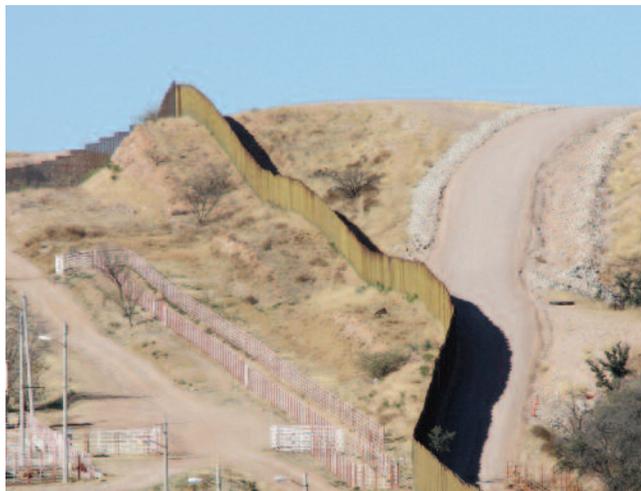




# Documented Failures:

## the Consequences of Immigration Policy on the U.S.-Mexico Border



Documented Failures:  
the Consequences of Immigration Policy  
on the U.S.-Mexico Border

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Report prepared for the Kino Border Initiative  
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Cover photos (clockwise from lower left)

A woman rests at the CAMDEP facility, Kino Border Initiative.  
Migrants receive a warm meal at Kino Border Initiative.  
Border fence, Nogales, Sonora, Mexico.  
A migrant from Sonora, CAMDEP facility, Kino Border Initiative.

Photos by Robert Dolan, S.J., for Jesuit Refugee Service/USA

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## Frequently Used Acronyms

|               |   |
|---------------|---|
| <b>ATEP</b>   | Alien Transfer Exit Program   |
| <b>CBP</b>    | Customs and Border Protection (under U.S. Department of Homeland Security)                                |
| <b>DHS</b>    | U.S. Department of Homeland Security  |
| <b>CAMDEP</b> | Centro de Atención a Migrantes Deportados (Kino Border Initiative's Aid Center for Deported Migrants)     |
| <b>EMIF</b>   | Encuesta de Migración Internacional de la Frontera Norte (Northern Border International Migration Survey) |
| <b>ICE</b>    | Immigration and Customs Enforcement   |
| <b>INM</b>    | Instituto Nacional de Migración (Mexican National Migration Institute)                                    |
| <b>KBI</b>    | Kino Border Initiative  |
| <b>NHRC</b>   | Mexico's National Human Rights Commission   |
| <b>USCIS</b>  | U.S. Citizenship and Immigration Services (under U.S. Department of Homeland Security)                    |

# Documented Failures: the Consequences of Immigration Policy on the U.S.-Mexico Border

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## Executive Summary

This report presents systematic documentation of the experiences of migrant women, men and children repatriated from the United States to cities along Mexico's northern border, with particular emphasis on the Nogales, Arizona/Nogales, Sonora, Mexico area. The report addresses five common problems experienced by Mexican and Central American migrants before and during migration and upon apprehension, detention and deportation by U.S. migration authorities. The areas of investigation are:

- 1. The separation of migrants from family members they were traveling with when apprehended and deported by the U.S. Border Patrol.** Migrants are often separated from their families, friends and loved ones during the process of deportation. This separation places migrants—the great majority of whom are from parts of Mexico very far from the northern border or Central American countries—in situations of unwarranted vulnerability in an increasingly dangerous region of Mexico.
- 2. Family separation as a driver of migration and a continuing complication for families of mixed-legal status.** As the number of mixed immigration status families is steadily increasing, mothers, fathers, and guardians who are deported by Immigration and Customs Enforcement (ICE) are often separated from their citizen children, who remain in the U.S. with their other parent, guardians, other family members, or in foster care. This section also examines how many of those deported by U.S. migration authorities were attempting to reunite with immediate family members already living in the United States.
- 3. Violence as a cause of migration and abuses and physical security threats experienced by migrants during northward journeys, border crossing, and after deportation from the United States.** As levels of violence directly and indirectly related to drug trafficking have increased throughout Mexico and Central America in recent years, violence has become an increasingly common cause of migration. Furthermore, the growing prevalence of violence along the border means migrants are often the victims of theft and physical, verbal and sexual abuse at the hands of criminal gangs, human smugglers, human traffickers and thieves, risks that ought to be taken into consideration by U.S. migration authorities when deporting unauthorized immigrants to northern Mexico border towns.
- 4. Abuses and misconduct committed by the U.S. Border Patrol and other U.S. migration authorities.** Based on multiple data sources, the report demonstrates that there is systematic abuse and misconduct in the process of apprehending, detaining and deporting undocumented migrants. One in four migrants surveyed (24.8%) reported being abused in some way by U.S. Border Patrol agents, and data show that Department of Homeland Security (DHS), and particularly the Border Patrol, systematically deny Mexican migrants the right to contact their consulate.
- 5. Abuses and misconduct committed by local police in Mexico.** When traveling north, as well as after deportation, migrants are in a particularly vulnerable position and

can be taken advantage of by local, state, and federal authorities in Mexico. This section provides estimates of the extent of these abuses, finding that men are more likely to be abused by Mexican police than women, and Central Americans are more likely to be abused by Mexican police than their Mexican migrant counterparts.

Exploration of the five themes above reveals a complex set of distinct, but interrelated problems. The final section of the report provides a list of recommendations that, if implemented, would begin to address the most pressing problems faced by immigrants and their families. Further elaboration of the recommendations listed below can be found on pages 30-33 of the report.

## Recommendations

### *Limiting family separation during the deportation process*

1. DHS must put in place a standard process to determine familial relationships among apprehended migrants and take steps to ensure that deportation practices do not needlessly separate family members.
2. DHS should expand its principle of family unity to include uncles, aunts and cousins, particularly striving to ensure that migrants are deported with their traveling companions.
3. The Operation Streamline program should be suspended pending the results of independent cost-benefit analysis. By targeting first-time border crossers, Operation Streamline not only diverts non-violent immigrants into the federal criminal justice system and U.S. prisons, but further exacerbates the problems of family separation.

### *Reuniting transnational families and limiting the separation of mixed-legal status families already established in the U.S.*

4. To protect family unity, families should not be separated when reasonable alternatives are available. Customs and Border

Protection (CBP) should exercise prosecutorial discretion in favor of preserving family unity in decisions to apprehend, detain, or remove migrants with U.S. citizen or resident family members.

5. Staff of detention facilities, as well as pertinent federal, state and local personnel who interact with separated children, should be required to undergo training on parental rights and humanitarian and due process protections.
6. In cases in which a U.S. citizen child will stay in the United States when her or his parent is deported, a standard protocol developed in collaboration with the child welfare system should be in place to ensure that those who will care for the child (be they extended family members, godparents, or others) gain the status of legal guardians.
7. Establish Immigration and Customs Enforcement and U.S. Border Patrol ombudsmen in order to provide a mechanism for continued transparency, accountability, oversight and improvement over time.

### *Protecting migrants in a context of increasing violence in Mexico and Central America*

8. Further steps should be taken to ensure that U.S. Border Patrol and ICE are properly referring migrants who express fear of return for further vetting by U.S. Citizenship and Immigration Service (USCIS) officers to make the most accurate determinations possible of asylum eligibility and eligibility for other forms of humanitarian relief (withholding of removal under the Convention Against Torture, U or T visa eligibility, etc.).
9. Additional steps should be taken to ensure that migrants are returned to safe locations during daylight hours when deported, and if possible, for them to be assisted to return to their homes in Central America or in the interior of Mexico, should this be their preference.
10. Improve coordination between state and federal governments to address the problems of violence experienced by

migrants when crossing the border at the hands of criminals, human smugglers, and human traffickers.

11. Design and implement bi-national registries with Mexico, Guatemala, Honduras, and El Salvador of migrant deaths and ensure full investigation of all migrant deaths by the proper authorities.
12. Both Mexican and U.S. authorities must ensure that victims of physical and sexual violence are afforded the right to fully participate in criminal justice proceedings and to remain in the country where the underlying incident occurred pending the conclusion of such proceedings.
13. Steps must be taken to ensure that migrants know their rights, and are provided with reasonable mechanisms through which to exercise them.

#### ***Limiting abuse and misconduct by the U.S. Border Patrol***

14. Additional training should be provided to CBP agents and oversight and evaluation of operations should be strengthened.
15. CBP should be required to publicly report all incidents in which a migrant is seriously injured or killed by a CBP agent.
16. CBP and ICE should adopt a uniform complaint process across all sectors.
17. Detention facilities and holding cells operated by CBP should ensure that migrants are fully apprised of their constitutionally protected human and civil rights.
18. The Inspector General for the DHS must investigate evidence of a pattern of abuse by CBP, in particular verbal and physical abuse of migrants, and denial of migrants' rights to contact relevant consular authorities.

#### ***Limiting the abuse of migrants by local police in Mexico***

19. INM agents and Mexican Federal Police should follow their existing protocol when verifying the legal status of Central American migrants within their territory.
20. Mexico's National Human Rights Commission (NHRC) should gather and publish reliable data on abuses against migrants, including murders, kidnappings, rapes, torture, extortion and unlawful detention.
21. All complaints filed by migrants should jointly go to the NHRC, as well as the state-level human rights commissions.
22. The Mexican government should be particularly attentive to the safety of humanitarian workers serving migrants, as their safety is critical to preserving protection space within Mexico and its northern border.



# Documented Failures: the Consequences of Immigration Policy on the U.S.-Mexico Border

Michael S. Danielson<sup>1</sup>  
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## I. Introduction

This report presents systematic documentation of the experiences of migrant women, men and children repatriated from the United States to cities along Mexico's northern border, with particular emphasis on the Nogales, Arizona/Nogales, Sonora, Mexico area. The findings suggest several key areas of potential reform, and a set of policy recommendations are included below.

The report is divided into five sections, corresponding to five common problems experienced by Mexican and Central American migrants before and during migration and upon apprehension, detention and deportation by U.S. migration authorities. The areas of investigation are:

1. The separation of migrants from family members they were traveling with when apprehended and deported by the U.S. Border Patrol.
2. Family separation as a driver of migration and a continuing complication for families of mixed-legal status.
3. Violence as a cause of migration and abuses and physical security threats experienced by migrants during northward journeys, border crossing, and after deportation from the United States.
4. Abuses and misconduct committed by the U.S. Border Patrol and other U.S. migration authorities.

5. Abuses and misconduct committed by local police in Mexico.

These five problem areas are of central importance to staff of the Kino Border Initiative (KBI), a bi-national organization located in Nogales, Arizona and Nogales, Sonora, Mexico which works to promote U.S./Mexico border and immigration policies that affirm the dignity of the human person and a spirit of bi-national solidarity. Since its establishment in 2009, KBI has provided meals and first aid at its Aid Center for Deported Migrants (CAMDEP, by its Spanish acronym) to migrants who are deported to Nogales, Sonora by U.S. migration authorities. In addition to this service, which is open to all deportees, KBI runs Nazareth House, a shelter for deported women and their children. The daily experiences of KBI staff reveal the prevalence of these and other hardships and problems faced by the population of migrants they serve. The objective of this report is to use the analyses of systematically collected survey data to build upon this qualitative and experiential base of understanding and offer policy recommendations regarding the aforementioned areas of concern.

### A. Key Research Findings and Outline of the Report

**Section II** documents family separation during the process of deportation. Despite official U.S. Department of Homeland Security policy to "preserve the unity of families" during the process of repatriating immigrants, the analysis shows that family separation is rampant.

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- Well over one-third of deported women served at CAMDEP (35.6%) were separated from an immediate family member during the deportation process, compared to men, for whom the corresponding figure is 13.0 percentage points lower at 22.7%.
- Deported migrants who were traveling with a family member when apprehended by the Border Patrol in the desert or mountains were considerably more likely to be separated from them (57.6%, EMIF-Norte 2012).
- Women were much less likely than men to have been traveling alone when apprehended by U.S. Border Patrol Agents in the desert or mountains (36.9% vs. 50.15% EMIF-Norte).
- During the first quarter of 2012, some 2,700 parents failed in their attempt to reunite with their children living in the United States. That is 9.6% of parents who were deported after spending *less than a month* in the United States who had a child living in the United States. The same share failed in their attempt to reunite with a spouse living in the United States (EMIF-Norte).
- Of those migrants who had lived for *at least a year* in the United States before being deported, an estimated 14,098 (61.4%) had a child still living there. The same share (61.4%) had a spouse still living in the United States when surveyed (EMIF-Norte).
- However, an estimated 1,971 parents (4.9% of all parents deported during the first quarter of 2012) had at least one child but no spouse still living in the United States.<sup>3</sup> Though not all of these children are minors, those under 18 are cared for by extended family members, godparents, or must enter the foster care system (EMIF-Norte).

These findings are in congruence with what KBI staff and volunteers have observed over the past three years. Migrants they serve have regularly been separated from their families, friends and loved ones during the process of deportation. This separation places migrants—the great majority of whom are from parts of Mexico very far from the northern border or Central American countries—in situations of unwarranted vulnerability in an increasingly dangerous border region.

**Section III** documents a similar, but distinct, phenomenon that is very common among deported immigrants. As the number of mixed immigration status families<sup>2</sup> is steadily increasing, mothers, fathers, and guardians who are deported by Immigration and Customs Enforcement (ICE) are often separated from their citizen children, who remain in the U.S. with their other parent, guardians, other family members, or in foster care. This section also examines how many of those deported by U.S. migration authorities are attempting to reunite with family members already living in the United States.

