¹ Instead it conflicts with the primary public safety mission of police, leading to pervasive fear and distrust within the local Latino community of any kind of interaction with law enforcement, rendering the community less secure, not more. One long-time Latino resident of Forks told interviewers that if he or his family were ever a victim of a crime, he would rather have a burglar take everything they owned than to call the police.¹²

C. Forks Human Rights Group

In 2009, members of the Forks Latino community and their advocates, including local schoolteachers, social service providers, and health care workers among others, came together to form the Forks Human Rights Group (FHRG). With cameras and cell phones, the group has responded to individual incidents, helped to locate missing community members who have been detained, and advocated for broader changes in Border Patrol's enforcement practices.¹³ In 2011, FHRG invited the Ronald Peterson Law Clinic at Seattle University School of Law to investigate and collaborate in writing this advocacy report.

II. METHODOLOGY

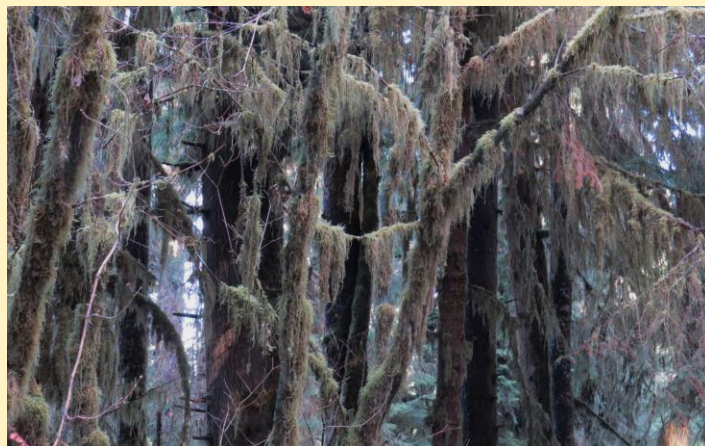
A team of law student researchers from the Peterson Law Clinic at Seattle University compiled narratives of incidents and encounters involving Border Patrol and members of the Forks Latino community between 2008 and 2012 from a variety of sources. These sources include records obtained through Washington State Public Records requests to state law enforcement agencies,¹⁴ published accounts, media reports, publicly available court documents, and FHRG's ongoing incident log. In addition, researchers travelled to Forks in 2012 and 2013 to interview community members, using interpreters as needed. All of the accounts were compiled in a single spreadsheet and cross-referenced to prevent duplication. The result is a compilation that includes *251 distinct encounters involving 502 community members* between 2008 and 2013.¹⁵

OVERVIEW	
Total number of encounters	251
More than one law enforcement agency involved	107/43%
Encounter resulted in an immigration detention	93/37%
Same encounter described in more than one source	28/11%

SOURCES	
FHRG incident log	168
Student interviews with community members	21
Border Patrol published blotter	10
Forks Police Department incident reports	25
Washington State Patrol incident reports	34
Clallam County Sheriff's Office incident reports	16
Jefferson County Sheriff's Office	1
Public Court Pleadings	11
Media accounts	3

The researchers recognize that this Spreadsheet is not an exhaustive list of all encounters, and cannot be used to draw conclusions about disproportionate impact. If such comprehensive arrest statistics exist, Port Angeles Border Patrol has refused to release them.¹⁶ This is despite the fact that DHS has long used apprehensions as a proxy measure of success in border enforcement.¹⁷ Instead, the numbers provided here point to repeated troubling scenarios, and show that individual stories of mistreatment by Border Patrol are not isolated aberrations, but rather part of an overall approach to immigration enforcement on the Peninsula. These numbers are likely an underestimate of actual occurrence because there are no law enforcement records available of incidents not culminating in arrest, and many encounters never came to FHRG's attention.

This report has several purposes. The primary purpose is to let the voices of Forks community members be heard by a broader audience. Until now, their vulnerability has kept them silent. The second purpose is to acknowledge that significant, positive changes have taken place on the Peninsula since 2008, through the concerted political, legal, and grassroots advocacy efforts of many groups and individuals. The third purpose is to attempt to capture some of the lessons that have been hard-learned in this community, and bring them to the attention of policy makers who are presently in the position of determining the future of state and national immigration reform. Otherwise, without an understanding of the real life impact of past immigration policies, there is a very real potential that future reform will undo the positive but tentative gains that have been made here.



Rain forest near Forks, photo by author, 2013.

III. KEY POINTS

1. Border Patrol on the Olympic Peninsula has stopped and detained people for no other apparent reason than their Hispanic appearance or name, or that they were harvesting salal. Border Patrol has sometimes used pretext to justify these otherwise impermissible stops.
2. Although cross-border activity on the Olympic Peninsula has been insufficient to keep the growing number of Border Patrol officers at Port Angeles Station busy, officers have been under pressure to make arrests, and have employed shifting strategies to meet their performance requirements. Some of these methods appear to intentionally blur legal distinctions for the purpose of circumventing search and seizure protections provided by the Fourth Amendment.
3. Border Patrol has engaged in immigration detention practices on the Olympic Peninsula that violate the constitutional right to due process.
4. DHS has issued incentives and mandates for other law enforcement agencies to collaborate with Border Patrol on Border Patrol's terms. This has led to the blurring of jurisdictional boundaries, making any law enforcement action into a potential immigration enforcement action.
5. Blurring of functional boundaries between law enforcement agencies makes the community less secure because community members are terrified of any contact with law enforcement, even as witnesses or as victims of a crime. Community members live in fear that such contact will lead to immigration actions against themselves or their family members.
6. Border Patrol's actions on the Olympic Peninsula have directly contributed to the heightened fear and distrust in the community in ways that are best described as intimidation and harassment. These include maintaining a threatening presence in the community, conspicuously following and watching people, bullying, damaging personal property, driving aggressively, harassing, and retaliating against advocates and family members.

7. Border Patrol's practices on the Olympic Peninsula have had a devastating impact on local families. Children, many of whom are U.S. citizens, will be dealing with the fallout of witnessing trauma and abuse to their family members and themselves, along with the consequences of family fragmentation, for many years to come.
8. Border Patrol's conduct on the Peninsula has improved over the last year, in response to the efforts of many different people. At the time of release of this report, community members report that they feel safer going about their daily lives, but the personal scars and distrust of law enforcement remain. The final chapter has not yet been written. It will be determined by the future shape of immigration reform.

IV. DISCUSSION

1. **Border Patrol on the Olympic Peninsula has stopped and detained people for no other apparent reason than their Hispanic appearance or name, or that they were harvesting salal. Border Patrol has sometimes used pretext to justify these otherwise impermissible stops.**

In 2011, Border Patrol made a U-turn in order to follow a low rider truck carrying five community members. Border Patrol followed them for six or seven miles around Lake Crescent, and eventually pulled them over at a grocery store. Someone in the vehicle asked one of the officers why they had been pulled over. The officer replied "I don't know, but it's not because you are Mexican."¹⁸

The incidents compiled in this report raise concern about racial profiling of Latinos and other people of color by Border Patrol on the Olympic Peninsula. Racial profiling is defined as reliance on race, color, descent, or national or ethnic origin as the basis to investigate someone for criminal activity.¹⁹ Racial profiling has been prohibited by presidential executive order,²⁰ and by Washington State law.²¹ Racial profiling violates the Fifth and Fourteenth Amendments' guarantee of equal protection under the law. Racial profiling also violates the Fourth Amendment of the U.S. Constitution, which provides protection against unreasonable search and seizure. The Ninth Circuit Court of Appeals has ruled that "reliance on race or ethnicity as shorthand for likely illegal conduct is repugnant under any circumstances."²²

We find no incidents in the Spreadsheet where an officer stated outright that he or she stopped someone based on their ethnicity. This is not surprising because Border Patrol officers have received clear instruction over the last decade that this practice is unacceptable.²³ The compiled incidents as a whole, however, suggest that Border Patrol officers have been able to avoid saying so in several ways. These include giving no reason, giving a reason that is a proxy for Latino ethnicity, giving a pretextual reason, or a combination of these.

A. No Reason Given

Reason for Stop	#
No reason given	14
Asked for immigration papers only. ²⁴	61

B. Reason Given is Proxy for Latino Ethnicity

The Supreme Court has ruled specifically that stopping someone because of a foreign-sounding name violates the Fourth Amendment.²⁵

In 2011, Border Patrol pulled over a woman for speeding just outside of Forks. She believes the officer ran her plates for the registration and discovered her Latino last name. The officer looked surprised when he saw that she appeared to be white, and merely glanced at her driver's license before handing it back without issuing a citation.²⁶

Another proxy reason unique to the Peninsula is stopping someone because they are driving a salal van. The vast majority of salal harvesters on the Peninsula are Latino, and although driving a harvester's van may indicate likelihood that the driver is Latino, it says nothing about immigration status.

A couple in a harvesting van passed a Border Patrol vehicle waiting by the road. Border Patrol pulled out and followed them, looking into the van. They then passed and sped away after seeing that the occupants were a white couple.²⁷

Reason for Stop	#
Stop based on Latino surname on a car registration	12
Stop based on driving salal van	14

C. Reason Given is Pretext

Border Patrol officers have also employed pretext, referring to a permissible but false justification provided to conceal a true but impermissible motivation. One can infer that a given reason was pretext if the officer never followed through on the initial reason for the stop or issued a citation for it, and only inquired about immigration status.²⁸

i. Traffic Violations

Officers have used the pretexts of traffic violations and salal permit checks to stop and question Latino individuals on the Peninsula about their immigration status.

