

May 8, 2013

The Honorable Patrick J. Leahy  
Chairman  
United States Senate  
Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Charles E. Grassley  
Ranking Member  
United States Senate  
Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

**RE: S. 744 - Oppose Senator Sessions' Amendments 37 (MDM 13365) and 38 (MDM13366) which would strip provisions of the immigration reform bill improving Department of Homeland Security policies on use of force and training.**

Dear Chairman Leahy, Ranking Member Grassley, and Members of the Committee:

We, the undersigned organizations, urge you to oppose Senator Sessions' amendments to S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act, which will be marked up by the Senate Judiciary Committee beginning on May 9, 2013. Amendment 37 removes a provision requiring the issuance of revised policies governing the use of force by all Department of Homeland Security (DHS) personnel, in consultation with the Civil Rights Division of the Department of Justice (DOJ). Amendment 38 removes important training requirements for U.S. Customs and Border Protection, Immigration and Customs Enforcement, and Border Community Liaison Officers on the revised use of force policy and civil and human rights, with a focus on vulnerable populations.

The Senate bill rightly recognizes the need for third-party review of DHS's current use-of-force policies, and requires appropriate additional training. It rightly includes DOJ's Civil Rights Division, with its expertise on law enforcement agencies' use of force. Senator Sessions' amendments disregard the crucial need for stronger use of force policies and training.

CBP agents systematically use excessive force, including deadly and lethal force, and these abuses are subject to minimal oversight and accountability. Since January 2010, 20 individuals have died or been seriously injured by CBP officials in use of force incidents. Fatal Border Patrol shootings have occurred with alarming frequency. Cases reported extensively by the U.S. and Mexican media include:

- the killings of 16-year-old Jose Antonio Elena Rodriguez (fatally shot seven times in the back October 10, 2012, when a CBP agent from Nogales, Arizona, fired across the border at a group of rock throwers in Mexico);
- Guillermo Arévalo Pedroza (killed September 3, 2012, by a bullet fired from a U.S. Border Patrol boat while picnicking with his wife and two young girls on the south side of the Rio Grande, near Laredo, Texas);
- Juan Pablo Pérez Santillán (near Brownsville, Texas on July 7, 2012);

- U.S. citizen Carlos Lamadrid, 19 (shot in the back four times while allegedly fleeing to Mexico near Douglas, Arizona on March 21, 2011);and
- 15-year-old Sergio Adrián Hernández Guereca (near El Paso, Texas on June 7, 2010).

In April 2012, the PBS program *Need to Know* addressed the May 2010 death of a 42-year-old undocumented immigrant, Anastacio Hernández Rojas, who left behind a widow and five U.S.-born children in San Diego.<sup>1</sup> PBS obtained eyewitness video of what are alleged to be five Taser shocks administered by Border Patrol agents on a man handcuffed and surrounded by about a dozen agents, one of whom appears to have his knee on the man's neck while at another point the words "quit resisting" are heard over the prone man. The San Diego coroner's office classified Mr. Hernandez Rojas's death as a homicide, noting the following injuries in addition to a heart attack: "several loose teeth; bruising to his chest, stomach, hips, knees, back, lips, head and eyelids; five broken ribs; and a damaged spine."<sup>2</sup> Sixteen members of Congress wrote Secretary Napolitano, concerned that "this incident is part of a larger cultural problem at the Department."<sup>3</sup>

S.744, as proposed, makes important improvements to the oversight and training of DHS' use of force policy and these improvements should not be undone through harmful amendments.

For these reasons, we urge you to oppose Senator Sessions' amendments 37 (MDM 13365) and 38 (MDM13366). Please do not hesitate to contact Joanne Lin at [jlin@dcacul.org](mailto:jlin@dcacul.org) or (202) 675-2317 or Chris Rickerd at [crickerd@dcacul.org](mailto:crickerd@dcacul.org) or (202) 675-2339 with any questions or concerns.

Sincerely,

American Civil Liberties Union  
 Alliance San Diego  
 America's Voice Education Fund  
 American Immigration Lawyers Association  
 Arizona-Sonora Border Coalition  
 Border Network for Human Rights  
 California Immigrant Policy Center  
 Casa Cornelia Law Center  
 Catholic Charities Diocese of San Diego  
 Causa Justa::Just Cause  
 Central Coast Alliance United for a Sustainable Economy (CAUSE)  
 Chinese for Affirmative Action  
 Colombo Americans in Action CACIA  
 Conflict Transformation Collective  
 Council on American Islamic Relations (CAIR)-California

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<sup>1</sup> Crossing the Line, PBS Need to Know (Apr. 20, 2012), available at <http://www.pbs.org/wnet/need-to-know/video/need-to-know-april-20-2012-crossing-the-line/13640/>.

<sup>2</sup> John Carlos Frey, "What's going on with the Border Patrol?" *Los Angeles Times* (Apr. 20, 2012), available at <http://www.latimes.com/news/opinion/commentary/la-oe-frey-border-patrol-violence-20120420,0,2958169.story>.

<sup>3</sup> Congressional Sign-on Letter to Secretary Janet Napolitano (May 10, 2012), available at <http://serrano.house.gov/sites/serrano.house.gov/files/DHSletter.pdf>.

Dolores Street Community Services  
DRUM - Desis Rising Up & Moving  
DWN  
Employee Rights Center, San Diego  
Encuentro  
Fresno Immigrant Youth in Action (FIYA)  
Green Valley/Sahuarita Samaritans  
Humanitarian Border Solutions  
Illinois Coalition for Immigrant and Refugee Rights  
Immigrant Legal Resource Center  
Interfaith Coalition on Immigration (ICOM, Mn)  
Interfaith Committee for Worker Justice of San Diego County  
Korean Resource Center  
Lawyers' Committee for Civil Rights of the San Francisco Bay Area  
Lutheran Immigration and Refugee Service  
MFSA, Cal-Pac Chapter  
Mobilize the Immigrant Vote  
Mujeres Unidas y Activas  
National Center for Lesbian Rights  
National Council of La Raza (NCLR)  
National Immigrant Justice Center  
National Immigration Project of the NLG  
National Network for Immigrant and Refugee Rights  
No More Deaths  
Northwest Immigrant Rights Project  
Out4Immigration  
PICO National Network  
Rights Working Group  
Samaritans  
San Diego Immigrant Rights Consortium  
Seminario Permanente de Estudios Chicanos y de Fronteras  
Services, Immigrant Rights and Education Network  
Southern Border Communities Coalition  
The Reformed Church of Highland Park (NJ)  
Unitarian Universalist Service Committee  
University of Miami School of Law Immigration Clinic  
Women's Refugee Commission  
Word for the World