**Section IV** focuses on the abuse and violence experienced by migrants, as the original motivation for leaving their communities of origin, while attempting to reach the United States, *and* after being deported back to Mexico. As levels of violence directly and indirectly related to drug trafficking have increased throughout Mexico and Central America in recent years, violence has become an increasingly common cause of migration. Furthermore, the growing prevalence of violence along the border means migrants are often the victims of theft and physical, verbal and sexual abuse at the hands of criminal gangs, human smugglers, human traffickers and thieves, risks that ought to be taken into consideration by U.S. migration authorities when deporting unauthorized immigrants apprehended within our territory.

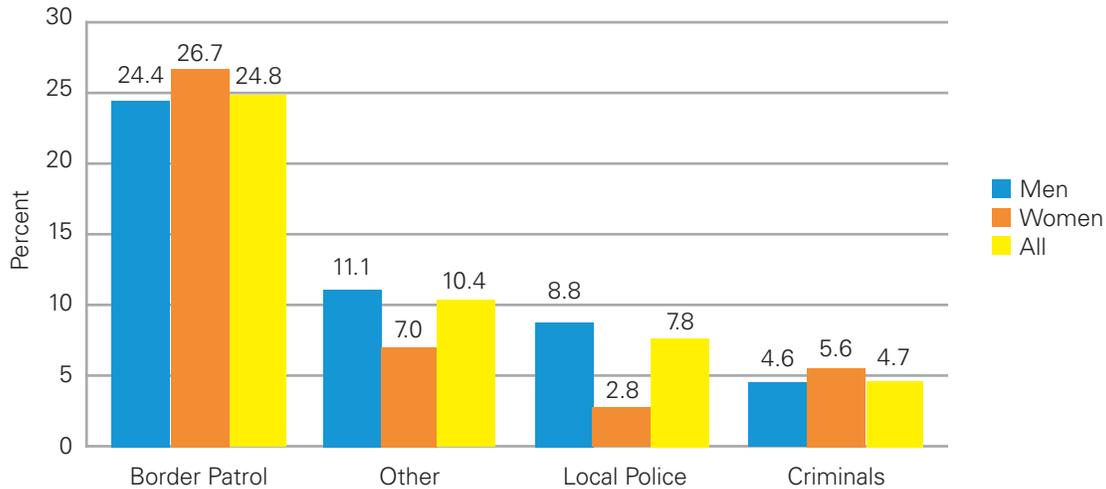
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2 In mixed-status families, some members are citizens or legal permanent residents, while others (often the parents of citizen children) are undocumented immigrants.

3 Due to data limitations, this estimate has four important limitations: one that contributes to an underestimation of the number, and three that contribute to an overestimation. First, each parent surveyed has at least one child still living in the United States, meaning the total number of children living in the United States without their parent and their parent's spouse is undoubtedly considerably higher than reflected here. Second, the data do not indicate if the child(ren) living in the United States are minors, so some share of them are likely adult children. Third, just because the spouse of the parent surveyed is not living in the United States, does not mean that the child's other parent is not. Finally, in cases where both parents have been deported, they are each theoretically captured in the survey, and as such, a single child would be counted twice.

**Figure 1. Migrants Report Abuse by U.S. Border Patrol at Higher Rate Than by Criminals or Mexican Police**

Percent of Men, Women and All Migrants



Observations: Men, 2,654; Women, 540; All, 3,209

Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

Key findings in this section include:

- Migrants from Central American countries, which have significantly higher murder rates than Mexico,<sup>i</sup> were considerably more likely to have migrated due to violence (12.7%) compared to Mexican migrants (4.3%).
  - However, women from Central America were no more likely to emigrate to escape violence than were Mexican women (4.3%).
  - This means that Central American men were far more likely than Central American women to have fled violence.
- In Mexico, however, women are slightly more likely than men to migrate to escape violence (4.3% compared to 3.2%). Central American migrants were more than twice as likely to have been the victims of crime while migrating as Mexican migrants (10.5% compared to 4.0%).

- There were only minor differences by gender in the likelihood of being a victim of crime when migrating (5.6% of men compared to 4.6% of women); however, data limitations mean that these figures probably significantly underestimate the incidence of crime.

**Section V** documents the prevalence of abuse and misconduct by U.S. Border Patrol agents and other U.S. migration authorities, and demonstrates on the basis of multiple data sources that there is systematic abuse and misconduct in the process of apprehending, detaining and deporting undocumented migrants. The consistent and widespread presence of these abuses and misconduct show that this is not simply a question of a few bad apples, but rather a systematic problem that must be addressed.

Key findings include:

- One in four migrants surveyed (24.8%) reported being abused in some way by U.S. Border Patrol agents.

- Overall, the U.S. Border Patrol was *by far* the most common perpetrator of abuse against migrants when compared to local police in Mexico, criminals, and others (see Figure 1).<sup>4</sup>
- DHS, and particularly the Border Patrol, systematically denies Mexican migrants the right to contact their consulate.
  - During the first quarter of 2012 alone, an estimated 29,895 Mexican migrants (31.3%) were repatriated to the northern border region by U.S. immigration authorities without being informed of this right.
  - Only 19% of deported migrants exercised this right. The most common reason given was that migrants did not think contacting their consulate would be useful.
  - Estimates show that CBP agents actively denied more than 4,000 migrants (some 18.2% of those they apprehended in the first quarter of 2012) the right to contact their consulate when they asked.

**Section VI** focuses on abuses committed by local police in Nogales, Sonora and other Mexican locales. When traveling north, as well as after deportation, migrants are in a particularly vulnerable position and can be taken advantage of by local, state, and federal authorities in Mexico. This section provides estimates of the extent of these abuses.

Key findings in this section include:

- Men were much more likely to be abused by local police in Mexico (8.8%) than were women (2.8%).
- Central Americans were much more likely than Mexicans to report some kind of abuse at the hands of Mexican police (13.7% compared to 7.0%).

**Section VII** makes policy recommendations based on the findings of the previous five sections. Key recommendations are summarized below, and are more fully elaborated in the final section of the report.

### **Limiting family separation during the deportation process**

1. DHS must put in place a standard process to determine familial relationships among apprehended migrants and take steps to ensure that deportation practices do not needlessly separate family members.
2. DHS should expand its principle of family unity to include uncles, aunts and cousins, particularly striving to ensure that migrants are deported with their traveling companions.
3. The Operation Streamline<sup>5</sup> program should be suspended pending the results of independent cost-benefit analysis. By targeting first-time border crossers, Operation Streamline not only diverts non-violent immigrants into the federal criminal justice system and U.S. prisons, but further exacerbates the problems of family separation.

### **Reuniting transnational families and limiting the separation of mixed-legal status families already established in the U.S.**

4. To protect family unity, families should not be separated when reasonable alternatives are available. CBP should exercise prosecutorial discretion in favor of preserving family unity in decisions to apprehend, detain, or remove migrants with U.S. citizen or resident family members.
5. Staff of detention facilities, as well as pertinent federal, state and local personnel who interact with separated children, should be required to undergo training on parental rights and humanitarian and due process protections.

<sup>4</sup> The survey used asked specifically if migrants had been abused by the border patrol, local police, or "other." Those who responded "other" had the option of writing in who the abuser was and the "criminals" category was created by the author based on these write-in answers.

<sup>5</sup> Operation Streamline is a DHS program requiring that federal criminal charges be brought against individuals caught crossing the border without legal authorization.

6. In cases in which a U.S. citizen child will stay in the United States when her or his parent is deported, a standard protocol developed in collaboration with the child welfare system should be in place to ensure that those who will care for the child (be they extended family members, godparents, or others) gain the status of legal guardians.
7. Establish ICE and U.S. Border Patrol ombudsmen in order to provide a mechanism for continued transparency, accountability, oversight and improvement over time.

### **Protecting migrants in a context of increasing violence in Mexico and Central America**

8. Further steps should be taken to ensure that U.S. Border Patrol and ICE are properly referring migrants who express fear of return for further vetting by USCIS officers to make the most accurate determinations possible of asylum eligibility and eligibility for other forms of humanitarian relief (withholding of removal under the Convention Against Torture, U or T visa eligibility, etc.).
9. Additional steps should be taken to ensure that migrants are returned to safe locations during daylight hours when deported, and if possible, for them to be assisted to return to their homes in the interior of Mexico, should this be their preference.
10. Improve coordination between state and federal governments to address the problems of violence experienced by migrants when crossing the border at the hands of criminals, human smugglers, and human traffickers.
11. Design and implement bi-national registries with Mexico, Guatemala, Honduras, and El Salvador of migrant deaths and ensure full investigation of all migrant deaths by the proper authorities.
12. Both Mexican and U.S. authorities must ensure that victims of physical and sexual violence are afforded the right to fully participate in criminal justice proceedings and to remain in the country where the underlying incident occurred pending the conclusion of such proceedings.

13. Steps must be taken to ensure that migrants know their rights, and are provided with reasonable mechanisms through which to exercise them.

### **Limiting abuse and misconduct by the U.S. Border Patrol**

14. Additional training should be provided to CBP agents and oversight and evaluation of operations should be strengthened.
15. CBP should be required to publicly report all incidents in which a migrant is seriously injured or killed by a CBP agent.
16. CBP and ICE should adopt a uniform complaint process across all sectors.
17. Detention facilities and holding cells operated by CBP should ensure that migrants are fully apprised of their constitutionally protected human and civil rights.
18. The Inspector General for the DHS must investigate evidence of a pattern of abuse by CBP, in particular verbal and physical abuse of migrants, and denial of migrants' rights to contact relevant consular authorities.

### **Limiting the abuse of migrants by local police in Mexico**

19. INM agents and Mexican Federal Police should follow their existing protocol when verifying the legal status of Central American migrants within their territory.
20. Mexico's National Human Rights Commission (NHRC) should gather and publish reliable data on abuses against migrants, including murders, kidnappings, rapes, torture, extortion, and unlawful detention.
21. All complaints filed by migrants should jointly go to the NHRC, as well as the state-level human rights commissions.
22. The Mexican government should be particularly attentive to the safety of humanitarian workers serving migrants, as

their safety is critical to preserving protection space within Mexico and at its northern border.

## **B. Data Sources and Methods**

The analysis is primarily based on data from two surveys of migrants served by the Kino Border Initiative (KBI). Since it was established in 2009, KBI has provided meals and first aid to migrants who have been deported to Nogales, Sonora by U.S. migration authorities (Immigration and Customs Enforcement and Border Patrol) at the Aid Center for Deported Migrants (CAMDEP, by its Spanish acronym).<sup>6</sup> In addition to this service, which is open to all deported migrants, KBI runs Nazareth House, a shelter for migrant women and children, to respond to their vulnerability in the streets of Nogales, Sonora and provide a safe space to bathe, eat, sleep, call their families and reflect on their experience. Since 2010, KBI has been documenting the experiences of the particularly vulnerable deported women and their children who stay at Nazareth House through a survey and by collecting testimonies of the hardships and abuses they have experienced.<sup>7</sup>

To capture a narrower, but also more generalizable, picture of the experiences of migrants—both women and men—in March 2012, KBI staff began administering a survey of all migrants to whom they provide meals at the CAMDEP cafeteria.<sup>8</sup> The data used in this report was collected from 4,963 Mexican and Central American migrants from March through August of 2012 (see Appendix I). The migrants surveyed include a broad range of those traveling through Nogales. Most of them had just been deported by U.S. migration authorities, but some were on their way north when surveyed. There is no easy way to determine how well the sample of migrants surveyed represents the stream of migrants

passing through Nogales, Sonora, or the northern Mexico border region. The limitations of the conclusions that can be drawn from the data are discussed in the text of the report.

The validity of the data collected in both the Nazareth House Survey and the CAMDEP Survey is corroborated and additional questions are examined through the analysis of data from the Mexican Government's Survey of Migrants at the Northern Border—Returned Migrants (EMIF-Norte, Encuesta de Migrantes en la Frontera Norte—Migrantes devueltos por autoridades migratorias de Estados Unidos). This survey captures a representative sample of migrants returned not only to the Nogales port of entry, but to the entire U.S. – Mexico border region and weights the sample to generate estimates of the total number of migrants repatriated to cities along Mexico's northern border by U.S. migration authorities (see Appendix II).

The quantitative analysis of survey data is complemented by analysis of semi-structured and open-ended interviews of migrants and Mexican and U.S. public officials conducted by the author and the testimonies of deported migrant women documented at KBI's Nazareth House shelter.

## **II. Failure to Preserve Family Unity During Deportation**

It is official U.S. Department of Homeland Security (DHS) policy to preserve “[t]he unity of families ... during repatriation, taking into consideration administrative parameters.”<sup>ii</sup> Nevertheless, quantitative data from multiple surveys as well as qualitative data reveal that DHS—and specifically the U.S. Border Patrol—has failed to meet its goal of preserving family unity during the deportation process. What follows is a summary of survey data on family separation, an analysis of the

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6 KBI provides two meals a day to deported migrants, and served over 45,000 meals in 2011.

7 The more than 900 women who had been served at the Nazareth House shelter as of September 2012 are not representative of the deported female migrant population generally, or even in Nogales. Rather, the women whose experiences are captured in this survey, as well as their testimonies, serve to highlight the abuses and hardships suffered by a particularly vulnerable subset of women migrants in greater detail than is possible through other surveys.

8 Migrants are often served multiple meals when they are in Nogales, but the survey is only administered to each person when they arrive for their first meal.