In 2011, Border Patrol pulled over a Latino woman in Forks for going five miles per hour over the limit, but only questioned her about her nationality. The woman is a U.S. citizen. She was allowed to go on her way.²⁹

ii. Checking Salal Harvesting Permits

Harvesting without a proper permit is a civil infraction and poses no threat to public safety. Nonetheless, there are examples in the Spreadsheet of almost every agency on the Peninsula asking to see a Latino individual's salal permit, regardless of the reason given for the stop.

In 2008, Border Patrol stopped a family at a fixed highway checkpoint five miles outside of Forks and asked for their salal harvesting permit, even though the family was not headed to or from harvesting. The entire family, which included three children, was detained.³⁰



*Photo by Latino Northwest Communications,
Salal harvesting, 2013.*

Pretextual reasons for immigration investigations	# of encounters
Traffic stops	28
Harvesting permit checks	17

iii. Interpretation

Some of the pretexts used by Border Patrol are also officially sanctioned activities. One of these is the practice of calling Border Patrol agents to interpret for other law enforcement agencies, described in twelve accounts.

The Office of the Assistant Secretary of Civil Rights (OASCR), an agency within the Department of Agriculture (DOA) which oversees the U.S. Forest Service, conducted an investigation of interpretation practices in 2012, following the death of Benjamin Roldan Salinas in 2011.³¹ That investigation led to an order halting interpretation by Border Patrol for other federal agencies. OASCR found that Border Patrol routinely questioned individuals about their immigration status when providing interpretation.³² In addition, even when there was a need for interpretation, the need was outweighed by Border Patrol's inherent conflict of interest, which prevented its officers from acting as neutral interpreters. It found that other more neutral options for interpretation such as Language Line were often available but not used.³³ OASCR concluded, "These assertions [need for interpretation and backup] make compelling arguments that can easily distort the discriminatory purposes for utilizing Border Patrol, [and serve as] merely an excuse to target Latino individuals for immigration enforcement."³⁴

Northwest Immigrant Rights Project (NWIRP) filed a complaint addressing Border Patrol interpreting for state law enforcement agencies in routine police matters, and that practice was halted in December, 2012.³⁵

*In 2012, Forks Police responded to a domestic violence incident and brought a Border Patrol officer to interpret, despite the recent ruling discontinuing the practice. Police explained that this was necessary because the assault involved a crime and therefore was not a routine matter. However the Border Patrol Officer could not speak much Spanish, and in the end a community member had to interpret anyways.*³⁶

A second sanctioned pretext for Border Patrol involvement is providing backup for other agencies. This may be indicated in exceptional circumstances,

but the OASCR investigation concluded that in general, Border Patrol's arrival on the scene of another agency's law enforcement action did not increase safety, but rather escalated the severity and danger of the situation for all parties because Latino individuals detained for traffic stops or minor infractions became more agitated when Border Patrol arrived on the scene and were much more likely to run.³⁷ OASCR also found at least in the case of the Forest Service, that the officer safety argument was not credible because Forest Service officers only called Border Patrol for backup when dealing with Latino individuals and never called Border Patrol for backup when dealing with dangerous non-Latino individuals with chainsaws, guns, and other dangerous items.³⁸

These forms of racial profiling on the Olympic Peninsula have not been just limited to the Latino community.

In 2011, Border Patrol pulled over an African American correctional officer who was in uniform and driving to work. Border Patrol gave no reason for stopping him, but proceeded to interrogate him about his immigration status.³⁹

In 2011, Border Patrol approached a Korean man who was helping his parents load boxes onto a truck at the farmers market in Port Angeles. The officers asked him for identification, and he showed his state ID card and an old driver's license. He did not answer their other questions because he did not understand them. Officers handcuffed and detained him.⁴⁰

Border Patrol officers have even stopped local Native Americans to ask for their immigration status in five encounters, including asking for tribal identification cards as verification of the right to be here.⁴¹

In 2010, Border Patrol stopped and grilled a Native American woman as she set out in her canoe to return home to Sequim, Washington from the annual Tribal Journeys event after visiting a relative in Neah Bay on the Makah reservation.⁴²

Federally recognized Native American tribes whose ancestral homelands are on the Peninsula include the Hoh, Jamestown S'Klallam, Elwha Klallam, Makah, Port Gamble S'Klallam, Quileute, Quinault, and Skokomish.

2. Although cross-border activity on the Olympic Peninsula has been insufficient to keep the growing number of Border Patrol officers at Port Angeles Station busy, officers have been under pressure to make arrests, and have employed shifting strategies to meet their performance requirements. Some of these methods appear to intentionally blur legal distinctions for the purpose of circumventing search and seizure protections provided by the Fourth Amendment.

The Port Angeles Border Patrol Station has grown exponentially from four officers in 2006 to forty-two in 2012, with the opening a new \$11.9 million headquarters in Port Angeles in September 2012.⁴³ This is despite the Peninsula's lack of an international land border and its minimal border crossing activity.⁴⁴ Christian Sanchez, a Border Patrol officer stationed at Port Angeles from 2009 to 2012, testified to Congress about the lack of border-related work on the Peninsula. In his testimony, he stated that officers at the station were bored, and that coming to work was a "black hole" without purpose or mission. Rather than being allowed to turn down overtime when there was no work, officers were told to drive the 300-mile perimeter of the Peninsula on Highway 101, which they referred to as the "Baja 500." Those who went along with these orders received preferred work assignments and days off, while those who questioned them faced retaliation.⁴⁵ Following this testimony, DHS promised to investigate practices at the Port Angeles Station.⁴⁶ However this promise has not resulted in any increased transparency because a term of the ultimate settlement reached between Officer Sanchez and Border Patrol was that the findings of the investigation would remain confidential.⁴⁷

Border Patrol officers have faced pressure to meet job performance requirements measured in numbers of arrest, as shown by documents obtained from other Border Patrol Stations across the country, obtained through federal Freedom of Information Act (FOIA) requests followed by lengthy litigation to enforce compliance.⁴⁸ Congress has directly driven these arrest quotas, not directly through legislation, but through the appropriations process. The Continuing Appropriations Act of 2014 includes a "bed mandate," a provision that requires ICE to maintain a level of not less than 34,000 immigration detention beds on any given day. This has been interpreted in practice to mean "maintain and fill" those beds, i.e. to keep an average of 34,000 immigration detainees per day in custody. Even DHS has said that it does not need this level of detention to meet its goals, and during the sequestration debate, ICE told Congress that the agency could lower the number of beds and rely on cheaper

alternatives. However Congress maintained the mandate at 34,000 and ordered ICE to spend nearly \$400 million more than they requested.⁴⁹



Detention by Border Patrol, photo courtesy of FHRG, 2011.

It appears from the Spreadsheet that in response to this pressure on arrest numbers, Border Patrol officers at Port Angeles Station have employed some shifting strategies to meet performance requirements which blur the legal distinctions between stops where an officer must provide a reason and the legal exceptions where they do not. These are elaborated below.⁵⁰

a. Border vs. Interior Immigration Enforcement

The first such blurred distinction is between immigration enforcement at the border and interior enforcement. On the Peninsula, Border Patrol has invoked its *border* authority and employed *border* enforcement methods to carry out *interior* enforcement, where different rules apply. Under the Immigration and Naturalization Act (INA), officers at the border or its functional equivalent do not need to provide a justification to stop, question, or search someone.⁵¹ Officers may also board and search any vehicle or public transportation within a “reasonable distance” of an external U.S. boundary, for the purpose of intercepting recent border crossers headed inland.⁵² Beyond the border, however, the Supreme Court has limited Border Patrol’s sweeping authority. It ruled that no law can authorize violating the Constitution, and although officers on roving patrol within 100 miles of the border do not require probable cause to stop someone, they still must have an intermediate level of *reasonable suspicion* that a person is not legally in the U.S.⁵³ This suspicion must be more than a hunch, and it must be supported by factual observations beyond a person’s race and

ethnicity. If ethnicity is taken into consideration, it must be in a way that distinguishes those who are in the country illegally and those with legal status.⁵⁴ In practice, however, Border Patrol has invoked the broader border authority of the INA as blanket permission to act with impunity within 100 miles of the border.

In addition, Border Patrol has used methods of stopping people on the Peninsula that were designed to intercept recent border crossers and contraband. First, Border Patrol set up fixed highway checkpoints on Peninsula Highways in 2008 and 2009, during which time 24,524 vehicles carrying 41,912 people were stopped at 53 roadblocks. Eighty-one undocumented immigrants were detained, and nineteen people were turned over to other agencies for state crimes, but no terrorists or recent border crossers were intercepted.⁵⁵ The checkpoints were halted after organized public protest, only to be replaced by random bus boardings, which continued through 2011.⁵⁶ Both checkpoints and bus boardings impacted the general public, salal pickers, tourists, and vacationers alike.⁵⁷



Border Patrol parked on Highway 101, photo courtesy of FHRG, 2010.

Bus boardings were in turn replaced by roving patrols of officers stopping individual vehicles on the highway, a practice less visible to the public eye. Roving patrols were the subject of the recently settled ACLU lawsuit against Port Angeles Border Patrol which addressed the required level of suspicion for vehicle stops. Terms of the settlement include Border Patrol officers receiving refresher training in Fourth Amendment principles relating to vehicle stops and disclosing field contact data from such encounters for review by ACLU attorneys.⁵⁸

None of these methods have distinguished between long-time residents and recent immigrants, nor have they intercepted anyone entering the country across the Straits of Juan de Fuca from Canada. Although improper vehicle stops by roving patrols have now been curtailed, other Border Patrol practices have taken place even farther from public view, and remain cause for watchful

concern. These include stopping people working in the woods to ask for immigration papers or salal harvesting permits.

