

April 6, 2016

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Re: Complaint and Request to Investigate CBP and ICE's Mishandling of, Failure to Return, and Threats about Personal Belongings in the El Paso Border Patrol Sector

Dear Inspector General Roth, Assistant Commissioner Klein, and Assistant Director Moynihan:

We write with serious concerns that U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE) are violating people's rights and agency policies in mishandling personal belongings, failing to return them, and threatening and intimidating people who seek to reclaim their belongings. We request that the U.S. Department of Homeland Security (DHS) promptly investigate and address the individual complaints of misconduct that we describe in this complaint. We also urge CBP and ICE to review and revise their policies on the handling, retention, retrieval, and return of personal belongings and the implementation of those policies. While the abuses described in this complaint affect people across the Southwest border, this complaint focuses on the El Paso Border Patrol sector.

We submit this complaint on behalf of 26 people who were deported to Mexico from the El Paso Border Patrol sector in 2015 and 2016. All of them complain that CBP or ICE agents—in the majority of the complaints, Border Patrol agents—took their personal belongings and the U.S. government failed to return them, violating their constitutional rights and exposing them to greater risk of harm upon their return to Mexico. The belongings that CBP and ICE agents took and failed to return include U.S. dollars, Mexican pesos, identity documents, legal papers, cellular phones, clothing, prescription eyeglasses, and other items of great personal value and necessity.

The complaints also describe CBP and ICE agents intimidating people to prevent them from reclaiming their belongings. In several cases, U.S. agents threatened people with additional months of detention for seeking to reclaim their belongings.

Other CBP and ICE agents took cash and other belongings without providing claim receipts or inventory lists. Still others provided incomplete inventories of people's belongings. Some agents falsely claimed that people would need to wait until they were deported to reclaim their belongings.

CBP's administrative process for reclaiming belongings in the El Paso Border Patrol sector is too restrictive. It requires individuals to reclaim—or send a third party to reclaim—their belongings within 30 days of their arrest. Such a policy makes it impossible for many detained individuals to reclaim their belongings.

Some detained people tried to contact the Mexican consulate to ask for help with CBP's process, but were still deported without their belongings. That said, the U.S. government, not the consulates, must ensure that the U.S. government returns the belongings that its agents confiscate—particularly when detained people are seeking asylum from the governments that the consular officials represent.

These accounts of dispossession and abuse were reported in interviews with recently repatriated individuals in Ciudad Juárez in 2015 and 2016. Most were interviewed by Rocío Meléndez, an attorney from the Programa de Defensa e Incidencia Binacional (the Binational Defense and Advocacy Program), a human rights organization that works to promote the civil rights of Mexican people in the United States.

U.S. government officials—including high-level DHS officials and federal judges—have known about this problem for some time.

Most recently, DHS included protections for personal belongings in new repatriation arrangements between it and the government of Mexico, announced on February 23, 2016.¹ The new repatriation arrangements include the following language:

The signatory participants should take all feasible steps to ensure that property, valuables, and money retained, are available for return to the rightful owner at the time of initial release from DHS custody.

The repatriation arrangements signal a commitment by the U.S. government to end the dispossession of people's belongings by U.S. government agents and agencies. To realize the promise of the repatriation arrangements and “take all feasible steps” to ensure that DHS returns **all** of the belongings that agents take from people at the time of their release from DHS custody, DHS should immediately address the systemic abuses by its agents that contribute to widespread dispossession. DHS should also revise its policies to ensure that repossession is, in practice, possible.

Yet the repatriation agreements were not the first time DHS had signaled its intention to reform its practices on personal belongings. In October 2015, CBP announced new National Standards on Transport, Escort, Detention, and Search (TEDS)—nationwide, uniform standards to govern CBP agents' interactions with people on the borders. However, TEDS Section 7.0 on Personal Property is inadequate to realize the promise of the repatriation arrangements, particularly because it preserves a difficult-to-use administrative process that restricts people to 30 days to reclaim their belongings following their arrest. Furthermore, based on the experiences of people whom Border Patrol arrested in 2016, it appears that CBP agents are not following TEDS Section 7.0.

¹ U.S. Dep't of Homeland Security, Updated U.S.-Mexico Local Repatriation Arrangements, <https://www.dhs.gov/publication/updated-us-mexico-local-repatriation-arrangements> (last visited March 30, 2016).