**Table 1: Most Deported Migrants are Separated From their Family Members**  
Women and Men Repatriated to Nogales, Sonora (Mexico)

|                                      | Men   |      | Women |      | All   |      |
|--------------------------------------|-------|------|-------|------|-------|------|
|                                      | #     | %    | #     | %    | #     | %    |
| <b>Not Separated/Traveling Alone</b> | 664   | 49.0 | 129   | 38.3 | 793   | 46.9 |
| <b>Separated</b>                     | 691   | 51.0 | 208   | 61.7 | 899   | 53.1 |
| From Immediate Family                | 307   | 22.7 | 120   | 35.6 | 427   | 25.2 |
| From Extended Family                 | 183   | 13.5 | 41    | 12.2 | 224   | 13.2 |
| From Friends                         | 104   | 7.7  | 24    | 7.1  | 128   | 7.6  |
| Unclear From Whom                    | 97    | 7.2  | 23    | 6.8  | 120   | 7.1  |
| <b>Total</b>                         | 1,355 | 100  | 337   | 100  | 1,692 | 100  |

Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

reasons for the widespread separation of families, and recommendations for policy changes that would limit the number of migrants who are unnecessarily separated from their families during the deportation process.

Among the most trying experiences typically conveyed by migrants is separation from family members and friends<sup>9</sup> during deportation. Many of those who attempt to immigrate to the U.S. without authorization do so by traveling through sparsely populated areas in the desert or mountains in the hopes of eluding apprehension by U.S. Customs and Border Protection (CBP) agents. During the apprehension and deportation process, CBP agents separate migrants, particularly women, from the people with whom they are traveling, which places them at considerable risk of theft, violence and abuse.

*The story of “Luisa,” a widow from the indigenous municipality of Tamazulápam de Espíritu Santo in the southern Mexican state*

*of Oaxaca exemplifies the fear and hardship experienced by migrants when they are separated from their family members.<sup>10</sup> After crossing the length of Mexico over ground to get to the border, Luisa and her 20 year old son “Pedro” attempted to cross into the United States by walking through the harsh and unpopulated desert near Nogales, Arizona. Unlike most unauthorized migrants who attempt to cross the U.S. – Mexico border, Luisa and Pedro did not contract the service of a guide. Instead, they attempted to traverse the desert with three others from Tamazulápam, which is among the poorest and most marginalized municipalities in the country. They had plans to settle in Los Angeles, where many members of their community lived and could help them to find work.*

*After walking through the hot sun for several hours, Luisa was unable to keep going. Eventually she and her son, who had stayed*

9 It is not DHS policy to preserve the unity of friendship groups, or people traveling together who are not immediate family members. As such, the fact that migrants are frequently separated from friends with whom they are traveling does not constitute a violation of DHS policy. Nevertheless, it is important to recognize that separating migrants from those with whom they are traveling—whether blood relations or not—often places them in situations of increased risk and vulnerability. When possible, we recommend that unauthorized migrants be deported with their fellow travelers unless there are compelling reasons that they should not be. A reasonable exception to such a policy would be to separate those suspected of being human smugglers from the groups they are leading.

10 Author interview, Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. October 16, 2012.

*behind with her, were apprehended and detained by U.S. Border Patrol agents. Despite telling the Border Patrol agents (both in the field and at the detention center) that Pedro was her son, and asking if they could stay together, the two were placed in separate cells.<sup>11</sup> After spending 24 hours in the detention center, Luisa was deported to Nogales, Mexico, without Pedro. At the time of our interview on October 16, 2012, Luisa had been staying in a shelter for migrants in Nogales for ten days and had still been unable to ascertain the whereabouts of her son, who had likely been deported to a different port of entry.*

There are countless stories of people like Luisa who arrive at the CAMDEP soup kitchen, or shelters for deported migrants in Nogales and other towns along Mexico's northern border. However, to understand the extent of this problem, and to demonstrate that the story of Luisa and Pedro is unfortunately quite common, we now turn to a statistical analysis of the best and most recent data available on the phenomenon of family separation during the deportation process.

### **A. Family Separation During the Deportation Process**

Analysis of the CAMDEP survey of migrants served by the Kino Border Initiative (KBI) in Nogales suggests that family separation during the deportation process is rampant (see Table 1). Among the 1,692 deported migrants who answered this question:

- More than half (53.1%) had been separated from a family member or a friend.
- One in four (25.2%) deported migrants was separated from a member of his or her

immediate family (i.e., parents, children, siblings, spouses).

- 13.2% were separated from a member of their extended family (e.g., uncles, nieces and nephews, cousins, etc.).
- 14.7% were separated from friends with whom they were attempting to cross the border or did not specify their relationship to the person from whom they were separated.

The analysis also shows that a larger share of migrant women than men is separated from their family members.<sup>12</sup> As depicted in Figure 2:

- Well over one-third of deported women served at CAMDEP (35.6%) were separated from an immediate family member during the deportation process, compared to men, for whom the corresponding figure is 13.0 percentage points lower at 22.7%.<sup>13</sup>
- There are not significant differences between women's and men's likelihood of being separated from extended family members (12.2% and 13.5%, respectively) or friends (7.1% and 7.7%, respectively).
- Overall, three out of five deported women and half of deported men have been separated from a family member or friend. This difference is statistically significant, but mostly driven by women's higher likelihood of being separated from an immediate family member.

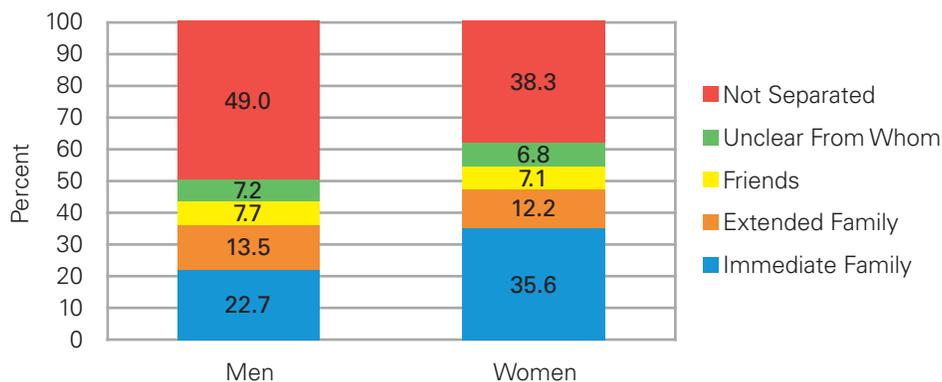
It should be noted that the CAMDEP survey does not make it possible to distinguish between those people who were apprehended and deported when attempting to cross the border (either through a port of entry or through the desert or mountains between ports) and those who were apprehended on the street, in their home, or their

11 This is most likely because Luisa's son is no longer a minor.

12 Although the data as collected make it difficult to confirm this, much of this difference may have to do with the fact that women are less likely to be unaccompanied when attempting to cross the border. However, since the CAMDEP survey does not ask this question, it is difficult to confirm this here. Indeed, this suspicion is corroborated below, as the analysis shows that deported females are no more likely to have been separated from immediate family members than males when considering those migrants who were not traveling alone.

13 A two-sample t-test shows that this difference is statistically significant at the 0.01 level.

**Figure 2. Failure to Preserve Family Unity**



Observations: Men, 1,355; Women, 337.

Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

place of work after having lived within the United States for some period of time. As such, it is difficult from this data alone to determine the chief causes of separation, or to determine the most effective measures to limit it. An additional limit to the CAMDEP survey data is that it is not possible to distinguish between those migrants who were traveling alone or in a group. Since it may be that the observed gender differences in the likelihood of family separation are explained by the simple fact that men are more likely to migrate alone, it is necessary to corroborate these results with complementary data sources.

Data from the Mexican Federal Government's Survey of Migrants at the Northern Border (EMIF-North) allows for a more refined analysis of these questions. The survey asks if migrants were traveling alone or with family members. In addition, this survey asks deported migrants where they were apprehended, making it possible to estimate the likelihood of family separation among those migrants apprehended in the desert or mountains (by U.S. Border Patrol). Of those migrants who were apprehended in the mountains or the desert and deported to cities along Mexico's northern border, more than half

**Table 2: Rates of Family Separation by the U.S. Border Patrol\***  
Comparisons by Gender

|  | Men    |      | Women |      | All    |      |
|--|--------|------|-------|------|--------|------|
|  | #      | %    | #     | %    | #      | %    |
| <b>Separated from Immediate Family</b>     | 6,097  | 30.5 | 1,331 | 28.8 | 7,428  | 30.2 |
| <b>Not Separated from Immediate Family</b> | 3,894  | 19.5 | 1,582 | 34.3 | 5,476  | 22.2 |
| <b>Traveling Alone</b>                     | 10,023 | 50.1 | 1,704 | 36.9 | 11,727 | 47.6 |
| <b>Total</b>                               | 20,014 | 100  | 4,617 | 100  | 24,631 | 100  |

\* It is assumed that the U.S. Border Patrol apprehends unauthorized migrants in the desert or mountains.

Source: Survey of Migrants at the Northern Border, 2012. El Colegio de la Frontera Norte, Consejo Nacional de Población, Secretaría del Trabajo y Previsión Social, Instituto Nacional de Migración, Secretaría de Relaciones Exteriores. Author tabulations of weighted estimates.

(52.4%) were traveling with a family member. Women were considerably more likely than men to migrate with a family member (63.1% compared to 49.9%), most likely because unaccompanied women are at higher risk of assault, rape and other violence (EMIF-Norte 2012, author calculations).

This analysis shows that family separation during the deportation process is rampant. Three out of ten migrants apprehended by the U.S. Border Patrol in the mountains or desert (30.2%) were separated from a member of their family when deported (see Table 2).

But this significantly understates the magnitude of the problem of family separation. Figure 3 focuses more narrowly on the half of migrants who were not traveling alone, and were apprehended and deported by U.S. Border Patrol agents. Of those who were not traveling alone—and thus could have *possibly* been separated from a family member—nearly three-fifths (57.6%) were separated from a member of their immediate family during deportation.

Accounting for the fact that women are much more likely to be accompanied by family members reveals significant gender differences in the

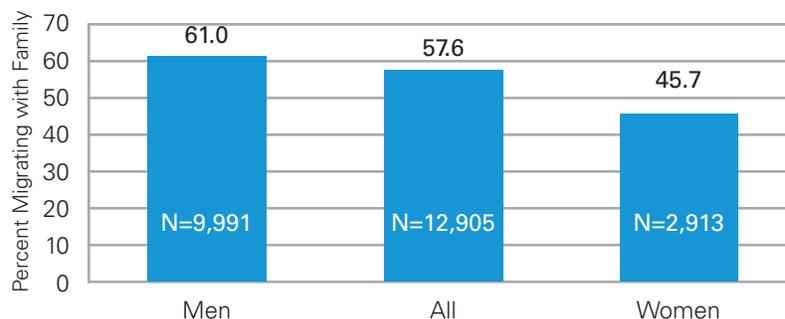
likelihood of separation. Specifically, more than three in five men (61.0%) were separated from their immediate families compared to a still shockingly high 45.7% of women.<sup>14</sup>

Separation from family and friends by U.S. migration authorities during the process of deportation places migrants in unnecessary and unacceptable situations of vulnerability in an increasingly dangerous border region. The findings summarized above provide convincing evidence that U.S. immigration authorities, particularly the Border Patrol, are failing to uphold their official principle to preserve family unity as laid out in the M.O.U. on the “Safe, Orderly, Dignified and Humane Repatriation of Mexican Nationals.”

It is important to acknowledge that there are certain situations in which the preservation of family unity is not possible or even desirable. For instance, if an apprehended migrant has a record of prior deportations, and is thus required to serve time in jail before being deported, it is appropriate for family members traveling with that person to be repatriated without her or him. However, such “administrative” exceptions to the rule that family unity should be maintained cannot account for the

14 This difference is statistically significant at the 0.001 level.

**Figure 3. Family Separation by U.S. Border Patrol During Deportation**



Note: Percents are calculated based on weighted “N,” as shown.

Source: Survey of Migrants at the Northern Border, 2012. El Colegio de la Frontera Norte, Consejo Nacional de Población, Secretaría del Trabajo y Previsión Social, Instituto Nacional de Migración, Secretaría de Relaciones Exteriores.

striking prevalence of family separation during deportation. Furthermore, the fact that those apprehended in the desert or mountains are more than three times more likely to be separated than those apprehended elsewhere—when they are no more likely to have a criminal record, prior deportations, etc.—demonstrates that U.S. migration authorities, in particular the U.S. Border Patrol, are failing to uphold the principle of preserving family unity.

Extensive author interviews with U.S. Border Patrol Agent Raymond Bean at the Nogales, Arizona Border Patrol Station and detention center reveal a few possible explanations for this failure, and suggest several areas of potential administrative reform.

### **B. Family Separation: An Unintended Consequence of the ATEP Program**

In an effort to disrupt migrant smuggling organizations and to further deter migrants from entering the United States without authorization, the Border Patrol adopted the Alien Transfer Exit Program (ATEP). Interviews with Agent Raymond Bean, coupled with the analysis of systematically collected data from two different sources suggest that this program likely contributes to the widespread problem of family separation during the deportation process.

According to Agent Bean, when migrants are determined to be eligible to be “ATEPed,” they are taken to Tucson, AZ and randomly assigned for deportation to any one of the ports along the U.S. - Mexico border. The logic of the program is that by randomly selecting the port through which migrants are deported, smuggling organizations will find it much more difficult to operate. Agent Bean explained that the eligible population for ATEP includes all adult males who do not have a criminal record or an order for administrative deportation *and* who are not traveling with a member of their family.<sup>15</sup> In addition, Agent Bean emphasized that common law couples or couples

joined by civil union are not exempt from ATEP, nor would same-sex couples be exempt (which may be relevant since Mexico City now recognizes same-sex unions). However, according to the “Local Arrangement for Repatriation of Mexican Nationals” signed by U.S. and Mexican officials and covering the Arizona – Mexico border region, “family” does include “common law spouses,”<sup>iii</sup> but it is evident that no effort, even ad hoc, is made to ensure these couples are not separated.