Type of Stop	#
Vehicle stop by roving patrol	28
Stopping people working in the woods	37

b. Consent

A second important but often-blurred distinction is whether a person voluntarily consents to questioning. An officer does not need any suspicion to ask questions, as long as the person feels free to walk away. On the Peninsula, many encounters have taken place in the woods or on secluded forest roads. These locations are often out of cell phone range, and it is unlikely that anyone would feel safe or free to walk away. In fact, it is well-known in the community that those who have tried to leave under such circumstances have faced escalation and increased danger, as clearly described in seven accounts, including that of Benjamin Roldan Salinas.⁵⁹



Photo from Latino Northwest Communications, Harvesting salal, November 2013

In winter of 2009, Border Patrol pulled out and followed a group of people. Because the driving conditions were treacherous, the group parked the van and ran into the woods. Border Patrol sent dogs after the ones who ran, and one man jumped into a swamp to get away. He was soaked and freezing, and he had a terrible time getting out.⁶⁰

- There are thirteen accounts of Border Patrol taking away car keys.
- There are nine accounts of people who faced extreme danger when they fled on foot into the woods.

*In 2011, Border Patrol stopped a van seven miles up a harvesting road. The driver ran but the passenger stayed. The officer then moved the van, broke the car key in front of the passenger's face, and left him stranded in the woods.*⁶¹

A conversation is not consensual if the officer does not identify him or herself as law enforcement.

- There are seven accounts, in settings ranging from the courthouse to the woods, where a Border Patrol officer concealed his or her identity until after asking about immigration status.

*In 2011, a woman who was a U.S. citizen and long-time resident of Forks travelled with a group of friends to attend to some business at the Social Security Office in Port Angeles. When she entered the building, she encountered a pregnant woman talking on the phone. When she returned to her van in the parking lot to head home, the pregnant woman followed her and asked where she was from. The woman replied that she was from Forks, but the pregnant woman wanted to know more. When she told the pregnant woman that she was originally from Mexico, Border Patrol officers immediately appeared and surrounded the van, intensively questioning the frightened group without ever giving a reason for approaching them in the first place, except that it was their job to make sure that people are legally in the U.S.*⁶²

*In 2011, a Border Patrol officer, who was dressed as a hunter, tried to start a conversation in Spanish with a group of salal pickers in the woods in a remote harvesting area. When they refused to speak to him, he threatened "Don't run because you will never get away!"*⁶³

c. Public or Private

A third frequently blurred distinction is the nature of the location where the stop takes place, whether it is public or private. In public, an officer may have a conversation with anyone who voluntarily consents, whereas an officer requires probable cause to detain and question someone in their home. The intermediate standard of reasonable suspicion applies to stopping vehicles on the road. In this rural and small town setting, boundaries between public and private space are fluid because of people's dependence on motor vehicles for almost any activity. In some of the compiled encounters, officers appear to take knowing advantage of the fluid gray area between the road, the side of the road, parking lots, and driveways.

Location of encounters	
On the road	85
In the woods	37
At the courthouse	14
Parking lots	16
Public places in town	13
At work	3
At home	17



Photo from FHRG log, Border Patrol detention of salal harvester, 2010.

An example of this, described in seventeen of accounts, is the practice of following a vehicle closely for a distance without pulling it over, instead waiting until the driver has reached a destination or pulled over on his own, often out of fear or to ask why he was being followed.

In 2011, Border Patrol turned around on the road in order to follow a family who was driving to Port Angeles to apply for a passport for their son in anticipation of returning to Mexico to live at the end of the school year. The three-year-old boy announced that he needed to go to the bathroom. When his parents asked him to wait, he started to cry, so they pulled over at a convenience store. Border Patrol pulled in after them and waited in the parking lot. After the mother and little boy got back into the car and started to pull out, an officer ran over and waved for them to stop, asking if they had permission to be in the country, whereupon more officers in an unmarked truck immediately arrived and surrounded them. The family was frightened to death. Border Patrol detained and deported the father.⁶⁴

The officer would have needed to articulate his reasonable suspicion to pull them over on the road, but may have been waiting for the driver to stop, in order to classify the encounter as a consensual conversation in a public parking lot if challenged. Here, whether or not the parking lot was a public place, there was no consent because the family was in no way free to leave.

3. Border Patrol has engaged in immigration detention practices on the Olympic Peninsula that violate the constitutional right to due process.

The Fifth Amendment to the U.S. Constitution assures that no person shall be deprived of life, liberty, or property without due process of law. In the immigration context, this means that proceedings must be *fundamentally fair*. Whether due process has been violated depends on the specific facts and individual circumstances, which may include officers obtaining statements through duress or coercion, physical abuse, lengthy interrogation, denial of food or drink, threats or promises, or failing to advise someone of his or her rights or interfering with the exercise of those rights.⁶⁵

*In 2011, Border Patrol detained a man and took him to Port Angeles Station where they put him in a chair and shackled his leg to a post for an hour. They then moved him to another detention area which he described as a cage within a bigger room, where they kept him for four more hours. The officers refused his request for a hearing in front of a judge, and they forced him to sign a declaration before they would release him. He is not sure what he signed.*⁶⁶

A. Signing Documents, Right to a Hearing

- There are nine accounts of Border Patrol violating due process by forcing people to sign documents which they did not understand, lying to people about what they were signing, making threats if they refused to sign, and denying their request for a hearing.

In 2008, Border Patrol stopped and detained a family at a fixed highway checkpoint five miles outside of Forks and took all of them to Port Angeles. The children were placed in a cell for five hours where they were not even allowed to go to the bathroom. They were extremely frightened. The father was forced to sign a paper which he thought was to authorize his transfer to

the detention center in Tacoma, but after they took him to Tacoma, officers told him that he had signed a request for voluntary removal and would be deported.⁶⁷

B. Outrageous Treatment

A person's due process rights may also be violated if treatment during arrest or detention is particularly outrageous.

- There are two accounts in particular of children being placed in jail cells and denied food or access to the bathroom.

In 2011, Border Patrol stopped a group of people driving home to Forks. Several of them ran, but officers detained a man with a three-year-old child and a woman with a three-month-old baby. The three-year-old was released to a family member in the middle of the night, but the woman and her baby were kept in a small holding cell without enough clothes to keep warm and nothing to eat but crackers and water. The baby cried through the night.⁶⁸

- 4. DHS has issued incentives and mandates for other law enforcement agencies to collaborate with Border Patrol on Border Patrol's terms. This has led to the blurring of jurisdictional boundaries, making any law enforcement action into a potential immigration enforcement action.**

The federal emphasis on interoperability and its prioritization over the autonomy of local law enforcement agencies has directly fostered some convoluted and multi-layer scenarios such as the following one.

In 2011, a National Park Service officer stopped a van of salal pickers as they headed home from working in the woods. He asked for their salal permits, which the harvesters showed to him. The officer then called and confirmed that the landowner had given the harvesters permission to pick on his land. Then, as the Park Service officer was leaving, a Jefferson County Sheriff showed up, asked the driver for his license, registration, and proof of insurance. He offered to get an interpreter on the phone, failing to mention that the interpreter was Border Patrol. When the group realized who was on the phone, they asked the Sheriff if they could leave. He told them they could not because he had to write the driver a traffic ticket first, but then he stood outside of his car doing nothing. Two people fled, but a couple and their son

stayed in the van. They were eventually allowed to leave, but the driver never got his driver's license back.⁶⁹

DHS has issued a number of initiatives which mandate sharing of resources and information between law enforcement agencies as a way to make border communities more secure, with the rationale that checking people more frequently will increase overall security. This collaboration has taken various forms, including backup and interpretation (discussed above), sharing of arrest information through the Secure Communities Initiative, and funding for high-tech communication equipment through Operation Stonegarden.

a. Secure Communities (S-Comm)

Under the Secure Communities Initiative, when state and local law enforcement officers making an arrest routinely submit fingerprints to the FBI to check against its criminal databases, the FBI automatically notifies ICE. ICE may then issue an immigration detainer, which orders the arresting agency to hold the person for forty-eight hours, even if he or she has been cleared of wrongdoing and/or is otherwise free to leave. DHS has publicly promoted S-Comm as a program to “identify and remove criminal aliens who pose a threat to public safety.”⁷⁰ However contrary to the program’s publicly stated priorities, S-Comm has allowed ICE to reach deeper into the criminal justice system to meet Congress’s detention quotas by finding legal U.S. immigrants with any criminal record and undocumented immigrants in local police custody after traffic stops.⁷¹ On the Peninsula, implementation of S-Comm has resulted in the deportation of persons for minor offenses, civil infractions, mistaken identity, or for no violation at all, including being a victim of a crime.

- There are twenty-eight accounts of people detained because of S-Comm, who had no criminal history and posed no public safety threat.

In 2010, a man who was trying to stop his wife from driving drunk got into a non-physical argument with her. She called the police, and the man was charged with malicious mischief in the third degree. Because it was a weekend, he was held in jail until his hearing on Monday morning. At the hearing, the judge told him he was free to go, but the man was nonetheless detained on an immigration hold as soon as he left the courtroom.⁷²

In 2010, Forks Police detained a long-time Forks resident, based on a warrant for someone else, in a case of mistaken identity. Police told him that it was necessary to take him to the station to straighten out the mistake. By the time

*his family was able to locate him, he had already been taken from Port Angeles to the detention center in Tacoma.*⁷³

In addition, there are instances where implementation of S-Comm has resulted in creation of a criminal record for a person who previously had none. This has occurred when a local court issued a bench warrant when someone failed to show up for a civil, traffic, or domestic hearing, but the person was unable to attend due to being detained. A bench warrant on one's record can block avenues of legal redress for an improper immigration detention that a person without a criminal record would otherwise have.