Federal judges, too, have taken note of this disturbing and systemic pattern of government abuse. People suffering dispossession on the Southwest border are increasingly turning to the federal district courts for relief, using Rule 41(g) of the Federal Rules of Criminal Procedure to seek the return of their belongings.² In October 2015, Federal District Court Judge Kenneth Gonzalez and Judge Robert Brack convened a meeting in Las Cruces, New Mexico, with stakeholders including the Mexican consulate, CBP, the U.S. Marshals, the Federal Public Defender, and county detention facilities, among others, to discuss the problem of dispossession. In a letter to government stakeholders about the meeting, Judge Gonzales and Judge Brack conveyed their serious concern that “criminal immigration offenders too frequently are not receiving their personal property after sentencing and before they are returned to their home country.”³ The federal judges urged that “with a coordinated effort [among the government agencies], a solution can be found.”⁴ We recently learned that Magistrate Judge Leslie Bowman is holding similar meetings with government stakeholders in Arizona.

Part I of this complaint describes the organizations filing on behalf of the individual complainants, the importance of the personal belongings U.S. agents have taken, and the effects of dispossession. It places this complaint in the context of several recent studies that describe patterns of mass dispossession and rights violations committed against people on the Southwest border of the United States. Part II describes 26 individual experiences of dispossession. Part III concludes with recommendations for actions that DHS should take to restore the rule of law on the Southwest border, end mass dispossession, and end the unlawful conduct of its agents.

I. Background

Organizational Complainants

The **Programa de Defensa e Incidencia Binacional** (PDIB, the Binational Defense and Advocacy Program) is a program of the Iniciativa Frontera Norte de México (Mexican Northern Border Initiative), a network of non-profit organizations on the Northern border of Mexico.⁵ PDIB

² People who are “aggrieved . . . by the deprivation of property” may move for its return in the district court “of the district where the property was seized.” Fed. R. Crim. P. 41(g).

³ Letter from U.S. District Court Judge Robert C. Brack and U.S. District Court Judge Kenneth J. Gonzales, U.S. D. Las Cruces, NM, to Conrad Candelaria, U.S. Marshal, Renee Camacho, Las Cruces Branch Chief, USAO, Las Cruces, Barbara Mandel, Supervisory Federal Public Defender, Guillermo Torres, Supervisory Border Patrol, Ruben Gonzales, USBP, USAO Liaison, Cori Ann Harbour-Valdez, Attorney (Oct. 21, 2015) (on file with the ACLU of New Mexico).

⁴ *Id.*

⁵ PDIB investigates human rights conditions and has published reports on civil and human rights violations against Mexican migrants in the United States. See, e.g., PDIB, *Primer Informe 2010-2011: Violaciones de derechos humanos de migrantes mexicanos detenidos en los Estados Unidos* (First Report 2010-2011: Human Rights Violations of Detained Mexican Migrants in the United States), <https://drive.google.com/a/pdib.org/file/d/0B4nGNhl04fK5RzlyRHgybUYtTDA/view>; PDIB, *Segundo Informe, 2011 – 2012: Violaciones a derechos humanos de personas migrantes mexicanas detenidas en los Estados Unidos* (Second Report, 2011-2012: Human Rights Violations of Mexican Migrants Detained in the United States), <https://drive.google.com/a/pdib.org/file/d/0B4nGNhl04fK5ZmN4NHpBY281N00/view>; *Childhood and Migration in Central and North America: Causes, Policies, Practices and Challenges February 2015*, http://cgrs.uchastings.edu/sites/default/files/Childhood_Migration_HumanRights_English_1.pdf (describing the findings of a study in which PDIB collaborated with the Center for Gender and Refugee Studies at the University of California Hastings College of Law and the Migration and Asylum Program, Center for Justice and Human Rights at the National University of Lanús, Argentina, in conjunction with several other human rights organizations). PDIB’s reports discuss CBP and other U.S. government agencies’ systemic failure to properly handle and return people’s personal belongings. *Primer Informe 2010-2011* at 12 (“Nearly one-third of the detained did not have their personal belongings with them at the moment of deportation.”); *Segundo Informe, 2011-2012* at 5 (“Of the 866 people interviewed by PDIB between 2011 and 2012, nearly 52% suffered abuse. The principle complaints [included] . . . deficiencies in the failure to return personal belongings[.]”). PDIB has provided testimony before governmental bodies based on its research on belongings. In June 2014, in conjunction with the Centro de Estudios Legales y Sociales (Center of Legal and Social Studies/CELS), PDIB provided joint testimony

documents violations of the civil rights and civil liberties of Mexicans in the United States, focusing on detention conditions, due process in deportations, and family unity.

The Centro de Recursos para Migrantes (“Center”/Migrant Resource Center) is a civil society organization based in Agua Prieta, Sonora, and is a member of PDIB. The **Center’s** primary role is to receive and educate people repatriated from the United States and people who are in transit on the border, as well as to document cases of abuse against people to better understand their situation and advise them of their rights.