There is no standard procedure followed to determine if those individuals who are apprehended by U.S. migration authorities are family members traveling together. The current procedure is informal at best. According to Agent Bean, officers rely on cues such as whether people sit together, talk to one another, or have the same last name to assess familial relationships.<sup>16</sup> Thus, the United States would do a better job of meeting its obligations under the M.O.U. “On the Safe, Orderly, Dignified, and Humane Repatriation of Mexican Nationals” and under the Local Arrangement for the Arizona – Sonora border region by simply putting into place standard processes to determine the relationships between those apprehended together, and explicitly establishing that family members should not be separated under the ATEP program.

### **III. Families Kept Apart and Torn Apart by the Border**

By far the most common reason people choose to immigrate to the U.S. from Mexico and Central America is to find work. Four out of five (79.6%) migrants surveyed at the Aid Center for Deported Migrants (CAMDEP) in Nogales, Mexico, said they left home due to a lack of work. Almost one in five (18.3%) immigrated to reunite with a family member in the U.S. To be sure, these causes are not mutually exclusive. When immigrants are deported, they and their families lose access to a livelihood they have often come to depend on to make ends meet. In the cases where a spouse

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<sup>15</sup> When asked what constitutes a family, according to the Border Patrol, Agent Bean clarified that the definition of family extends to aunts and uncles, but does not include second cousins. In addition, Agent Bean emphasized that common law couples or couples joined by civil union are not exempt from ATEP, nor would be same-sex couples be exempt (which may be relevant since Mexico City now recognizes same-sex unions).

<sup>16</sup> Author interview, October 12, 2012, Nogales, Arizona.

and children—often U.S. citizens or legal permanent residents—remain in the U.S., families are not only torn apart, they also lose an essential breadwinner.

A growing number of children—5.5 million as of 2010—live in mixed-legal status families with at least one undocumented parent. In 2010, 5.5 million children, 4.5 million of whom were U.S. citizens, had at least one undocumented parent. This is more than twice the 2.1 million children estimated to have at least one undocumented parent in 2000.<sup>iv</sup>

Of those parents who were deported to the northern Mexican border from January through March 2012, almost one in three (32.0%) had at least one child living in the United States. About one-third (32.1%) of deported migrants with a spouse were separated from her or him by the border (EMIF-Norte 2012, author tabulations).<sup>17</sup> An estimated 1,971 parents who were deported during the first quarter of 2012 had at least one child but no spouse still living in the U.S. (some 4.9% of deported parents). Though there are important limits to this estimate, it is likely that during the first three months of 2012 alone, at least 1,971 children were left in the U.S. without either parent.<sup>18</sup>

That means that many of these children were likely separated from both of their parents and forced into foster care or a less formal guardianship arrangement with an extended family member, godparent, or friend, or are left to fend for themselves. As DHS recently reported, 46,486 parents of U.S. citizen children were deported in the first half of 2011 alone (U.S. Immigration and Customs Enforcement 2012).<sup>v</sup> When parents are deported, their U.S. citizen children sometimes become caught up in the child welfare system, and parents can lose custody of their children. This phenomenon is extensively documented in the recent report *Shattered Families*.<sup>vi</sup> The report

estimates that at least 5,100 children currently living in foster care have parents who are detained or have been deported.

However, the above figures collapse what are two distinct populations of deported migrants, those deported after being established for a long period of time in the U.S. and those who recently crossed the border or were apprehended while attempting to cross without inspection. Deportation negatively impacts the families of both of these populations of migrants, but in very different ways. First, families are often torn apart when an undocumented member is deported while his or her children or spouse—often U.S. citizens or legal permanent residents—remain in the United States. Second, husbands, wives, children and parents often attempt unsuccessfully to immigrate without authorization to reunite with their family members already settled in the U.S. Among these are those cases in which an undocumented migrant returns home to visit an ailing parent or to attend the funeral of a loved one, only to be apprehended when attempting to reenter the United States to reunite with his or her immediate family.

This section presents a comparative analysis of family separation among these two distinct populations of migrants: 1) those who try unsuccessfully to cross the border to reunite with their families (kept apart by the border) and 2) those who are separated from their families after being settled in the U.S. for more than a year (torn apart by the border). Almost two out of three deported migrants (63.3%) spent less than a year in the U.S. and 36.7% of migrants had lived in the U.S. for a year or more before being returned to Mexico. More than half (54.7%) spent less than a month in the U.S. before being deported and 44.3% were in the U.S. for more than a month.

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17 Less than two in five (36.2%) had no family or friends living in the U.S.

18 Due to data limitations, this estimate has three important limitations, one that contributes to an underestimation of the number, and two that contribute to an overestimation. First, each parent surveyed has at least one child still living in the U.S., meaning the total number of children living in the U.S. without their parent and their parent's spouse is undoubtedly considerably higher than reflected here. Second, the data do not indicate if the child(ren) living in the U.S. are minors, so some share of them are likely adult children. Third, just because the spouse of the parent surveyed is not living in the U.S., does not mean that the child's other parent is not. Finally, in cases where both parents have been deported, they are each theoretically captured in the survey, and as such, a single child would be counted twice.

### **An Impossible Choice: When Seeing an Elderly Parent Before They Die Means Risking Separation From One's Family in the U.S.<sup>19</sup>**

"Blanca," 42, was born in a coastal community near Acapulco in the Mexican state of Guerrero. She had lived in New York for the past 23 years, and is the mother of two daughters, 15 and 17. Her daughters are U.S. citizens, born in New York, and her husband, a Honduran national, is a naturalized U.S. citizen. Blanca wanted to regularize her status and become a citizen herself, but was advised by a lawyer that if she attempted to do so, she would be deported.

After learning that her parents, 76 and 70, were ailing, she traveled back to Guerrero to see them after many years being apart. She contracted a guide, and attempted to cross through the Arizona desert to return to New York and reunite with her family. After walking for four days through the desert with insufficient water supplies, she was apprehended by the U.S. Border Patrol and deported to Nogales, Mexico. As a punishment for unauthorized entry, she has to wait 5 years before being allowed to apply for a visa to reunite with her U.S. citizen husband and children.

#### **A. Families Kept Apart by the Border**

Many migrant families are separated initially when one or some members—often the father or both parents—immigrate to the United States to earn enough income to support the family. In this type of situation, those who stayed behind in Mexico—be they children who have come of age, spouses, siblings, or others—often attempt to enter the U.S. without authorization to reunite with their families.

For example, "Humberto," a 16 year old Zapotec indigenous child from the southern state of Oaxaca, attempted to cross into the U.S. through the Arizona desert with his uncle.<sup>20</sup> Humberto's goal was to meet his mother, who had left home 13 years earlier when he was three years old. Humberto was raised by his grandmother, and supported by the remittances his mother sent home from her agricultural work in California's Central Valley. When his grandmother died recently, Humberto was pushed to make the perilous journey with his uncle, whose wife lived with Humberto's mother in California. After walking through the desert for three days, the group Humberto and his uncle were traveling with was apprehended by the U.S. Border Patrol, who separated Humberto from his uncle without explaining the reason. Humberto was deported, and placed into a shelter for unaccompanied migrant youth in Nogales, Mexico while he awaited being returned to Oaxaca to live with even more distant relatives. Only after arriving at the shelter was Humberto allowed to contact his mother to let her know what had happened. At that time he learned that his uncle had been separated from him because he had been deported before, and was required to spend six months in prison.<sup>21</sup>

Thousands of people like Humberto and his uncle attempt unsuccessfully to cross the border to reunite with their families; sometimes with parents they scarcely even remember—like Humberto and his mother—other times with an established and settled life to which they are attempting to return—as with Blanca. This subsection systematically documents the phenomenon of *families kept apart by the border*.

In the period under study, more than 2,700 parents failed in their attempt to reunite with their children living in the U.S. That is 9.6% of parents who were

19 Author interview, CAMDEP, Nogales, Sonora, Mexico, October 12, 2012. Names have been changed to protect the privacy of the individual interviewed.

20 Author interview at the shelter for unaccompanied minor migrants of the Nogales Desarrollo Integral de la Familia (DIF, Integral Development of the Family) in Nogales, Sonora, Mexico, October 11, 2012. Names have been changed to protect the privacy of the individual interviewed.

21 Humberto's separation from his uncle might have occurred as a result of Operation Streamline, the DHS program requiring that federal criminal charges be brought against individuals caught crossing the border without legal authorization. Had Humberto's uncle been processed through civil deportation proceedings after his first unauthorized crossing, he would not have been required to serve 6 months in prison for getting caught again, and could have been deported with his nephew.

deported after spending less than a month in the U.S. (see Figure 4). As shown in Figure 4, 9.6% of married migrants who were deported after spending less than a month in the U.S. had a spouse living there. An estimated 2,014 people, some minors like Humberto, failed in their attempts to cross the border and reunite with their parents (5.8% of those with living parents). As shown in Figure 4, migrants deported within a month of being in the United States were far more likely to have siblings or extended family members living there. Taken together, these estimates further demonstrate the extent to which so many families are kept apart by the border.

### B. Families Torn Apart: Migrants Deported After Being Established in the U.S.

As the portion of mixed immigration status families is steadily increasing, mothers, fathers, and guardians who are deported are often separated from their citizen children, who remain in the U.S. with their other parent, a guardian, other family members, or in foster care. While this heart-wrenching situation helps to highlight the great need for comprehensive federal immigration reform, there are also administrative

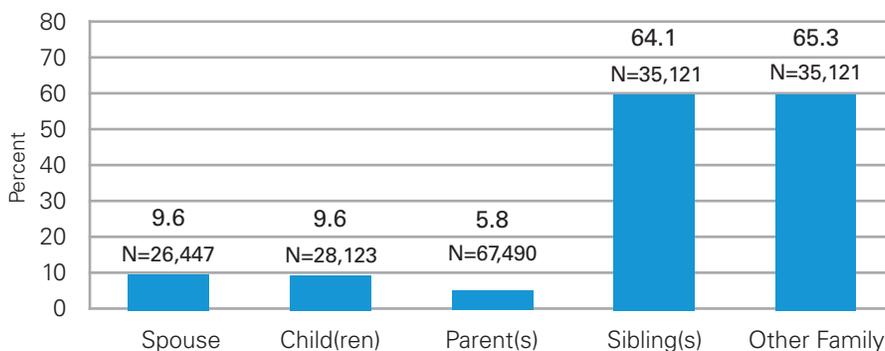
changes possible that could improve the security of these parents and children and decrease the trauma when forced family separation is unavoidable.

This sub-section analyzes data from the 2012 EMIF-Norte survey to demonstrate how frequently families are separated from one another when one or more members are deported. Whereas the previous sub-section focused on the population of deported migrants who tried unsuccessfully to reunite with family members living in the U.S., the goal of this sub-section is to estimate the portion of migrants that lived in the U.S. for at least a year before being separated from their family members still living in the U.S. The goal here is to examine family separation among those families that are relatively well-established in the U.S.<sup>22</sup>

Figure 5 focuses on migrants who were deported after spending at least a year in the United States. Compared to those who had been in the U.S. for less than a month, this group was far more likely to have been separated from their children or spouses still living in the U.S. Of deported parents in this group, an estimated 14,098 (61.4%) had a child still living there. The same share (61.4%) had a spouse still living in the U.S. when surveyed. However, this does not mean that all of the children of these migrants were still with

22 The cutoff of one year living in the United States is somewhat arbitrary, but useful for these purposes. Other ways to divide the sample to focus on those migrants who were deported after being "well-established" in the United States could include a focus on those who worked, or those who lived in the country for more than 5 years. The latter is untenable here, because sample sizes are too small.

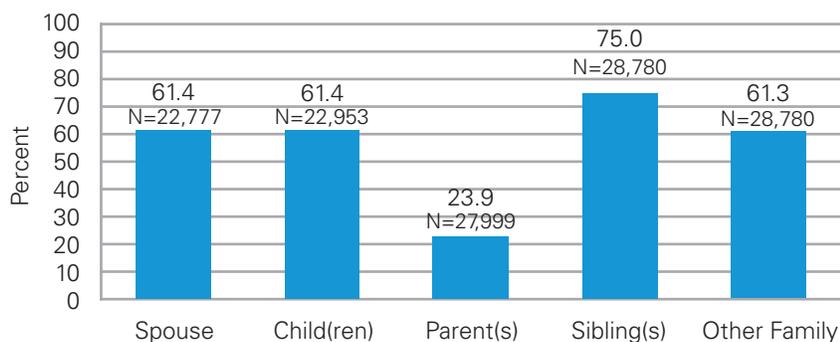
**Figure 4. Families Kept Apart by the Border**  
Deported After Less Than a Month in the U.S.



Note: This analysis focuses on migrants who are married, are parents, have a living parent, have at least one sibling, have other family members, respectively. Percents are calculated based on weighted "N" as shown.

Source: EMIF-Norte (Survey of Migrants at the Northern Border), January-March, 2012. El Colegio de la Frontera Norte, Consejo Nacional de Población, Secretaría del Trabajo y Previsión Social, Instituto Nacional de Migración, Secretaría de Relaciones Exteriores. Author tabulation of weighted estimates.

**Figure 5. Families Torn Apart by the Border**



Note: This analysis focuses on migrants who are married, are parents, have a living parent, have at least one sibling, have other family members, respectively. Percents are calculated based on weighted “N,” as shown.

Source: EMIF-Norte (Survey of Migrants at the Northern Border), January-March, 2012. El Colegio de la Frontera Norte, Consejo Nacional de Población, Secretaría del Trabajo y Previsión Social, Instituto Nacional de Migración, Secretaría de Relaciones Exteriores. Author tabulation of weighted estimates.

another parent. As cited above, of all deported migrants (i.e., regardless of how long they had been in the U.S. before deportation), an estimated 1,971 (or 4.9%) had children but no spouse still living in the country.<sup>23</sup>

This section documents the prevalence of family separation, which is a predictable outcome of an immigration system in great need of reform. Families still living in Mexico or Central America depend on the funds sent by their husbands, wives, children and parents living and working in the U.S. People still living in their home countries often long to immigrate to be reunited with their loved ones in the United States; however, it is next to impossible to do this through legal channels—especially when family members living and working in the United States, like Humberto’s mother, are undocumented themselves.