*In 2010, a man was leaving the Forks courthouse after attending a hearing for driving with a suspended license. The judge had granted him time to pay off his outstanding traffic tickets and scheduled a follow-up hearing. However, Border Patrol picked him up as he left the courthouse and deported him, leaving his wife and four citizen children on their own. Later, Forks Police came to the man's house with a bench warrant for his failure to show up for the traffic hearing. They even tried to mistakenly use the warrant to arrest his 14-year-old son who shared the same name.*⁷⁴



Photo from FHRG log, Border Patrol and Forks Police in Forks, 2011.

b. Operation Stonegarden (OPSG)

Operation Stonegarden is a federal grant program administered by the Federal Emergency Preparedness Agency (FEMA). Its stated purpose is “to enhance cooperation and coordination among local, tribal, territorial, state, and federal law enforcement agencies in a joint mission to secure the United States’ borders along routes of ingress from international borders.”⁷⁵ Under OPSG, FEMA channels grant requests submitted by local law enforcement agencies to

Border Patrol for approval based on Border Patrol's priorities.⁷⁶ OPSG also requires an funding recipients to participate in an ongoing working group with representation from Border Patrol.⁷⁷ On the Peninsula, OPSG funds have been used to pay for high-tech surveillance and radio equipment and for personnel overtime. Some Peninsula communities have resisted participation in OPSG,⁷⁸ but in practice it is difficult for local agencies to maintain autonomy when Border Patrol controls the federal purse strings and state budgets are increasingly tight.⁷⁹

C. Interoperability in Practice

In many instances, it is not clear how or why Border Patrol is present during a law enforcement action with another agency, whether they were called to the scene, or whether they simply picked up the call on the shared radio frequency.

In 2011, a father and his adult son were driving home from picking salal when a National Park Service officer passed them going sixty miles per hour in the opposite direction, turned around and pulled them over, but never spoke to them. A few minutes later, Border Patrol arrived, arrested, and detained the son and then questioned the father.⁸⁰

- There are seven accounts where Border Patrol was simply present, even though there was no emergency, no interpretation need, and no connection to immigration.

In 2009 a group of salal pickers was headed home when Washington State Patrol blocked the entrance to the forest road and asked to see the driver's license and work permit. Forks Police immediately arrived, and Border Patrol was on the scene within five minutes.⁸¹

- There are seven accounts where Border Patrol showed up after another agency made the initial contact for a routine policing matter, and then simply stepped in and took over.

In 2011, Forks Police pulled a man over in town for failing to come to a full stop. Border Patrol approached on foot to help interpret. Border Patrol then took over the questioning. Forks Police did not issue a citation, but Border Patrol detained the man.⁸²

It is problematic when multiple agencies are involved in the same encounter because the distinctions between jurisdictions and standards for each are easily confused or forgotten. For example, both state police and federal immigration officers need reasonable suspicion to stop and question a driver on

the road. However police must have reasonable suspicion that someone has violated the traffic code or has committed a crime, but Border Patrol must have reasonable suspicion that someone is not legally in the U.S.⁸³ These are neither identical nor interchangeable.

S-Comm and OPSG are just a few of the federal programs which have placed state and local law enforcement agencies directly in the middle of primary immigration enforcement. Although interoperability may appear on the surface to be a logical approach to extending scarce resources, it also opens the door for Border Patrol officers to piggyback on the authority of local police to stop and question someone, thereby gaining access to question people about immigration status that they would otherwise not have. This potentially places state and local police in the position of violating Washington State Constitutional standards to which they are also accountable, even if Border Patrol is not.⁸⁴



Salal, photo by author, 2013.

5. Blurring of functional boundaries between law enforcement agencies makes the community less secure, because community members are terrified of any contact with law enforcement, even as witnesses or as victims of a crime. Community members live in fear that such contact will lead to immigration actions against themselves or their family members.

The priorities of federal immigration enforcement undermine the essential relationship that local law enforcement needs to have with the entire community in order to ensure public safety.⁸⁵ Since 2008, Forks community members have lived on constant watch for Border Patrol and have become afraid and distrustful of any interaction with law enforcement. They have been afraid to engage in the community or to go to work for fear that their families will be

torn apart. Many say they will not call the police for any reason. Based on a number of incidents, this fear appears to be well-founded.

- There are thirteen accounts of Border Patrol detaining bystanders, victims, and witnesses of crime.

In 2011, Border Patrol stopped a van in the wood, and the driver ran. Border Patrol did not find him, but detained two others who were eating lunch nearby before starting to work. Neither of them had an immigration record, but they were nonetheless detained.⁸⁶

It is of particular concern when victims of crime and accident victims are afraid to receive assistance from law enforcement.

In 2010, two men were in a bad car accident driving home from Port Angeles in a snow storm. Washington State Patrol came to the scene, and held the men there until Border Patrol arrived.⁸⁷

In 2010, a young man was assaulted by a female acquaintance, giving him a black eye, cut lip, and multiple bruises. He did not fight back. He refused to press charges or obtain an anti-harassment order because it would mean involving the police.⁸⁸

Police are hindered in their ability to investigate criminal activity, when witnesses with valuable information are afraid to come forward, even when those witnesses want to help.

In 2009, a Guatemalan man was stabbed in Forks. People in the community who knew something were afraid to take the risk to call or report anything because they did not want to get separated from their family.⁸⁹

This fear of coming forward has likely hindered federal law enforcement investigations as well.

In 2012, there was a multi-agency drug raid at the nearby cedar mill. Border Patrol was an assisting agency, but made seven or eight of its own detentions of bystanders after asking them for documents and where they were born, while other law enforcement brought out full riot gear and a helicopter to find their main person of interest. Border Patrol's actions split up a number of families and left the community with very mixed feelings about the raid, after initially being glad about the drug arrests.⁹⁰

6. Border Patrol's actions on the Olympic Peninsula have directly contributed to the heightened fear and distrust in the community, in ways that are best described as intimidation and harassment. These include maintaining a threatening presence in the community, conspicuously following and watching people, bullying, damaging personal property, driving aggressively, harassing, and retaliating against advocates and family members.

Border Patrol's actions have frightened the community in a number of ways. First, officers have maintained a conspicuously high-profile presence at many of the places where people go to take care of daily necessities, including the DSHS (welfare) office, Food Bank, Post Office, Thriftway, Courthouse, and outside people's homes. Officers have even stood in the woods watching people while they worked.



*Border Patrol at Kalaloch Beach, Olympic National Park
photo courtesy of FHRG .2012.*

- Ten accounts describe how the omnipresence of Border Patrol has turned daily activities into stressful and even terrifying events for some community members.

In 2010, two plain clothes officers in unmarked truck watched a man's house. They told him that they would not detain him because he was at his home, but they wanted to know where he lived.⁹¹

- There are fourteen accounts of Border Patrol Officers waiting at the Courthouse while people were attending to their civic responsibilities. Three of these encounters resulted in deportation.

In 2010, a man who went to the Courthouse to pay a traffic ticket was detained by Border Patrol in the parking lot as he left the courthouse. He was deported, leaving his pregnant girlfriend alone with their five children.⁹²

In 2010, a man took a friend along to his appointment with his probation officer at the Courthouse to help interpret. Border Patrol apprehended them both as they walked into the probation office, physically restraining the friend, saying “just in case you run away.”⁹³

At the local salal shop, pickers bring in their daily salal harvest to sell salal. Here the salal is sorted, boxed, and placed in refrigerated storage prior to shipping. He related that he has been unable to find enough people to pick because so many harvesters have been driven from the area by activities of Border Patrol. Therefore he has had to operate his business at a fraction of capacity, and he has had difficulty covering his utilities and overhead costs.⁹⁴

- Three accounts describe officers establishing their presence at the salal processing shop. The salal shop owner reported that he has seen Border Patrol frequently waiting at the driveway to his business or following people home when they leave his business.

In addition to maintaining an intimidating presence, Border Patrol has used threats of arrest to frighten community members.

- There are seven accounts of Border Patrol officers making the specific threat during the last six months of 2011, that they would arrest and deport any community member with legal immigration status who gave an undocumented person a ride in their car.⁹⁵

Two community members were on their way to the mechanic when Border Patrol passed them and turned around to follow them. When the driver pulled into the parking area at the mechanic shop, several Border Patrol vehicles surrounded them. The passenger, who was undocumented, tried to run but was eventually detained. The driver was a legal long-time resident, but he was also detained. Border Patrol told him that he was a criminal for transporting an illegal alien in his car. The driver was held at the Northwest Detention Center for three days, his green card was held for several months, and his truck was confiscated by Border Patrol.⁹⁶

- Twenty-one accounts describe officers bullying and threatening people.

In 2010, Border Patrol stopped a man in the woods as he returned to his van to eat lunch. The officer asked him for his papers, permits, and vehicle license. The man provided all of them, but the sheriff who was with Border Patrol still wrote him a citation for harvesting without a permit, claiming that he was

not harvesting on the appropriate land, although neither officer had seen him harvesting and he was parked on the correct land. The officers detained him for two more hours. The Border Patrol officer grilled him about who else was in the woods and told him "If you don't want us to hurt the other people, you better tell us who they are." The man was finally allowed to leave, but only after an FHRG advocate arrived and started asking questions.⁹⁷

- There are eighteen accounts of Border Patrol intentionally damaging the personal property of salal harvesters.

In 2011, Border Patrol picked up four people and went through their van and backpacks, took harvesting permits from the car, and threw their belongings around the van.⁹⁸

In 2012, Border Patrol followed a man driving a van until he stopped and ran. When the man returned the next day to retrieve his van, his keys were gone, and the salal he had harvested was spread all over the road.⁹⁹

Border Patrol Officers have even exhibited such aggressive behavior towards each other, suggesting the extent to which it is a part of agency culture.