This analysis also presents recent data on families that have been separated when an undocumented member is detained and deported after living for a significant period of time in the United States. Comprehensive immigration reform to regularize the status of law-abiding immigrants who have

been living, working and paying taxes in the United States for a significant period of time would be a humane and increasingly feasible solution to this problem. In addition, administrative measures should be implemented to ensure that the sometimes necessary process of family separation due to deportation follows protocols to diminish the trauma and risk to families and children. Possible reforms could include measures to ensure that citizen children of undocumented parents are able to obtain their birth certificates and other documents. This is particularly important in cases in which children accompany their parents or guardians when they are removed and will help to ensure that the U.S. citizen children are able to return to the U.S. at a later date if they so choose. In those cases where children stay in the U.S. when their parents are deported, protocols should be followed to ensure that those in whose care they remain are able to become official guardians with all of the rights and responsibilities this entails.

<sup>23</sup> Unfortunately, the sample is too small to estimate a similar statistic only among those who were in the United States for at least a year before being deported.

## IV. Violence as Cause and Consequence of Migration

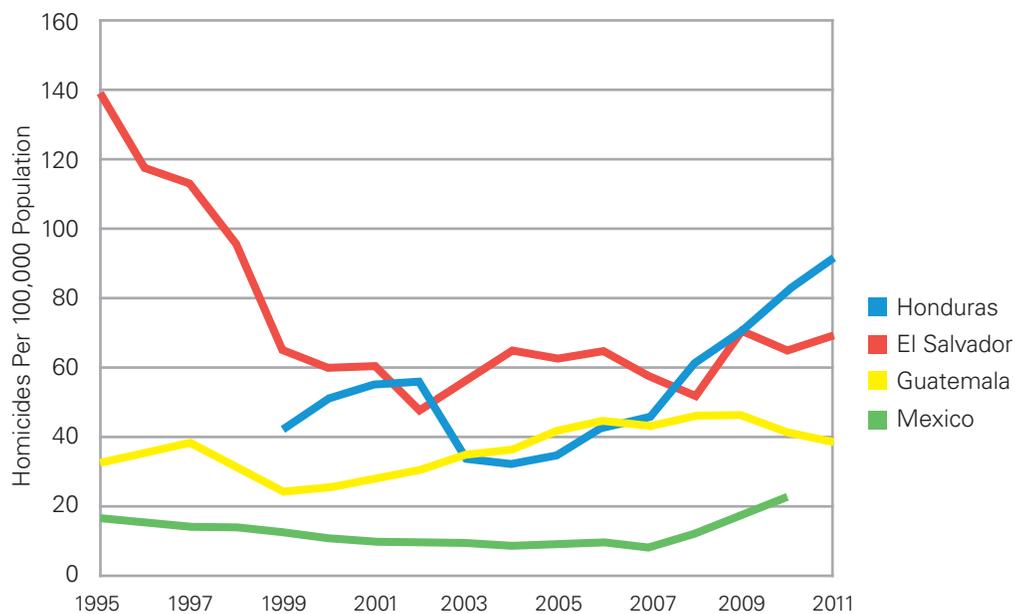
This section focuses on the abuse and violence experienced by migrants *both* as the original motivation for leaving their homes in Mexico and Central America to attempt to immigrate to the United States *and* after being deported back to Mexico. Levels of violence, often directly or indirectly related to drug trafficking or political upheaval, have increased throughout parts of Mexico and Central America in recent years and have become an increasingly common cause of migration. There has been an alarming increase in the homicide rate in the region, particularly in Mexico and Honduras (see Figure 6). Though the relationship is not perfectly linear, there is a clear correlation between the level of violence in a country and the likelihood that violence was listed as a cause of migration (see Figure 7).

Unfortunately, migrants—whatever their reasons for choosing to leave their homes—are often the victims of abuse at the hands of criminal gangs, human smugglers, human traffickers, and thieves. One feature of increased criminality in the northern Mexico region is that organized crime has come to control or extract tribute from the human smugglers who have long sold their services to guide migrants across the border (see Dudley, 2012). Whether traveling alone or with a guide, migrants are at increasing risk of violence, sometimes at the hands of their guides.

*These risks are tragically reflected in the ordeal of “Anabel,” a mother of two children who are staying with her mother in their native Guatemala.<sup>24</sup> Anabel was trying to immigrate to the U.S. in order to provide them with a better life. As most unauthorized migrants crossing the U.S. Mexico border over land, Anabel contracted a coyote to guide her through the desert. Once deeply isolated in*

24 Author interview, Nazareth House, Nogales, Sonora, Mexico, October 10, 2012. Names have been changed to protect the privacy of the individual interviewed.

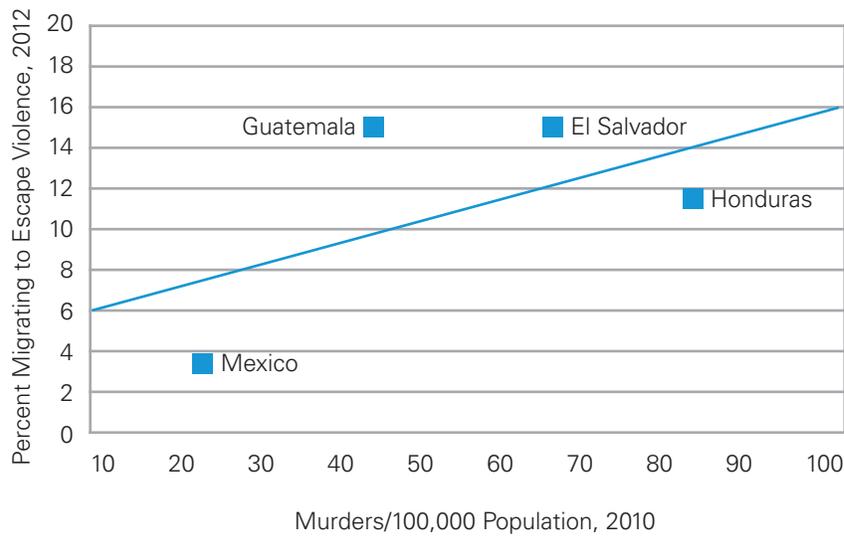
**Figure 6. Murder Rate in Mexico and Central America**



Source: Data compiled by the United Nations Office on Drugs and Crime. "UNODC Homicide Statistics 2012."

### Figure 7. Migration to Escape Violence

Comparing Mexico and Central America Murder Rates Per Capita in 2010  
Predicts Migration Pattern in 2012



Source: Data compiled by the United Nations Office on Drugs and Crime.  
"UNODC Homicide Statistics 2012."

*the Arizona desert, she was brutally beaten by one of her guides who repeatedly struck her knees with a stick. Once incapacitated, she was raped by both of her guides. They stole her backpack with her clothes in it, and left her to die in the desert. She spent 4 days dragging herself through the desert, and drank water from the cattle troughs to stay alive while suffering from fevers. She was finally found by U.S. Border Patrol Agents. After saving her life, they locked her in a single person detention cell, where she spent the night. Despite her requests, agents did not take her to a hospital, nor did they supply her with medicine for her pain or fever. She was not asked whether she had suffered sexual assault or abuse and she did not disclose the rapes she had suffered.*

*Because of the assault Anabel had been a victim of, the next day she was taken to the Santa Cruz County sheriff's office, where they took photographs of her wounds, and filed an incident report. However, they did not ask (and she did not tell them) about the rapes. She was then deported to Nogales, Mexico,*

*where she was received by Mexican migration officials, finally taken to the hospital, and given intravenous fluids. As she had not reported the rape to the sheriff, and had misrepresented her nationality so as to be deported to Mexico rather than Guatemala, it would be extremely difficult for her to press charges against her perpetrators and next to impossible to receive some form of humanitarian relief in the United States.*

Migration authorities on both sides of the border must consider the increased risks faced by migrants both in their home communities and as they travel in the hopes of having a better life or reuniting with their loved ones in the United States. Specifically, further steps must be taken by U.S. migration authorities to ensure the safety of unauthorized immigrants apprehended and removed from the United States. In addition, Mexican must continue to address these risks as they work to regulate the flow of Central American migrants through their territory and prepare to receive migrants as they are returned to the Northern Mexico border region by U.S. immigration officials.

## A. Violence as a Cause of Migration: Variation by Country of Origin and Gender

Migration researchers—particularly those studying the causes of flows from Mexico to the United States—have long identified jobs as the principal motivating factor behind migration, with a distant second being family reunification. This pattern holds among the migrants who have been deported to the Nogales, Mexico port of entry or who plan to migrate in the future, as nearly eight in ten (79.6%) listed finding work as a reason they migrated. Fewer than one in five (18.3%) listed “family reunification” as a reason. Only one in twenty-five migrants overall (4.3%) listed violence as a cause for migrating.

However, the likelihood that migrants surveyed listed violence as a cause varied widely both by gender and by country of origin. Migrants from Central America were *much* more likely than those from Mexico to migrate to escape violence. As Figure 8 shows, more than one in eight (12.7%) deported migrants from Central America said they left their home communities and countries

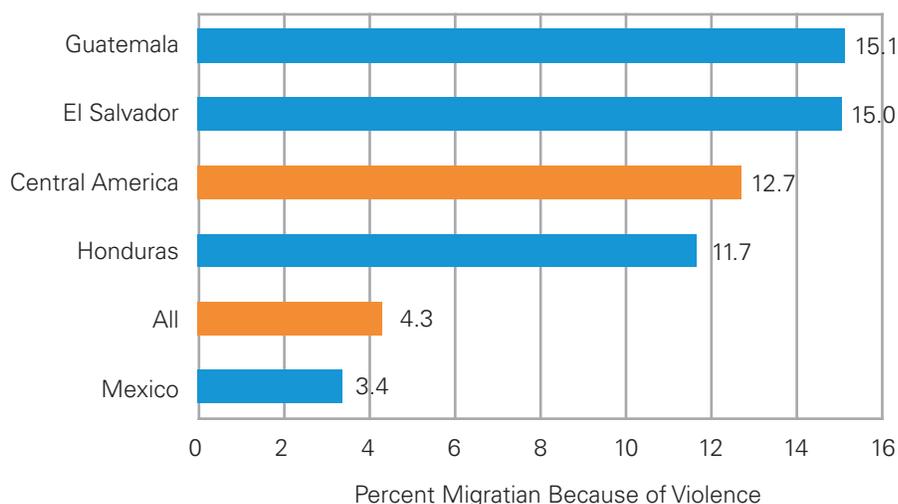
because of violence. Guatemalan migrants were the most likely to have left their homes because of violence (15.1%), followed by Salvadorans (15.0%), and Hondurans (11.7%).

This finding is not surprising when one considers that the level of violence is considerably higher in Central America than in Mexico. Specifically, the 2011 homicide rates (per 100,000 population) in the countries of the so-called “Northern Triangle” (Guatemala, El Salvador and Honduras) were, respectively, 38.5%, 69.2% and a staggering 91.6%. By contrast, Mexico's 2010 homicide rate was 22.7% (see Figure 6).

The gender breakdowns are shown in Figure 9.<sup>25</sup> As can be seen, Central American women are no more likely than Mexican women to list violence as a cause of migration (4.3%). Taken in conjunction with the findings presented in Figure 8, this means that Central American men are far more likely to migrate due to violence (13.0%) than their Mexican counterparts (3.2%). This analysis also shows that there is a nominally small, but statistically significant (at the 95% confidence level) difference between Mexican men and women (3.2% compared to 4.3%).

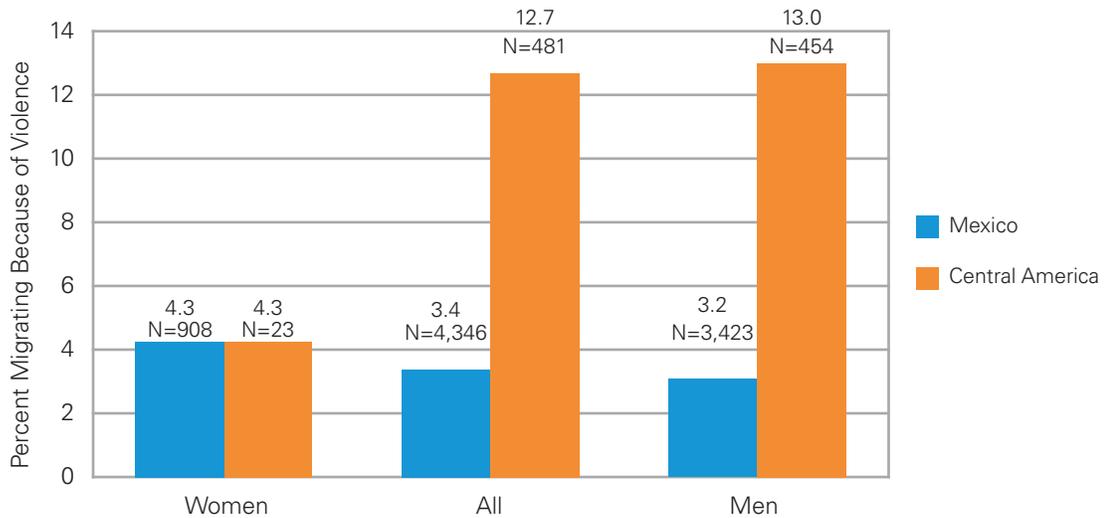
25 Due to a small number of observations for several Central American countries, they are collapsed into the broader regional category here.