In 2011, a Border Patrol Officer choked his supervisor and pinned him to his chair during a work meeting with other supervisors. The two were separated by others at the meeting. The officer pleaded guilty to assault of a federal officer in 2013.¹⁰⁰

One form of aggressive Border Patrol conduct stands out above the rest. Aggressive driving is perhaps the single most prevalent theme to emerge from the compiled accounts. To place this in its local context, as soon as one drives west from Port Angeles towards Forks, Highway 101 becomes an unlit, two-lane road with narrow shoulder through federal park and forest land. It winds around Lake Crescent, a body of water just over a mile wide, but estimated over 1000 feet deep, with sheer rock face on one shoulder and deep water on the other. Most of the other roads in the area are forest and logging roads. The accounts include Border Patrol following people for long distances, riding bumpers and shining high beams at close distances, passing in areas without visibility to do so, and creating road hazards when stopping vehicles on the road.

- There are forty-five accounts of Border Patrol driving aggressively and dangerously.

In 2010, a family was driving around Lake Crescent when Border Patrol passed them in the opposite direction, did a U-turn, and followed them for twenty miles but never pulled them over.¹⁰¹



Road around Lake Crescent, photo by author, 2013.

In 2012, a woman was driving home to Forks with her babies in the car, and she saw a Border Patrol vehicle behind her approaching dangerously fast. The vehicle passed her and then rode the bumper of the next car with its high beams on.¹⁰²

There is a widespread community perception that aggressive driving is frequently for the intentional purpose of intimidation.

In 2011, on a night of below freezing temperatures, two advocates were searching in their car for a missing community member who had fled earlier from Border Patrol into the woods. Border Patrol passed their car on a curve with a double yellow line, in the dark with its lights off, and then slowed down in front of them.¹⁰³

Once again, Border Patrol has used the same form of intimidation against one of its own.

In 2011, Officer Sanchez, the whistleblower who testified to Congress about Border Patrol abuses, was himself tailgated for several miles as he drove to work in the dark. He learned later at work that he was being tailed by his own supervisor.¹⁰⁴

Aggressive driving is part of a more general pattern of retaliation.

- Ten accounts describe Border Patrol retaliating against family members and community advocates.

In 2011, two community members went to retrieve a van belonging to men who had been detained earlier by U.S. Forest Service and Border Patrol working together. A Forest Service officer gave them permission to move the van, saying there was no problem and no rush. Worried about the men who

might be lost or injured in the woods, the two decided to search the nearby forest roads first before moving the van. When they returned to the main highway to retrieve it, they noticed a Forest Service vehicle parked on the side of the road with its headlights off, and the officers were watching them. The officers pulled out and followed them and were soon joined by three additional Border Patrol vehicles. The officers repeatedly questioned the pair for thirty minutes and became increasingly hostile when they refused to answer questions. The community members felt increasingly unsafe on the isolated forest road.¹⁰⁵

Such retaliatory conduct has been observed and reported not only by community members, by the staff conducting the OASCR federal civil rights investigation during the hearing itself.

In 2011, during the DOA investigation into Benjamin Roldan Salinas' death, DOA observed two Forest Service officers in the hallway running a criminal background check on a Latino witness from Forks who was testifying at the time. They questioned the witness when he was done testifying. The agency concluded that this was retaliation for testifying.¹⁰⁶

Although each scenario differs in the exact details, when considered as a whole, these incidents paint a picture of an agency culture where violence and intimidation have been both commonplace and accepted.

- 7. Border Patrol's practices on the Olympic Peninsula have had a devastating impact on local families. Children, many of whom are U.S. citizens, will be dealing with the fallout of witnessing trauma and abuse to their family members and themselves, along with the consequences of family fragmentation, for many years to come.**

In the winter of 2011, a U.S.-born Latina and her immigrant husband had five children, and they were expecting a sixth. Border Patrol pulled over a van that the husband was riding in, and he fled into the dark woods with several others. He came out of the woods seven hours later, but he was afraid to return home, so his wife was left to care for the children by herself. Now, the children are very afraid of police, and compulsively close the curtains and bolt the doors at home. Once, when the wife was pulled over in Forks for a minor traffic violation, one of her children climbed out of his car seat and hid under the seats. Two of her children are struggling in school and are now in

*special education. Her eight-year-old daughter had learned to read and then forgot how. When she sought counseling for her daughter, the counselor tried to cure the girl of her fear of police by making her meet with a police officer. Her thirteen-year-old son said that he would drop out of school to support the family if needed.*¹⁰⁷

Border Patrol's activities on the Peninsula have split apart families, and in particular they have deeply traumatized the children, many of whom are U.S citizens. When a family's main provider is detained and deported, the remaining spouse is left to parent and support the children alone. When Border Patrol has detained both parents, it has called or threatened to call Child Protection Services (CPS) to take the children. Between 2008 and February, 2012, 106 children were left without one of their parents, and 13 children were left with no parent at all.¹⁰⁸

*In 2011, Border Patrol detained a couple in the woods. The arresting officer contacted a family member, who agreed to take care of the couple's child, but the Border Patrol supervisor called CPS (although he later claimed he did not know at the time that the couple had a child). The husband was deported and the wife is struggling as a single mother without her husband's earnings. The twelve-year-old son is still dealing with the fallout and trauma while he tries to normalize his life.*¹⁰⁹

Children in the community are showing the signs of the ongoing severe stress that they have experienced under these conditions, even when they themselves have not had direct contact with Border Patrol.

*A mother told interviewers that she has seen a lot of artwork by children in the Headstart pre-school program depicting black jail bars.*¹¹⁰

*In 2008, a young boy started wetting his pants at school after his aunt and uncle were detained and deported, and their three children (his cousins) were left to be cared for by relatives.*¹¹¹

In 2010, a father of four was detained and deported on an S-Comm detainer after he went to court for a suspended driver's license. After his deportation, his fourteen-year-old son developed problems with anger and aggression, which became worse after Forks Police came to the house to arrest the father on a civil bench warrant for failing to show up at a hearing for the driver's license issue. The son shares his father's name, and police mistakenly put him in the patrol car until his mother could convince them that they had the

*wrong person. After that, he boy screamed whenever he saw the police officer who had arrested his father. In addition, his sixteen-year-old daughter who s mentally ill became unable to cope after her father was taken because she was deeply afraid that her mother would also suddenly disappear. The daughter is unable to attend high school and was hospitalized for eight months. She is now home but struggling. The mother cannot return to Mexico to reunite with her husband because her daughter's special needs are now finally being addressed here.*¹¹²

- 8. Border Patrol's conduct on the Peninsula has improved over the last year, in response to the efforts of many different people. At the time of release of this report, community members report that they feel safer going about their daily lives, but the personal scars and distrust of law enforcement remain. The final chapter has not yet been written. It will be determined by the future shape of immigration reform.**

Much has happened on the west end of the Olympic Peninsula since Border Patrol set up its first highway checkpoints on Highway 101 in 2008. When DHS Secretary Janet Napolitano issued an order to halt the checkpoints, other methods of rounding up immigrants took their place. Border Patrol's deceitful and aggressive tactics escalated, with the conflict between Border Patrol and the community appearing to peak in 2011-2012 with the events surrounding the drowning death of Benjamin Roldan Salinas.

Lesley Hoare, a long-time member of FHRG, relates what it was like for community members during that time. "It really felt like a war, where we wondered who could get there first, who was safe and who would not be returning to Forks and their family that day."¹¹³ Now in 2013, following the OASCR ruling prohibiting interpretation by Border Patrol and settlement of the ACLU lawsuit concerning reasonable suspicion for vehicle stops, the community is starting to sense a turn for the better.

*We feel that a small sense of security and peace has returned to the community now that Border Patrol is being forced to follow the law. However, bridges and trust with local law enforcement are still strained. We have had to fight hard, and we have seen the effects in the community, including many broken families and the economic and emotional effects that come with that, along with exhaustion and loss. We have also seen the community finding its power and voice as it tries to reclaim its rights.*¹¹⁴

The good news is that there have been no accounts of Border Patrol pulling over a vehicle since early in 2013. Now, when undocumented people get stopped for traffic infractions, they just receive traffic citations and Border Patrol is not called to interpret. Fewer Border Patrol vehicles patrol through town, although they are still sometimes seen on forest roads or parked on the side of the road. It will be important going forward for this community and its advocates to continue to monitor and document the actions of Border Patrol, lest new methods of rounding up immigrants emerge to replace those that have been recently curtailed.

V. RECOMMENDATIONS AND REMEDIES

For President Obama

1. The President should issue an immediate executive order to suspend deportations of undocumented immigrants, or at least those who may eventually be eligible for legalization under a bill for immigration reform with dignity. This is a needed to allow for rational debate that includes the voices of those most affected by modernization of our immigration laws.
2. The President should extend his executive order for Deferred Action for Childhood Arrivals (DACA) to immigrants of all ages.

For Congress

1. As Congress decides the future of immigration reform, legislators must understand that an increase in funding to Border Patrol does not equate with increased security in border communities, and may mean the opposite. Legislators should ensure that any immigration reform measures clearly differentiate border surveillance activities from interior immigration enforcement.
2. Congress should dismantle Secure Communities because it has not lived up to its promise to focus on removal of dangerous criminals. It has contributed to entire communities avoiding contact with any law enforcement.
3. Legislative appropriations for state or other federal law enforcement should not be conditioned on Border Patrol approval, in recognition of the inherent

conflict of missions and priorities. In addition, legislators should not accept immigration policy being set through the back door of the appropriations process, and should immediately eliminate the “bed mandate” from appropriations for the Department of Homeland Security.

For the Washington State Legislature

Legislators should vote to pass the Washington Trust Act, HB 1876 when it is reintroduced for consideration in 2014.¹¹⁵ This Act will help to rebuild trust between immigrant communities and local police by establishing statewide standards for responding to S-Comm detainer requests. The Trust Act will bring Washington’s participation in S-Comm back into line with the program’s stated promise of prioritizing arrest and removal of those accused or convicted of serious crimes.