**Figure 8. Violence as a Cause of Migration**  
Central Americans More Likely to be Fleeing Violence



Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

**Figure 9. Violence as a Cause of Migration**



Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

**B. State-level Variation in Causes of Mexican Migration**

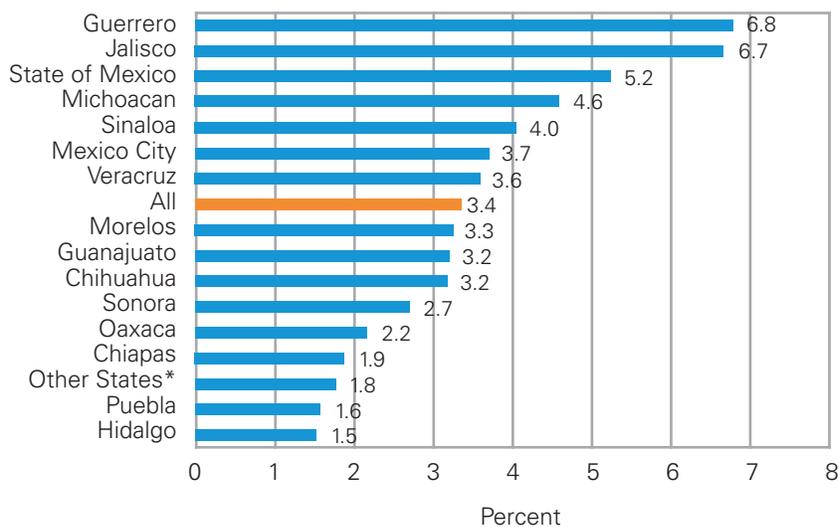
The very large number of Mexicans captured by the CAMDEP survey (4,450, 89.9% of the sample) makes it possible to examine state-level variation in migration causes within Mexico. The analysis

finds considerable subnational variation, which is not surprising given that levels of violence related to the war on drugs, organized criminal activity, violence against women and delinquency vary considerably within Mexico.

Figure 10 shows this state-by-state variation. Violence was most likely to be a cause of

**Figure 10. Violence as a Cause of Migration**

Significant Subnational Variation within Mexico



\* Mexican states with fewer than 50 observations.

Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

migration for those from the southern state of Guerrero (6.8%), Jalisco (6.7%) and the State of Mexico (5.2%). Those least likely to have emigrated to escape violence were from the central state of Hidalgo (1.5%), the southern state of Puebla (1.6%), and a group of “other” states (1.8%).<sup>26</sup>

Figure 11 breaks down the analysis even further by focusing on variations by gender. Men are significantly more likely to emigrate from Guerrero due to violence (7.5%) than women (4.8%), which may reflect the fact that drug- and organized-crime related violence is prevalent in that state. On the other side, women from the state of Chiapas were more than four times more likely to list violence as a cause of migration than men (4.7% compared to 1.1%) and 19 women (6.9%) from the 27 states with fewer than 50 total women surveyed migrated due to violence.<sup>27</sup> Further research is needed to determine the specific causes of this variation, and to better understand why the largest gender differences in this rate are in those states with the lowest numbers of migrants surveyed by CAMDEP.

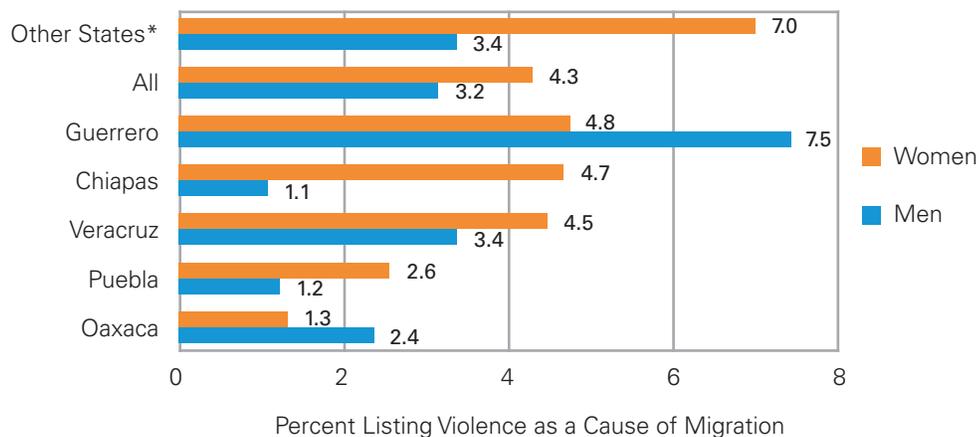
### C. Migrants as Victims of Crime Before, During and After Crossing the Border

Significant anecdotal and testimonial evidence, such as the case of Anabel recounted above, reflects how migrants, especially women, are vulnerable to being victimized by criminal gangs, thieves, human traffickers, human smugglers and other criminals as they travel through Mexico to reach the northern border, as they cross the border and after being deported by U.S. authorities. One of the questions asked of migrants surveyed at CAMDEP is whether they were abused or victimized in some way. Although there was not an option to select “criminals,” many respondents selected “other” and wrote in an abuser. Based on these answers, a general code was created to identify all of those individuals who were abused by criminals. This general classification includes such groups as “drug traffickers,” “thieves,” “gangs,” “rip-off crews,” “coyotes” or “polleros” (human smugglers), and “burreros” (drug runners), among others. Using the general category of

26 These other states (those with 50 or fewer total observations) are grouped together because they have too few observations to allow for reliable state-level estimates.

27 For this figure, the group of “other states” includes those with fewer than 50 women surveyed.

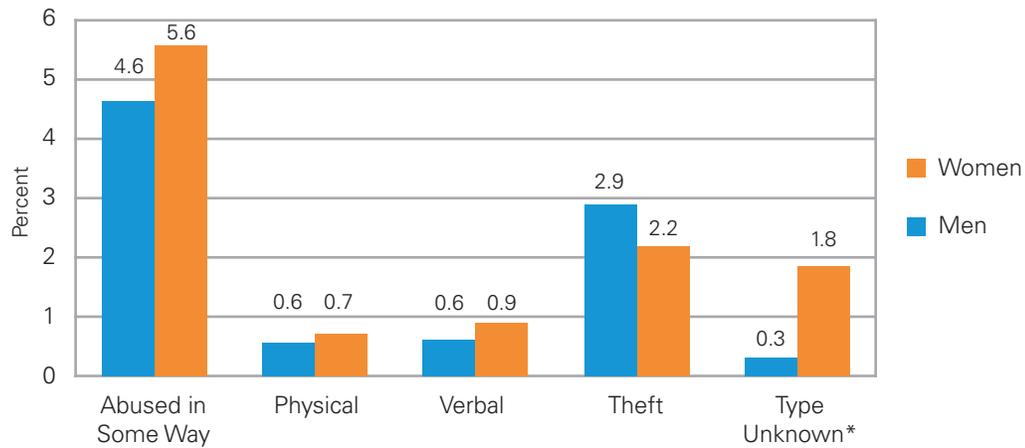
**Figure 11. Women in Mexico More Likely to Migrate Due to Violence**  
Differences by State Within Mexico



\* Mexican states with fewer than 50 female respondents.

Source: Survey of Deported Migrants: Aid Center for Deported Migrants

**Figure 12. Types of Crime Committed Against Migrants**



Observations: Men, 2,654; Women, 540.

\*Gender difference in "type unknown" category is significant at the 0.0001 level. No other gender differences statistically significant.

Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

"criminals" makes it possible to focus on the victimization of migrants by non-governmental criminal groups.<sup>28</sup>

Figure 12 shows the percentages of migrants—men and women—who were victimized by criminals while traveling to Mexico's northern border, crossing the border and after returning or being sent back to Mexico. Overall, 5.6% of men and 4.6% of women were victimized by criminals. Theft was by far the most common violation suffered, but only 2.2% of women and 2.9% of men surveyed reported being robbed by criminals. The only statistically significant difference by gender was in the likelihood that the type of abuse was unknown. Though this may be related to survey error, it is possible that women are choosing not to answer this question when they have been victims of sexual harassment, sexual assault, or rape. Future KBI surveys will explicitly collect data on the incidence of gender-based violence.<sup>29</sup>

As was the case with abuses of migrants at the hands of local police in Mexico, Central Americans were more likely to be victimized by criminals. As Figure 12 shows, more than one in ten Central American migrants (10.5%) were crime victims, compared to only one in twenty-five (4.0%) Mexican migrants. This is not surprising, as Central American migrants must traverse the length of Mexico—where they often are not authorized to be—on their way to the northern border before crossing into the United States, which markedly increases their vulnerability.

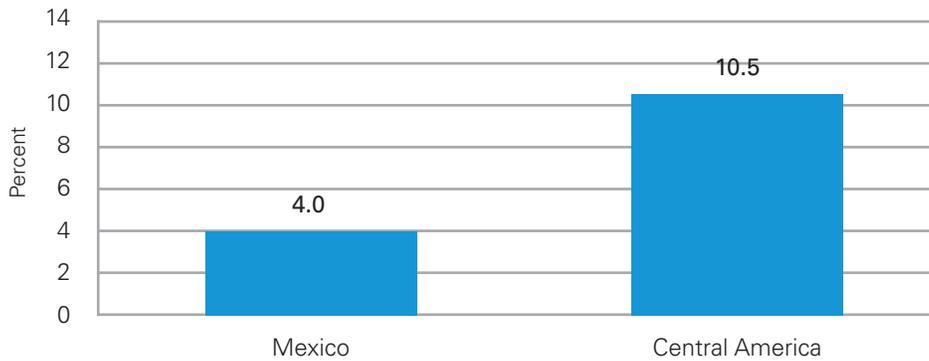
## V. Denial of Migrant Rights by the U.S. Border Patrol

The U.S. Border Patrol is bound to protect the civil and human rights of all those individuals that they suspect of being in the country without authorization. Sadly, evidence from several

<sup>28</sup> Sections V and VI below focus respectively on abuses by the U.S. Border Patrol and local police in Mexico.

<sup>29</sup> That said, data collected at the Nazareth House shelter for migrant women and children in Nogales, Sonora provide some useful information on the incidence of sexual violence against women. As noted above, the data from this survey should not be seen as representative of the population of migrant women in Nogales, as the shelter is designed to house and assist women who find themselves in particularly vulnerable positions. Nevertheless, of the roughly 904 women aged 15 and older who stayed at the Nazareth House shelter between January of 2010 and September of 2012, 86 of them had experienced some form of sexual violence and six of these had been raped.

**Figure 13. Central Americans Much More Likely to be Victims of Crime**



Observations: Central American, 372; Mexican, 2,828.

Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

different sources reveals systematic failures of Border Patrol Agents to follow their own regulations and procedures with respect to civil and human rights, detention standards, and professionalism.

This section documents the prevalence of several different abuses, violations of prevailing regulations, and lapses of professionalism on the part of the U.S. Border Patrol when apprehending, detaining and deporting migrants suspected of being in the country without authorization. In so doing, it demonstrates that the consistent and

widespread presence of these abuses and misconduct is not simply a question of a “few bad apples;” rather, it points to systematic problems that must be addressed.

### A. Abuses Committed by the U.S. Border Patrol

An estimated one in four migrants (24.8%)—797 of those surveyed at the Aid Center for Deported Migrants (CAMDEP) in Nogales, Sonora—reported being abused in some way by U.S. Border Patrol

**Table 3. Deported Migrants Abused by the Border Patrol**  
Differences by Gender

|                           | Men   |       | Women |       | All   |       |
|---------------------------|-------|-------|-------|-------|-------|-------|
|                           | #     | %     | #     | %     | #     | %     |
| <b>Abused in Some Way</b> | 647   | 24.4  | 144   | 26.7  | 797   | 24.8  |
| Physically Abused         | 155   | 5.8   | 23    | 4.3   | 179   | 5.6   |
| Verbally Abused           | 331   | 12.5  | 95    | 17.6  | 430   | 13.4  |
| Victim of Theft           | 86    | 3.2   | 11    | 2.0   | 97    | 3.0   |
| Some Other Abuse          | 24    | 0.9   | 8     | 1.5   | 32    | 1.0   |
| Type Unknown              | 97    | 3.7   | 13    | 2.4   | 111   | 3.5   |
| <b>Observations</b>       | 2,654 | 100.0 | 540   | 100.0 | 3,209 | 100.0 |

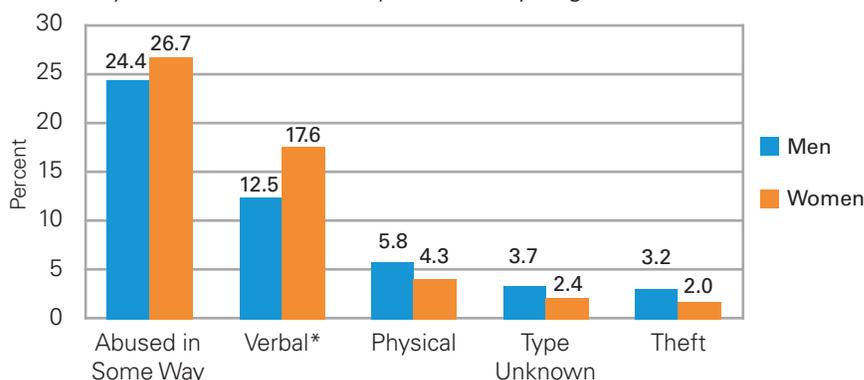
Note: Totals may not add up because some respondents did not report their gender. Includes individuals abused *only* by the Border Patrol.

\*Gender difference is statistically significant at the 0.01 level.

Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

**Figure 14. Abuse by Border Patrol Commonplace**

Types of Abuse by U.S. Border Patrol Experienced by Migrant Men and Women



\*Gender difference statistically significant at the 0.01 level.