For FEMA

FEMA should ensure that Stonegarden grant money is only used for actual, legitimate border safety efforts. Grant language should explicitly prohibit enforcement of immigration law by state or local authorities.¹¹⁶

For Border Patrol

1. Border Patrol should establish a clear policy that border enforcement does not include stopping forest workers in the woods in Washington who happen to live within 100 miles of the northern border, and who may at one time have entered the country via the *southern* border.
2. Border Patrol should discontinue the practice of detaining harvesters in the woods without probable cause, and they should discontinue stopping people under the pretext of checking for salal harvesting permits.
3. Border Patrol should comply with the terms of the ACLU settlement agreement regarding roving patrol vehicle stops, including completion of its education and disclosure requirements. Border Patrol’s chain of command should enforce the expectation that officers will comply with the spirit of the agreement as well as its letter, so that further education in constitutional rights is not used simply to circumvent the rules in new ways.

4. Border Patrol should take measures to increase transparency regarding its policies and practices. It should collect comprehensive data regarding *all* contacts with community members, and make this data available for external audit and internal practice improvement. Border Patrol should establish an accessible and transparent public complaint mechanism with clear hierarchy and timelines, overseen by an independent body with subpoena power, consisting of community members and elected officials from border communities.

For State Law Enforcement Agencies

1. Local, state, and other federal law enforcement agencies should enact policies to maintain their functional separation from Border Patrol. These policies should clearly define the circumstances under which collaboration with Border Patrol is indicated, which should be limited to exceptional circumstances. These circumstances should in no way be based on the race or ethnicity of the persons involved.
2. Local and state law enforcement agencies should not routinely notify Border Patrol of their encounters with members of the Forks immigrant community, unless one of the clearly-defined, exceptional circumstances exists.

VI. CONCLUSION

The Olympic Peninsula is a unique, beautiful, and remote region of the United States. Although it forms the far northwest corner of the continent, it has no international land border. Despite its natural peacefulness, a segment of the population has been hiding in fear. Because of the burgeoning presence of Border Patrol, members of this community have perhaps become the latest harvest of Peninsula forests. Between 2008 and 2012, there was virtually open season on community members, regardless of their citizenship status and in violation of their constitutional rights. None of them entered the U.S. across the Strait of Juan de Fuca from Canada. They came to the region to work harvesting salal which happens to grow near the border. Stopping Latinos who may have entered the country via the *southern* border is not border enforcement, nor is it appropriate to use highly sophisticated resources designed for interdicting

international terrorists to terrorize Latino forest workers who earn their living gathering floral greens.

There is a heavy social cost attached to Border Patrol's involvement in interior immigration enforcement. Everyone pays the price. First and foremost, the families who have been splintered apart have paid the most dearly. Children, many of them U.S. citizens, will continue to pay the price of long-term psychological trauma, along with the disruption of their education and involvement in the community, for years to come. The entire community pays the price of undermined security when a major segment of the population lives in fear of coming forward with information that would be useful to law enforcement. Many have suffered, and many have worked hard to bring about change, both in the microcosm of Forks, Washington and across the northern border. The community members who came forward to share their experiences in this report have exhibited tremendous courage. By doing so, they have made an invaluable contribution to the pressing national debate for comprehensive immigration reform.



Rialto beach, Olympic National Park, photo by author, 2012.

¹ This account of events surrounding the death of Benjamin Roldan Salinas is drawn from multiple sources. Final Agency Decision at 2-3, XXX v. Department of Agriculture, Complaint No. FS-11-5171, 2012, *available at* <http://www.nwirp.org/Documents/PressReleases/DecisionOfOASCRUSDareCivilRightsComplaintREDACTEDforRelease.pdf>. ; Investigation Report #C2011-08450.doc by Deputy William E. Cortani, Jr. (obtained from Clallam County Sheriff's Office Public Records Request 3/26/2012; CCSO 10/25/12, 3-11); Report #8399092 by USDA Forest Service Officer Dunfee (obtained from Clallam County Sheriff's Office Public Records Request 3/26/2012; CCSO 10/25/12, 3-11); *Searchers Continue on Quest to Find Missing Man*, Forks Forum, May 16, 2011, updated May 20, 2011, http://www.forksforum.com/news/article.exm/2011-05-16_west_end_man_missing_in_sol_duc_river; Manuel Valdes, *Body of Missing Man Found in Sol Duc River*, Seattle Times, June 6, 2011, http://seattletimes.com/html/localnews/2015245685_apwasolducbody.html; Nina Shapiro, *Nowhere-Near-the-Border Patrol in Forks: How a Flush Government Agency Found Trouble in the Coastal Home of Twilight*, Seattle Weekly, July 26, 2011, <http://www.seattleweekly.com/home/875373-129/story.html>.

² See STEPHANIE MEYERS, *THE TWILIGHT SAGA*, (Little, Brown and Co.)(2005).

³ Border Patrol's published goals are first "to secure the Nation's borders to protect America from the entry of dangerous people and goods and prevent unlawful trade and travel" and second "to ensure the efficient flow of legitimate trade and travel across U.S. borders." U.S. CUSTOMS AND BORDER PROT., *SECURE BORDERS, SAFE TRAVEL, LEGAL TRADE: U.S. CUSTOMS AND BORDER PROTECTION FISCAL YEAR 2009-2014 STRATEGIC PLAN 13-20* (2009) [hereinafter *USBP STRATEGIC PLAN*].

⁴ The Port Angeles ferry provided the point of entry for Ahmed Ressam in 1999, where he was apprehended with bomb materials in the trunk of his car. Gene Johnson, *Terrorist Captured in Port Angeles Sentenced to 37 Years for Millennium Plot*, PENINSULA DAILY NEWS, October 24, 2012, <http://www.peninsuladailynews.com/article/20121024/news/310249984/terrorist-captured-in-port-angeles-sentenced-to-37-years-for>.

⁵ Kit Oldham, *Clallam County -- Thumbnail History*, HISTORYLINK.ORG #7576 (Wash. State Dep't of Archeology & Hist. Preservation 2005) http://www.historylink.org/index.cfm?DisplayPage=output.cfm&file_id=7576.

⁶ Kurt Konrad Spreyer, *TALES FROM THE UNDERSTORY: LABOR, RESOURCE, CONTROL, AND IDENTITY IN WESTERN WASHINGTON'S FLORAL GREENS INDUSTRY 78* (University of California, Berkeley, 2004).

⁷ *2010 Census Population of Forks, WA*, CENSUS VIEWER, <http://censusviewer.com/city/WA/Forks/2010> (last visited November 11, 2013).

⁸ In 2001, Congress passed the USA Patriot Act which provided for tripling the total number of Border Patrol agents and expanding high tech monitoring technology. Chad C. Haddal, *Border Security: The Role of the U.S. Border Patrol* 22, 28 (2010), *available at* <http://www.fas.org/sgp/crs/homesec/RL32562.pdf>.

⁹ Paul Gottlieb, *Border Patrol Braces for Budget Cuts*, PENINSULA DAILY NEWS, Mar 10, 2013, <http://www.peninsuladailynews.com/article/20130310/NEWS/303109996/border-patrol-braces-for-budget-cuts>.

¹⁰ Law enforcement agencies operating on the Peninsula's West End include CBP, Immigration and Customs Enforcement (ICE), National Forest Service (NFS), National Park Service (NPS), Federal Emergency Management Agency (FEMA), Clallam and Jefferson County Sheriffs' Offices (CCSO, JCSO), Forks and Port Angeles Police Departments (FPD, PAPD), and Makah, Quileute, Quinault, and Queets Tribal Police.

¹¹ *USBP STRATEGIC PLAN*, *supra* note 3 at 22.

¹² Interview with Community Member #5, in Clallam County, Wash. (Apr. 15, 2012).

¹³ Interview with Lesley Hoare, in Clallam County, Wash. (March 20, 2013).

¹⁴ The Peterson Clinic submitted Public Records Requests to Washington State Patrol, Clallam County Sheriff's Office, Jefferson County Sheriff's Office, Port Angeles Police Department and Forks Police Department under the Washington Public Records Act. In summary, the requests were for any documents generated between January 1, 2008, and July 30, 2013 relating to:

1. Agreements for cooperation between the agency and Border Patrol;
2. Policies or procedures regarding assistance, information sharing, the agency's participation in immigration enforcement or Border Patrol participation in the agency's law enforcement operations
3. Incidents involving Border Patrol assistance or collaboration, or agency requests for assistance from Border Patrol, including interpretation.

Agencies responded with varying degrees of disclosure. A large number of documents were sent by one agency to Border Patrol for approval prior to release. At the time the records request was closed in July 2013, a large portion of those records remained in Border Patrol's possession and have not been released, presumably awaiting review.

¹⁵ Data is derived from the compiled spreadsheet on file, which shall hereafter be referred to as the 'Spreadsheet'.

¹⁶ When asked by several sources to justify its expanded presence on the Peninsula, Port Angeles Border Patrol has refused to release arrest numbers, citing privacy and security concerns. See Paul Gottlieb, *Border Patrol Move Almost a Certainty; No Special Permits Needed, Official Says*, PENINSULA DAILY NEWS, Aug. 23, 2010, <http://www.peninsuladailynews.com/article/20100824/NEWS/308249990/border-patrol-move-almost-a-certainty-no-special-permits-needed>. See also Paul Gottlieb, *Response Promised Soon on Border Patrol Agent's Claims About 'Black Hole,' Misuse of Federal Funds*, PENINSULA DAILY NEWS, Sept. 16, 2012, <http://www.peninsuladailynews.com/article/20120916/NEWS/309169990/response-promised-soon-on-border-patrol-agents-claims-about-black>.