Observations: Men, 2,654; Women, 540.

Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

Agents.<sup>30</sup> As Table 3 shows, the overall likelihood of abuse at the hands of the U.S. Border Patrol does not vary significantly by gender (also see Figure 14).

Focusing on specific types of abuse, men were slightly more likely than women to claim that U.S. Border Patrol agents stole from them (3.2% compared to 2.0%).<sup>31</sup> Migrants surveyed all along the northern Mexico border were *much more* likely to report having their belongings seized by U.S. migration authorities (EMIF-Norte 2012) than those surveyed by CAMDEP. Specifically, 12.7% of deported migrants surveyed all along the northern Mexico border reported having their belongings confiscated by U.S. migration agents (there was no difference by gender).<sup>32</sup>

According to the CAMDEP survey, an estimated 5.6% of migrants were physically abused by Border Patrol agents. Men were significantly more likely than women to report physical abuse (5.8% compared to 4.3%). This is slightly higher than the rate reported by the Mexican federal government in the EMIF-Norte survey for the first quarter of 2012, which found that 3.8% of deported migrants suffered physical aggression (being pushed, hit, etc.) by U.S. migration authorities.

Verbal aggression was the most common type of abuse or mistreatment of migrants by agents of the U.S. Border Patrol. According to the CAMDEP survey more than one in six (17.6%) women and 12.5% of men experienced this type of abuse (see Figure 14).<sup>33</sup> As with the other types of abuse,

30 This estimate is only slightly higher than estimates based on an analysis of the EMIF-Norte data, according to which more than one in five (22.8%) deported migrants—an estimated 21,788 individuals during the first quarter of 2012—experienced some type of abuse or mistreatment at the hands of U.S. Border Patrol Agents. The estimate for only those deported to the Nogales port are virtually identical (23.4%).

31 These are conservative estimates, and the actual share and number of migrants to have suffered from this and other specific types of abuse outlined below is undoubtedly higher. As designed, the CAMDEP survey first asks migrants if they have suffered any type of abuse while traveling or during the deportation process. It then asks migrants to make note of the different types of abuse suffered (physical, verbal, theft, other). Finally, the survey asks migrants who their abuser was. Since respondents are able to list multiple types of abuse and multiple groups of abusers (border patrol, local police, other), when more than one abuser is listed, it is impossible to determine which abuser was guilty of the abuse or abuses listed in the previous question. As such, we count a specific abuse type by a specific abuser (such as theft by the border patrol) *only* in cases where the given type of abuse is selected and the border patrol is the only perpetrator selected.

32 This apparent discrepancy is likely explained by the fact that the CAMDEP survey directly asked if migrants were stolen from, whereas the EMIF-Norte survey asks if the Border Patrol confiscated their belongings. Migrants may not always consider the confiscation and failure to return their belongings by the Border Patrol to be theft.

33 This difference is statistically significant at the 0.001 level.

### **Teen Migrant Physically Abused by a U.S. Border Patrol Agent**

*“Eloy,” a 16 year-old youth from the state of Veracruz, has not seen his mother for seven years. His mother works in a bakery in San Francisco. Since she is undocumented, she cannot return home to visit her son. This past October, Eloy’s uncle accompanied him to the border city of Agua Prieta, on the Mexico side of the Arizona border where he contracted a “pollero”—or person smuggler—to help guide him across the border. Unlike many unauthorized migrants who attempt to enter the U.S. through unpopulated areas of the desert or mountains, Eloy attempted to cross by climbing the fence near the official port of entry in Douglas, Arizona. He easily scaled the border wall on a ladder, and lowered himself down on the U.S. side with a rope. After evading Border Patrol officials by hiding in a tree for several hours, he met up with his guide who drove him, along with two other migrants toward Tucson, Arizona. While on the highway, the car was stopped by U.S. Border Patrol Agents. Eloy and the others got out of the car when asked without resisting. Nevertheless, he was violently shoved to the pavement and landed on his chest on the street. The agent then put his knee on his back and handcuffed him. Eloy was then deported to Nogales, Mexico, where he was admitted to the city government’s shelter for unaccompanied youth.*

this estimate is notably higher than estimates based on data for the whole U.S. - Mexico border region, which estimates that 11.2% of deported migrants were verbally abused (screams, insults, etc.) by U.S. migration authorities. As with the estimated share of migrants experiencing physical abuse, or being stolen from, differences between the two surveys might be explained by a number of factors, including the fact that the reference periods for the two surveys differ and the

possibility that the individuals who seek out the assistance of a meal from KBI are either more likely to have experienced abuse or more likely to report this abuse to a religiously affiliated civil society organization than to those conducting a government sponsored survey. Whatever the explanation for the differences, however, these estimates make it clear that at least one in ten deported migrants, and potentially considerably more, has experienced verbal abuse by U.S. Border Patrol agents, and one in four have experienced some type of abuse.

### **B. Denying Migrants the Right to Contact their Consulate**

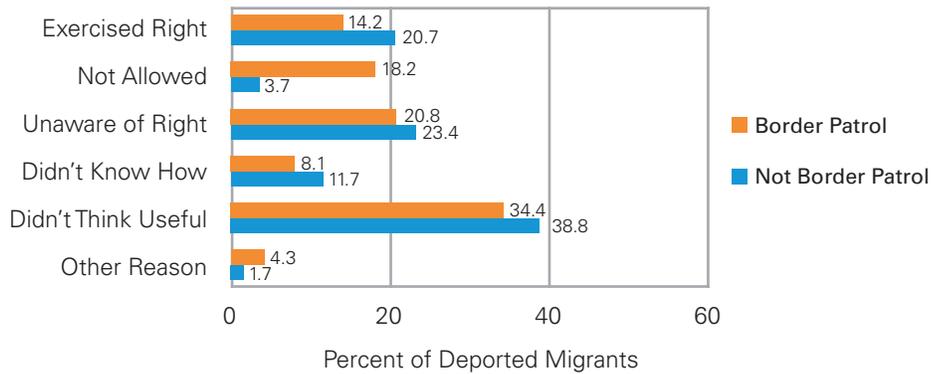
Among the most basic rights of foreign nationals apprehended in the United States is to be permitted to establish contact with their consulate. There is considerable quantitative evidence that migrants are not sufficiently informed of this right, and are even actively denied the right by U.S. immigration authorities when they are aware of it.

During the first quarter of 2012 alone, an estimated 29,895 (31.3%) Mexican migrants were repatriated to the northern border region by U.S. immigration authorities without being informed of this right. Fewer than one in five (19.0%) deported Mexican migrants contacted their consulate. More than one in five deported migrants (22.7%) said the reason they did not was because they were unaware that they had the right. Disturbingly, 7.3% of deported migrants did not contact their consulate because U.S. migration authorities refused to allow contact even despite a specific request. This is a clear violation of U.S. obligations under international law, and steps must be taken to rectify this situation.

These figures vary significantly based on which Department of Homeland Security (DHS) agency apprehended the migrants (e.g., ICE, Border Patrol, etc.).<sup>34</sup> Comparing the likelihood that

34 As with Section I above, the proxy indicator to determine whether the U.S. Border Patrol or another agency apprehended, detained and deported migrants is the place of apprehension. Specifically, those apprehended in the desert or mountains are almost certainly apprehended by the U.S. Border Patrol. While the Border Patrol may apprehend suspected unauthorized immigrants on the streets, highways or elsewhere—especially if they are within 100 miles of the border, ICE agents virtually never apprehend immigrants in the desert or mountains.

**Figure 15. Across-the-Board Failure of DHS to Facilitate Consular Contact**



Observations (weighted): Border Patrol, 24,631; Not Border Patrol, 70,707.

Source: Survey of Migrants at the Northern Border, 2012 (Jan.-Mar.). El Colegio de la Frontera Norte, Consejo Nacional de Población, Secretaría del Trabajo y Previsión Social, Instituto Nacional de Migración, Secretaría de Relaciones Exteriores. Author tabulation based on weighted estimates.

migrants contacted their consulate—and if they did not, the reasons why they did not—based on where they were apprehended, helps clarify exactly where the problems lie.

As shown in Figure 15, migrants apprehended and deported by someone *other than* the Border Patrol were less likely to contact their consulate (14.2% compared to 20.7). This difference is explained by the fact that this group was more likely than those apprehended by the Border Patrol to say they did not contact the consulate because they were unaware of the right (23.4% versus 20.8%), did not know how (11.7% versus 8.1%), or did not think it would be useful (38.8% versus 34.4%).

However, the most egregious violation of the right of foreign nationals to contact their consulate is when the right is actively denied. That is, when apprehended immigrants are not allowed by U.S. authorities to exercise this right when they ask. This analysis shows that the U.S. Border Patrol is by far the most likely violator of this right. As shown in Figure 15, migrants who were apprehended in the desert or mountains—almost certainly by U.S. Border Patrol—are *five times more likely* to be denied the right to contact the Mexican Consulate when they asked (18.2% compared to 3.7%). This right is particularly important to recognize given the increasingly perilous situation in which migrants find themselves, as described in the previous section.

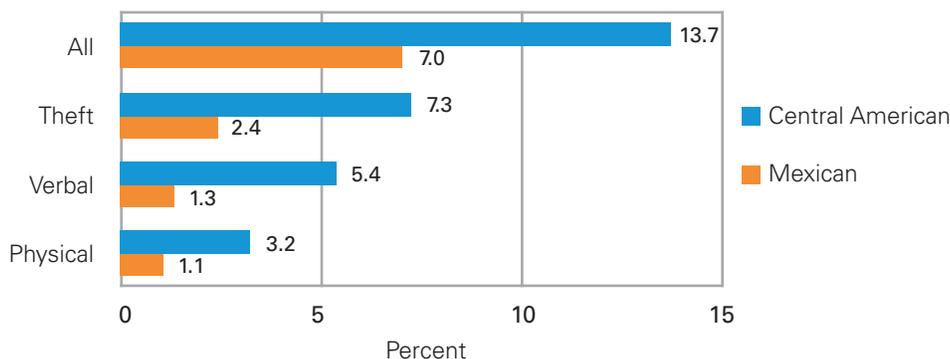
This analysis suggests several problems, as well as potential solutions. First, a more concerted effort to ensure that U.S. migration authorities—including ICE and U.S. Border Patrol agents—fulfill their obligations to inform migrants of their right to contact their consulate is needed, as one in three deported migrants did not contact their consulate because they did not know how or did not know they had the right to do so. On the side of the Mexican government, steps might be needed to encourage more migrants to contact the consulate, since well over a third (37.7%) said they did not make use of this right because they did not believe that it would be useful.

Lack of information among migrants and lack of faith in the ability of the Mexican government to meet their needs, however, are only two parts of the problem. The analysis above demonstrates that U.S. migration officials are actively denying migrants the right to contact their consulate. This problem is widespread, but the U.S. Border Patrol is the most regular offender.

This analysis clearly demonstrates the failure of U.S. migration authorities, particularly the U.S. Border Patrol, to inform, facilitate and allow migrants apprehended under suspicion of violating immigration laws to exercise their rights. Although this failure ranges from the egregious violation of actively denying a claimed right to the simple failure to ensure that migrants are aware of

**Figure 16. Central Americans More Likely to be Abused by Mexican Police**

Types of Abuse Suffered by Central Americans and Mexicans at the Hands of Mexican Police



Observations: Central American, 372; Mexican, 2,828

Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

their rights and know how to exercise them, steps must be taken by DHS to ensure complete compliance with our obligations to inform, allow and facilitate communication between apprehended and detained foreign nationals and their consular officials.

## VI. The Abuse of Migrants by Local Police in Mexico

Another hardship faced by migrants as they travel north to the United States and after they are deported or returned to Mexico's northern border region by U.S. migration authorities is theft and

physical and verbal abuse committed by Mexican authorities. This section presents summary statistics on the incidence of abuse of migrants by local police in Mexico.

### A. Central Americans Most Likely Victims of Abuse by Mexican Police

Two hundred and forty-nine migrants surveyed at the Aid Center for Deported Migrants (CAMDEP) in Nogales, Mexico (7.8%) reported being abused in some way by local police. The likelihood of abuse, however, varies significantly by country of origin (Mexico versus Central America). As Figure 16

**Table 4. Men More Likely to be Abused by Police**

Two-Sample T-Tests with Equal Variances

|                           | Men   | Women | Difference |
|---------------------------|-------|-------|------------|
| <b>Abused in Some Way</b> | 8.8   | 2.8   | 6.0***     |
| Physically Abused (a)     | 1.3   | 1.1   | 0.2        |
| Verbally Abused (a)       | 2.1   | 0.2   | 1.9**      |
| Victim of Theft (a)       | 3.4   | 0.7   | 2.7***     |
| Some Other Abuse (a)      | 0.2   | 0.0   | 0.2        |
| Type of Abuse Unknown     | 2.2   | 0.6   | 1.6*       |
| <b>Observations</b>       | 2,654 | 540   |            |

(a) Includes individuals abused only by local police.

Note: \*statistically significant at the 0.05 level, \*\*0.01, \*\*\*0.001.

Source: Survey of Deported Migrants: Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico. March-August 2012.

shows, Central American migrants are almost twice as likely to suffer abuse by local police in Mexico (13.7% compared to 7.0%). Theft was the most common violation of migrant rights by local police in Mexico. Central Americans were three times more likely to be stolen from by local police than Mexican nationals (7.3% compared to 2.4%). Migrants were less likely to suffer verbal or physical abuse, but Central American migrants were much more likely to be abused than their Mexican counterparts in these ways (see Figure 16).

### **B. Men Far More Likely to be Abused by Local Police in Mexico**

Comparing the experiences of men and women, it is found that men were almost three times more likely to have been abused by local police. Whereas one in twelve men (8.8%) was abused by local police, only 2.8% of women were. As shown in Table 4, men were nominally more likely than women to be abused by local police in every category. Specifically, men were 2.7 percentage points more likely to be stolen from by local police and 1.9 percentage points more likely to be verbally abused. The percentage of migrants physically abused by local police in Mexico was very low, and there was no statistically significant difference by gender.

## **VII. Policy Recommendations**

This report has presented a systematic, data-driven analysis of some of the hardships and challenges regularly faced by immigrants and their families. The findings suggests five key categories of problems faced by migrants as they travel north from Mexico and Central America to our southern border, attempt to enter the country through the unpopulated areas of the desert or mountains, and during the process of deportation. The report also highlights the extent to which families are kept apart by the border, and how often parents, spouses, children and siblings are separated when members of their immediate family are deported. This is a complex set of distinct, but interrelated problems. The final section of the report provides a list of recommendations that, if implemented, would begin to address the most pressing problems faced by immigrants and their families.

### **A. Limiting family separation during the deportation process**

**Recommendation:** DHS must put in place a standard process to determine familial relationships among apprehended migrants and take steps to ensure that deportation practices do not needlessly separate family members. DHS must work to ensure its policy of recognizing the familial relationship of common-law spouses is carried out in practice. The agency should avoid repatriating family members to separate ports of entry—a practice exacerbated by the ATEP program—undercutting the agency’s stated goal of preserving family unity and promoting migrants’ safety and security in the days and weeks after deportation.

**Recommendation:** In light of the increasingly dangerous environment in northern Mexican border communities and endemic targeting and abuse of migrants, DHS should expand its principle of family unity to include uncles, aunts, and cousins, particularly striving to ensure that vulnerable migrants, (including women and children), who traveled north with family and friends are deported with their traveling companions. DHS must develop specific procedures for tracking familial relationships and preserving family unity.

**Recommendation:** The Operation Streamline program should be suspended pending the results of independent cost-benefit analyses. The program, implemented in 2005, requires federal criminal charges to be brought against individuals caught crossing the border without legal authorization rather than routing them through civil deportation proceedings.<sup>vii</sup> By targeting first-time border crossers, Operation Streamline not only diverts non-violent immigrants into the federal criminal justice system and into U.S. prisons, but further exacerbates the problems of family separation. This program may help to explain Humberto’s separation from his uncle, who was required to spend time in prison because he had previously passed through criminal deportation proceedings (see Section III). Criminalizing undocumented immigration also

means that people like Blanca will have to wait at least 5 years before even applying to be reunited with her U.S. citizen husband and two children.

### **B. Reuniting transnational families and limiting the separation of mixed-legal status families already established in the U.S.**

While this heart-wrenching situation helps to highlight the great need for comprehensive federal immigration reform, there are also administrative changes possible that could improve the security of these parents and children and decrease the trauma of forced family separation.

**Recommendation:** To protect family unity, families should not be separated when reasonable alternatives are available. CBP in particular should begin to exercise prosecutorial discretion in favor of preserving family unity in decisions to apprehend, detain, or remove migrants with U.S. citizen or resident family members. CBP should apply similar criteria to those outlined in the June 17, 2011 Memorandum to ICE personnel from Assistant Secretary of Homeland Security John Morton.<sup>35</sup>

**Recommendation:** Staff of detention facilities as well as pertinent federal, state and local personnel who interact with separated children should be required to undergo training on parental rights and humanitarian and due process protections. Ensure the protection of the rights of detained and deported parents and guardians and promote their access to children, family courts, child welfare services and consular representatives.

**Recommendation:** In cases in which a U.S. citizen child will stay in the United States when her or his parent is deported, a standard protocol developed in collaboration with the child welfare system should be in

place to ensure that those who will care for the child (be they extended family members, godparents, or others) gain the status of legal guardians.

**Recommendation:** Appropriate mechanisms should be developed to serve the interest of the state in preventing unauthorized migrants from absconding during immigration proceedings while ensuring the protection of parental rights. In cases in which a U.S. citizen child will stay in the United States when her or his parent is deported, a standard protocol developed in collaboration with the child welfare system should be in place to ensure that those who will care for the child (be they extended family members, godparents, or others) gain the status of legal guardians.

**Recommendation:** Establish Immigration and Customs Enforcement and U.S. Border Patrol ombudsmen in order to provide a mechanism for continued transparency, accountability, oversight and improvement over time.

### **C. Protecting migrants in a context of increasing violence in Mexico and Central America**

This analysis has demonstrated that migrants are subject to significant risk of violence in their communities of origin—which increasingly pushes them to migrate. Once migrants leave their homes, whatever the reason, they are at significant risk of being victimized by criminals. U.S. policy makers must take stock of the increasingly perilous situation in the places migrants *have left behind*, the places *to which* they are being deported, and along the path of their migration. The analysis presented shows that migrants who have left their homes to escape violence and face significant violence in northern border cities and throughout the migration circuit in Mexico are still being deported to Nogales and similar border towns.

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35 "Exercising Prosecutorial Discretion Consistent with the Civil Immigration Enforcement Priorities of the Agency for the Apprehension, Detention, and Removal of Aliens" U.S. Immigration and Customs Enforcement Memorandum, June 17, 2011

**Recommendation:** Given this situation, further steps should be taken to ensure that U.S. Border Patrol and ICE are properly referring migrants who express fear of return for further vetting by USCIS officers to make the most accurate determinations possible of asylum eligibility and eligibility for other forms of humanitarian relief (withholding of removal under the Convention Against Torture, U or T visa eligibility, etc.).

**Recommendation:** Additional steps should be taken to ensure that migrants are returned to safe locations and during daylight hours when deported, and if possible, for them to be assisted to return to their homes in Central America or in the interior of Mexico, should this be their preference.

**Recommendation:** Improve coordination between state and federal governments to address the problems of violence experienced by migrants when crossing the border at the hands of criminals, human smugglers, and human traffickers. Both Mexican and U.S. authorities must ensure that victims of physical and sexual violence are afforded the right to fully participate in criminal justice proceedings and to remain in the country where the underlying incident occurred pending the conclusion of such proceedings.

**Recommendation:** U.S. authorities should work with Mexico and the governments of Central America to design bi-national registries of migrant deaths to facilitate timely investigation of violent deaths and the recovery of remains by family members.

#### **D. Limiting abuse and misconduct by the U.S. Border Patrol**

Steps must be taken to ensure that migrants know their rights, and are provided with reasonable mechanisms through which to exercise them. It is particularly important that steps be taken to allow migrants to file complaints without fear of retribution or further abuse. DHS and especially CBP must address a clear pattern of abuse and lack of professionalism among U.S.

migration authorities who apprehend and detain migrants along the U.S./Mexico border. The high rates of physical and verbal abuse not only violate the civil and human rights of migrants but are detrimental to the Agency's objectives of successfully identifying and prosecuting smugglers, and recognizing migrants with credible fears of repatriation who may be eligible for humanitarian relief.

**Recommendation:** Additional training should be provided to CBP agents and oversight and evaluation of operations should be strengthened. Department of Homeland Security must establish clear and enforceable standards of professional conduct for CBP officials and adherence to these standards will be a central criterion in evaluation and promotion of officers.

**Recommendation:** CBP should be required to publicly report all incidents in which a migrant is seriously injured or killed by a CBP agent. Furthermore, it should make public its protocol for investigating such incidents.

**Recommendation:** CBP and ICE should adopt a uniform complaint process across all sectors. This is particularly important in light of programs such as the Alien Transfer Exit Program (ATEP) in which migrants may be deported to a different sector than the one in which the abuse took place.

**Recommendation:** Detention facilities and holding cells operated by Customs and Border Protection should ensure that migrants are fully apprised of their constitutionally protected human and civil rights.

- Know-your-rights presentations, similar to those conducted at many Immigration and Customs Enforcement (ICE) facilities, implemented by independent attorneys, NGO experts or the American Bar Association should become standard practice for detainees at CBP facilities.
- There should be visible posters in English and Spanish detailing

migrants' rights and the appropriate complaint process should be posted in detention cells and other areas in CBP facilities to inform agents and migrants of detainee rights and to begin to change the culture of CBP facilities.

- Additionally, CBP should introduce a Detention Hotline similar to the Hotline recently introduced by ICE in all its detention facilities. This Hotline should be administered by the Office of Civil Rights and Civil Liberties (CRCL), and CRCL should be given the needed resources and authority to follow up on and investigate complaints.
- Detained migrants should be ensured reasonable access to telephones, affordable rates and privacy protections when making calls.

**Recommendation:** The Inspector General for the Department of Homeland Security must investigate evidence of a pattern of abuse by U.S. Border Patrol; in particular verbal and physical abuse of migrants, and denial of migrants' rights to contact relevant consular authorities.

### **E. Limiting the abuse of migrants by local police in Mexico**

Overall incidences of abuse of migrants by local police in Mexico are relatively low. However, this analysis demonstrates that both men and migrants from Central America are significantly more likely to be abused in some way by Mexican police. Accordingly, municipal governments, police departments, advocates, and federal and state governments must remain vigilant in their efforts to reduce incidence of migrant abuse—particularly of Central American migrants—by Mexican authorities. More research is needed to identify the most acute areas of concern, but the evidence strongly suggests the presence of a systematic violation of rights, particularly those of Central American migrants traveling through Mexico.

**Recommendation:** INM agents and Mexican Federal Police should follow their existing protocol when verifying the legal status of Central American migrants within their territory. Less restrictive alternatives to detention should be considered, as required by international law, particularly for unaccompanied minors and victims of human trafficking.

**Recommendation:** Mexico's National Human Rights Commission (NHRC) should gather and publish reliable data on abuses against migrants, including murders, kidnappings, rapes, torture, extortion, and unlawful detention.

**Recommendation:** All complaints filed by migrants should jointly go to the NHRC, as well as the state-level human rights commissions. The NHRC should work to build capacity and fight corruption within the state-level commissions, and should regularly publish detailed evaluations of the work of state-level human rights commissions and other government authorities to address abuses against migrants.

**Recommendation:** The Mexican government should be particularly attentive to the safety of humanitarian workers serving migrants, as their safety is critical to preserving protection space within Mexico and at its northern border.

## Appendix I. Survey of Migrants at the Aid Center for Deported Migrants (CAMDEP), Nogales, Sonora, Mexico

Beginning in March 2012, KBI began administering a survey of all migrants to whom they provide meals at the CAMDEP cafeteria in Nogales, Sonora, Mexico. Key questions from the survey used in the analysis of this report are translated below.

When you were deported, were you separated from a family member or friend?

No ( ) Yes ( ) From Whom? \_\_\_\_\_

Why did you to leave your community or city?

Violence ( ) Lack of work ( ) To reunite with family in the US ( )

Other: \_\_\_\_\_

During your deportation or your trip, have you suffered any type of abuse?

Yes ( ) No ( )

Theft ( ) Physical Abuse ( ) Verbal Abuse ( ) Detention ( )<sup>36</sup>

Who committed the abuse?

Border Patrol Agent ( ) Municipal Police ( )

Another Person: \_\_\_\_\_

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<sup>36</sup> As detention per se does not constitute abuse, those respondents who said they had been abused, and for whom this was the only "abuse type" listed, were not counted as having been abused.

## Appendix II. Survey of Migrants at the Northern Border – Returned Migrants, January – March, 2012

### Summary of Methodology<sup>viii</sup>

The methodological design is based on the application of probabilistic sampling techniques for mobile populations. The measurements conducted are based on the continuous and prolonged observation of migratory flows. Knowledge of the precise dynamics of migratory flows in the cities through which migrants pass (in our case, the Northern border cities to which they are deported) allows for a sample design in phases in which the units of each phase has an associated fixed and known probability of being selected. As a result, it is possible to construct estimators to weight the sample and generalize the conclusions drawn from the sample to the population of migrants deported to the northern border during the period of study.

### Survey Questions Used in the Analysis

The last time that you crossed, where were you apprehended by U.S. migration authorities?

Work ( )    Home ( )    Street/Highway ( )    Crossing the border ( )  
Desert/Mountains ( )

Were you returned to Mexico with your family members?

Yes ( )    No ( )    Traveling alone ( )

During the pursuit until your detention by U.S. migration authorities, were you subject to physical aggression (pushed, hit, etc.)?

Yes ( )    No ( )    Don't know ( )

During the pursuit until your detention by U.S. migration authorities, were you subject to verbal aggression (screams or insults)?

Yes ( )    No ( )    Don't know ( )

During the pursuit until your detention by U.S. migration authorities, were your belongings confiscated?

Yes ( )    No ( )    Don't know ( )

During the pursuit until your detention by U.S. migration authorities, did you experience another problem?

Yes ( )    No ( )    Don't know ( )

Were you informed by migration authorities of your right to contact the Mexican Consulate?

Yes ( )    No ( )

Did you make use of this right?

Yes ( )    No ( )

If "no": Why did you not make use of this right?

( ) Did not consider it to be useful

( ) I did not know how to go about it

( ) The authorities did not allow it

( ) Another reason (Specify)\_\_\_\_\_

This most recent time, how long were you in the United States?  
Unit (i.e., hours, days, weeks, months, years) \_\_\_\_; Amount \_\_\_\_

Do you have family members or friends in the United States?

Yes ( ) No ( )

If "yes": Which of the following family members live in the United States?

Spouse or partner: Yes ( ) No ( )

Child(ren): Yes ( ) No ( )

Parent(s): Yes ( ) No ( )

Sibling(s): Yes ( ) No ( )

Other family members: Yes ( ) No ( )

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**Kino Border Initiative**

[www.kinoborderinitiative.org](http://www.kinoborderinitiative.org)

**Jesuit Refugee Service/USA**

[www.jrsusa.org](http://www.jrsusa.org)

**Jesuit Conference of the United States**

[www.jesuit.org](http://www.jesuit.org)