¹⁷ Marc R. Rosenblum, *Border Security: Immigration Enforcement Between Ports of Entry 12-20* (2012), available at <http://fpc.state.gov/documents/organization/180681.pdf>.

¹⁸ FORKS HUMAN RIGHTS GROUP (FHRG), INCIDENT LOG #130 (2011).

¹⁹ AMERICAN CIVIL LIBERTIES UNION, *THE PERSISTENCE OF RACIAL PROFILING AND ETHNIC PROFILING IN THE UNITED STATES: A FOLLOW-UP REPORT TO THE U.N. COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION* (2009), available at http://www.aclu.org/files/pdfs/humanrights/cerd_finalreport.pdf.

²⁰ Eric Lichtblau, *Bush Issues Federal Ban on Racial Profiling*, N.Y. TIMES, June 17, 2003, <http://www.nytimes.com/2003/06/17/politics/17CND-PROF.html>.

²¹ WASH. REV. CODE §43.101.410 (2002).

²² *Gonzalez-Rivera v. INS*, 22 F.3d 1441, 1450 (9th Cir. 1994).

²³ "The Department of Homeland Security's policy is to prohibit the consideration of race or ethnicity in our daily law enforcement activities in all but the most exceptional instances...This Guidance governs all federal law enforcement activities, and there will be serious consequences for those who disregard it." Tom Ridge, *The Department of Homeland Security's Commitment to Race Neutrality in Law Enforcement Activities*, June 1, 2004, available at http://www.dhs.gov/xlibrary/assets/CRCL_MemoCommitmentRaceNeutrality_June04.pdf. DHS restated and reinforced this policy again in 2013. See Secretary Napolitano, *Memorandum for Component Heads Re: The Department of Homeland Security's Commitment to Nondiscriminatory Law Enforcement and Screening Activities*, April 26, 2013 available at http://www.dhs.gov/sites/default/files/publications/secretary-memo-race-neutrality-2013_0.pdf.

²⁴ Asking for papers is in itself not a sufficient reason; an officer must first have a reason to stop and ask someone for papers.

²⁵ Under the Fourth Amendment, a law enforcement officer may not base stopping someone solely on Mexican ancestry or a foreign-sounding name. *Orhorhaghe v. INS*, 38 F.3d 488, 500 (9th Cir. 1994).

²⁶ Interview with Community Member #7, in Clallam County, Wash. (Apr. 15, 2012).

²⁷ FHRG, INCIDENT LOG #63 (2010).

²⁸ In the case of traffic stops, pretext can be inferred from the stated reason for the stop, whether the officer issued a traffic citation, whether the stop appeared objectively reasonable, and what questions the officer asked. *State v. Ladson*, 138 Wn.2d 343, 351 (1999).

²⁹ FHRG, INCIDENT LOG #169 (2011).

³⁰ Interview #4, Clallam County, Wash. (Apr. 14, 2012).

³¹ *Vilsack*, FS-11-5171, 30, *supra* note 1.

³² *Id.* at 29.

³³ *Id.* at 28.

³⁴ *Id.* At 33.

³⁵ Press Release, Northwest Immigrant Rights Project, Border Patrol Policy Change Important Victory for Border Communities (Dec. 13, 2012) (*available at* <http://www.nwirp.org/news/viewmediarelease.aspx?PressReleaseID=49>). Also, Letter from the Northwest Immigrant Rights Project to Eric Holder and Janet Napolitano, *Re: Complaint Regarding Violations of Title VI of the Civil Rights Act and Executive Order 13166 Due to the Actual or Purported Use of Border Patrol Agents as Interpreters*, May 1, 2012, *available at* <http://nwirp.org/Documents/PressReleases/ComplaintToUSDOJandDHSreInterpretationAssistanceFinalRedacted05-01-2012.pdf>.

³⁶ FHRG, Incident log #246 (2012).

³⁷ *Vilsack*, FS-11-5171, *supra* note 1.

³⁸ *Id.*

³⁹ This person was one of the plaintiffs in the recently settled ACLU lawsuit. Settlement Agreement, *Sanchez v. U.S. Border Patrol*, No. CV12-5378-RJB (W.D. Wash. 2013) *available at* <http://aclu-wa.org/sites/default/files/attachments/2013-09-23--Fully%20Executed%20Settlement%20Agreement.pdf> .

⁴⁰ *Border Patrol arrest at farmers market stuns bystanders*, PENINSULA DAILY NEWS, September 4, 2012, <http://www.peninsuladailynews.com/article/20110904/NEWS/309049990>. *See also* Keegan Hamilton, *The Case of the Concerned Citizen, the Harmless Korean, and the Port Angeles Border Patrol*, SEATTLE WEEKLY, October 20, 2011, http://www.seattleweekly.com/dailyweekly/2011/10/case_concerned_citizen_harmless_korean_port_angeles_border_patrol.php.

⁴¹ FHRG, INCIDENT LOG #10 (2011).

⁴² *Tribes of the Olympic Peninsula* (Nat'l Park Service, U.S. Dep't of the Interior, 2013), http://www.historylink.org/index.cfm?DisplayPage=output.cfm&file_id=7576

⁴³ Gottlieb, *Border Patrol Braces for Budget Cuts*, *supra* note 9.

⁴⁴ There are several daily international ferry runs between Port Angeles and Victoria, British Columbia.

⁴⁵ Christian Sanchez, Border Patrol Agent, U.S. Customs and Border Patrol, Testimony before the Congressional Transparency Caucus 3-5 (July 29, 2011) [hereinafter Sanchez Testimony], *available at* <http://www.skagitirc.org/IRC%20Materials/Sanchez%20Testimony%20-%20BorderPatrol.pdf>.

⁴⁶ Gottlieb, *Response promised soon on Border Patrol agent's claims about 'black hole,' misuse of federal funds*, *supra* note 16.

⁴⁷ Dylan Blaylock, GAP Praises Successful OSC Mediation for Border Patrol Whistleblower, GOV'T ACCOUNTABILITY PROJECT, October 24, 2012, <http://www.whistleblower.org/blog/42-2012/2318-gap-praises-successful-osc-mediation-for-border-patrol-whistleblower>.

⁴⁸ The Immigrant Rights Clinic at New York University School of Law submitted a request for records from the Buffalo Sector of Border Patrol under the federal Freedom of Information Act (FOIA) in 2009, and engaged in three years of litigation with Border Patrol to enforce compliance with the request. Ultimately the Court ordered Border Patrol to release documents which showed that it allocates large amounts of funds for discretionary bonuses to agents, including cash bonuses, time off awards, and gift cards. Documents also revealed that Border Patrol has an intensive, agency-wide monitoring system for arrest rates, contrary to repeated denials by the agency that any such documents existed. In addition, they showed that the agency has relied on arrest rates as its sole quantifiable performance measure, and depositions revealed supervisors' daily attention to this arrest data. ANNA SHOENFELDER, NATASHA RIVERA SILBER, AND NANCY MORAWETZ, NY UNIV. SCH. OF LAW IMMIGRANT RIGHTS CLINIC, UNCOVERING USBP: BONUS PROGRAMS FOR UNITED STATES BORDER PATROL AGENTS AND THE ARREST OF LAWFULLY PRESENT INDIVIDUALS 5-8 (2013), *available at* <http://familiesforfreedom.org/sites/default/files/resources/Uncovering%20USBP-FFF%20Report%202013.pdf>.

- ⁴⁹ Nick Miroff, *Controversial quota drives immigration detention boom*, WASHINGTON POST, October 13, 2013. Also Andy Sullivan, *Insight: Congress keeps detention quota despite immigration debate*, REUTERS.COM, July 8, 2013.
- ⁵⁰ Intentional discrimination can be shown by comments, actions, and failure to articulate credible, legitimate, non-discriminatory reasons for enforcement actions. *Vilsack*, FS-11-5171, 26.
- ⁵¹ An international airport in the country's interior is an example of a functional equivalent of the border because people enter the country here. INA §287 (a)(3), 8 U.S.C. 1357.
- ⁵² *Id.*
- ⁵³ *Almeida-Sanchez v. United States*, 413 U.S. 266, 272 (1973).
- ⁵⁴ *United States v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975).
- ⁵⁵ Paul Shukovsky, *Border Patrol roadblocks may be working, but at what cost?* SEATTLE POST-INTELLIGENCER, November 9, 2008, <http://www.seattlepi.com/local/article/Border-Patrol-roadblocks-may-be-working-but-at-1290964.php>.
- ⁵⁶ *Border Patrol stops bus searches*, PORT TOWNSEND LEADER, November 16, 2011, http://www.ptleader.com/news/border-patrol-stops-bus-searches/article_c9bcc25c-db30-5a47-9e4b-24ad5aab260c.html.
- ⁵⁷ Paul Gottlieb, *Border Patrol checks buses every day; will it resume highway checkpoints?* PENINSULA DAILY NEWS, June 30, 2009, <http://www.peninsuladailynews.com/article/20090630/NEWS/306309993>.
- ⁵⁸ This lawsuit was settled in September, 2013. *Supra* note 39.
- ⁵⁹ *Vilsack*, FS-11-5171 at 30, *supra* note 1.
- ⁶⁰ FHRG, INCIDENT LOG #28 (2009).
- ⁶¹ FHRG, INCIDENT LOG #119 (2011).
- ⁶² FHRG, INCIDENT LOG #117 (2011).
- ⁶³ FHRG, INCIDENT LOG #164 (2011).
- ⁶⁴ FHRG, INCIDENT LOG #118 (2011).
- ⁶⁵ LEGAL ACTION CTR. OF THE AM. IMMIGRATION COUNCIL, PRACTICE ADVISORY - MOTIONS TO SUPPRESS IN REMOVAL PROCEEDINGS: A GENERAL OVERVIEW 21 (2011) available at http://www.legalactioncenter.org/sites/default/files/motions_to_suppress_in_removal_proceedings-a_general_overview_11-12-13_fin.pdf.
- ⁶⁶ FHRG, INCIDENT LOG #139 (2011). Also Interview #1, in Clallam County, Wash. (Apr. 14, 2012).
- ⁶⁷ Interview, *supra* note 30.
- ⁶⁸ FHRG, INCIDENT LOG #118 (2011).
- ⁶⁹ FHRG, INCIDENT LOG #191 (2011).
- ⁷⁰ *The President's Fiscal Year 2013 Budget Request for the Dep't. of Homeland Sec.: Hearing before the Senate Comm. on Homeland Sec. and Governmental Affairs*, 112th Cong. (2012) (written testimony of Janet Napolitano, Sec'y, Dep't. of Homeland Sec.) available at <http://www.dhs.gov/news/2013/04/11/written-testimony-dhs-secretary-janet-napolitano-house-committee-appropriations>.
- ⁷¹ In a September 7, 2013 snapshot, according to government documents, there were 33,391 immigrants in custody. ICE says that 59% were convicted criminals, but only 11% were convicted of violent crime. According to TRAC, nearly 48% of the 350,000 immigrants over the past 16 months who triggered an ICE detainer had no criminal convictions, not even traffic violations. Miroff, *Controversial quota drives immigration detention boom*, *supra* note 49, Sullivan, *Insight: Congress keeps detention quota despite immigration debate*, *supra* note 49.
- ⁷² FHRG, INCIDENT LOG #71 (2010).
- ⁷³ FHRG, INCIDENT LOG #55 (2010).
- ⁷⁴ Interview #4, in Clallam County, Wash. (Apr. 9, 2013).

⁷⁵ OPSG is one of five programs under the federal Homeland Security Grant Program (HSGP) established by DHS in 2009. *FY 2013 Homeland Security Grant Program (HSGP)*, Fed. Emergency Mgmt. Agency, available at <http://www.fema.gov/fy-2013-homeland-security-grant-program-hsgp-0> (last visited Nov. 12, 2013).

⁷⁶ Each eligible local unit of government at the county level or Federally-recognized tribal government must develop their Operations Order in coordination with State and Federal law enforcement agencies, to include, but not limited to CBP/BP. U.S. DEP'T. OF HOMELAND SEC., FISCAL YEAR 2010 HOMELAND SECURITY GRANT PROGRAM: GUIDANCE AND APPLICATION KIT 16 (2009) available at http://www.fema.gov/pdf/government/grant/2010/fy10_hsgp_kit.pdf.

⁷⁷ *Id.* at 16.

⁷⁸ Former Jefferson County Sheriff declined the funds in 2009 because “the requirement imposed by the Border Patrol to receive the money are not relevant to the sheriff’s office primary mission, and . . . we have limited personnel resources and we don’t have time to pursue what would amount to misdemeanor civil workload that is the responsibility of the Border Patrol. *Fact Sheet: Operation Stonegarden*, NAT’L IMMIGRATION FORUM, <http://www.immigrationforum.org/images/uploads/2010/operationstonegardenfactsheet.pdf> (last visited Nov. 12, 2013) (citing Allison Arthur, *Border Patrol Criticism Emerges: Sheriff Brasfield Declines BP Funding*, PORT TOWNSEND LEADER, Feb. 4, 2009).

⁷⁹ Some officers’ employment may depend on that funding. Nina Shapiro, *Border Patrol Gets Cooperation from Local Officers with “Free Money”*, SEATTLE WEEKLY, Jul. 28, 2011, http://www.seattleweekly.com/dailyweekly/2011/07/border_patrol_gets_cooperation.php; see also Matt Volz, *Northern States to Get Homeland Security Grants*, VICTORIA ADVOCATE, Apr. 25, 2011, <http://www.victoriaadvocate.com/news/2011/apr/25/bc-mt-border-security-grants/> (A county sheriff in northeastern Montana predicted he would lose personnel if Stonegarden funding were lost and acknowledged that “It’s the only way they can make a living anymore with (the price of things) so high. We depend very much on Stonegarden to make a living and support families.”).

⁸⁰ FHRG, INCIDENT LOG #159 (2011).

⁸¹ FHRG, INCIDENT LOG #44 (2010).

⁸² FHRG, INCIDENT LOG #127 (2011).

⁸³ Border Patrol has statutory authority to arrest a person committing a felony in his presence, but this does not extend to traffic infractions and misdemeanors. I.N.A. § 287(a)(5), 8 U.S.C. 1357

⁸⁴ Washington’s constitution protects of a person’s reasonable expectation of privacy, and this reasonable expectation extends to motor vehicles. WA Const. art. VII.

⁸⁵ NIK THEODORE, DEP’T. OF URBAN PLANNING AND POLICY, UNIV. OF ILL. AT CHI., *INSECURE COMMUNITIES: LATINO PERCEPTIONS OF POLICE INVOLVEMENT IN IMMIGRATION ENFORCEMENT 1* (2013) available at http://www.uic.edu/cuppa/gci/documents/1213/Insecure_Communities_Report_FINAL.pdf.

⁸⁶ FHRG, INCIDENT LOG #182 (2011).

⁸⁷ FHRG, INCIDENT LOG #82 (2010).

⁸⁸ FHRG, INCIDENT LOG #47 (2010).

⁸⁹ FHRG, INCIDENT LOG #30 (2009).

⁹⁰ FHRG, INCIDENT LOG #231 (2012). See also U.S. Attorney’s Office, Western District of Washington, *Indictments Target Grays Harbor County Drug Smuggling Organization Tied to Cedar Mill*, June 14, 2012, <http://www.fbi.gov/seattle/press-releases/2012/indictments-target-grays-harbor-county-drug-smuggling-organization-tied-to-cedar-mill>.

⁹¹ FHRG, INCIDENT LOG #42 (2010).

⁹² FHRG, INCIDENT LOG #52 (2010).

⁹³ FHRG, INCIDENT LOG #48 (2010).

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- ⁹⁴ The salal shop owner also noted that those that have left the area have moved further inland as opposed to leaving the country. Interview with Hop Dhooge, in Clallam County, Wash. (April 5, 2013).
- ⁹⁵ Nina Shapiro, *Border Patrol Says Giving a Ride to an Illegal Immigrant Is a Crime*, SEATTLE WEEKLY, Dec. 15, 2011, http://blogs.seattleweekly.com/dailyweekly/2011/12/border_patrol_says_having_an_i.php.
- ⁹⁶ FHRG, INCIDENT LOG #170 (2011).
- ⁹⁷ FHRG, INCIDENT LOG #72 (2010).
- ⁹⁸ FHRG, INCIDENT LOG #88 (2010).
- ⁹⁹ FHRG, INCIDENT LOG #216 (2012).
- ¹⁰⁰ Paul Gottlieb, *Border Patrol Supervisor Pleads Guilty to Assaulting Fellow Agent*, PENINSULA DAILY NEWS, Mar. 29, 2013, <http://www.peninsuladailynews.com/article/20130329/news/303299985/border-patrol-supervisor-pleads-guilty-to-assaulting-fellow-agent>.
- ¹⁰¹ FHRG, INCIDENT LOG #50 (2010).
- ¹⁰² FHRG, INCIDENT LOG #202 (2012).
- ¹⁰³ FHRG, INCIDENT LOG #165 (2011).
- ¹⁰⁴ Sanchez Testimony, *supra* note 45.
- ¹⁰⁵ FHRG, INCIDENT LOG #89 (2011). Also *Vilsack*, FS-11-5171, *supra* note 1 at 7-8.
- ¹⁰⁶ *Vilsack*, *supra* note 1 at 12.
- ¹⁰⁷ FHRG, INCIDENT LOG #165 (2011). Also Interview #5, in Clallam County, Wash. (Apr. 14, 2012).
- ¹⁰⁸ Paul Gottlieb, *Forks rights group compiles report on West End Border patrol activity*, PENINSULA DAILY NEWS, February 5, 2012, <http://www.peninsuladailynews.com/article/20120205/NEWS/302059987>.
- ¹⁰⁹ FHRG, INCIDENT LOG #165 (2011). Interview #4, in Clallam County, Wash. (Apr. 15, 2012). Also Memorandum from Northwest Immigrant Rights Project (NWIRP) to Hon. Eric Holder, Attorney General, U.S. Dep't. of Justice and Hon. Janet Napolitano, Secretary, Dep't of Homeland Sec. (May 1, 2012) *available at* <http://nwirp.org/Documents/PressReleases/ComplaintToUSDOJandDHSreInterpretationAssistanceFinalRedacted05-01-2012.pdf>.
- ¹¹⁰ Interview #5, in Clallam County, Wash. (April 14, 2012).
- ¹¹¹ FHRG, INCIDENT LOG #10 (2008).
- ¹¹² Interview #4, in Clallam County, Wash. (April 9, 2013).
- ¹¹³ E-mail to author from Lesley Hoare, October 6, 2013.
- ¹¹⁴ Interview #4, *supra* note 112.
- ¹¹⁵ House Bill 1874, State of WA, 63rd Legislature, 2013 regular session, read 2/13/13, referred to Committee on Public Safety. The proposed Trust Act includes three provisions. First, if passed, a law enforcement officer could not detain someone on an immigration detainer who is otherwise eligible for release from custody. Second, state and local law enforcement would have no authority to arrest or detain anyone based on an administrative immigration warrant. Third, unless a person in custody is provided opportunity for counsel and consents in writing, no law enforcement officer can make the individual available to ICE or CBP for interview.
- ¹¹⁶ *Fact Sheet: Operation Stonegarden*, National Immigration Forum, 2010.