Derechos Humanos Integrales en Acción, A.C. (DHIA) is a non-profit organization located in Ciudad Juárez and is a member of PDIB. DHIA’s mission is based on the universal principle of non-discrimination and full access for all people to human rights, regardless of immigration status, sexual orientation and gender identity/expression. In addition, DHIA has a comprehensive, intersectional approach to its human rights advocacy and litigation that includes women’s rights and the rights of children, among others.

The **American Civil Liberties Union of New Mexico (ACLU-NM)** is an affiliate of the national ACLU, a nationwide non-profit organization dedicated to preserving and advancing the civil rights and legal freedoms guaranteed by the United States Constitution and the Bill of Rights. ACLU-NM’s mission is to maintain and advance the cause of civil liberties, civil rights, and constitutional freedom in the state of New Mexico. We act to further our mission without consideration of political partisanship. The **ACLU of New Mexico Regional Center for Border Rights**, located in Las Cruces, represents ACLU of New Mexico in the southern region of the state and works in conjunction with ACLU state affiliates and immigrant rights advocates to address civil and human rights violations that stem from border-related immigration policies. For several years, ACLU-NM has worked to address the issue of dispossession as a systemic civil rights violation.⁶

The **ACLU Foundation of Texas (ACLU-TX)**, a non-profit organization, is Texas’ preeminent civil rights organization, dedicated to protecting and defending the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in Texas, regardless of immigration or refugee status. ACLU-TX works daily in the courts, the state legislature, and communities to fight abuses in the Texas-Mexico border.

The **American Immigration Council (Immigration Council)** is a national non-profit organization established to increase public understanding of immigration law and policy, advocate for

for the United Nations Secretary-General on how governments can better protect the human rights of all migrants at international borders. In that written testimony, PDIB and CELS described the confiscation and failure to return Mexican people’s belongings and the grave consequences of dispossession for migrants returned to Mexico. “Challenges and Best Practices in Promoting and Protecting the Human Rights of all Migrants at International Borders,” http://www.ohchr.org/Documents/Issues/Migration/GA69thSession/CELS_PDIB.pdf. PDIB has also discussed the issue of dispossession and retained belongings extensively with journalists in the United States and Mexico. See, e.g., “Retained Belongings,” April 6, 2014, <http://justicejournalism.org/projects/retained-belongings>.

⁶ ACLU-NM Regional Center for Border Rights (RCBR) Director Vicki Gaubeca and other NGO leaders have met with high-level U.S. government officials to discuss the issue of personal belongings. Director Gaubeca and others have urged CBP for years to improve its coordination with the multiple government agencies that control the custody of migrants and their personal belongings. ACLU-NM RCB Director Gaubeca and Border Policy Strategist Brian Erickson, along with allies from the Southern Border Communities Coalition, of which RCBR is a co-chair, and the Northern Border Communities Coalition, provided joint written testimony for a U.S. Senate Committee on Homeland Security and Governmental Affairs hearing on “Securing the Southwest Border: Perspectives from Beyond the Beltway” on March 17, 2015. The written testimony urged CBP to improve its institutional accountability and described CBP’s “failure to return personal belongings at the moment of repatriation” as a form of systemic abuse. “Securing the Southwest Border: Perspectives from Beyond the Beltway,” http://soboco.org/wp-content/uploads/2015/03/sbcc-aclu-nbc_statement_-_senate_hsgac_hearing_3-17-15.pdf.

the fair and just administration of our immigration laws, protect the legal rights of noncitizens, and educate the public about the enduring contributions of America's immigrants. The Immigration Council has consistently worked to expose and remedy DHS misconduct, including the use of coercive tactics and the failure to return noncitizens' belongings upon their release from detention.

The **National Immigration Project of the National Lawyers Guild (NIPNLG)** is a national non-profit that provides legal assistance and technical support to immigrant communities, legal practitioners, and advocates working to advance the rights of noncitizens. NIPNLG seeks to promote justice and equality of treatment in all areas of immigration law, the criminal justice system, and social policies related to immigration. For over forty years, NIPNLG has served as a progressive source of advocacy-oriented legal support on issues critical to immigrant rights.

The **Kino Border Initiative (KBI)** is a binational organization that works in the area of migration and is located in Nogales, Arizona and Nogales, Sonora, Mexico. The KBI was inaugurated in January of 2009 by six organizations from the United States and Mexico: The California Province of the Society of Jesus, Jesuit Refugee Service/USA, the Missionary Sisters of the Eucharist, the Mexican Province of the Society of Jesus, the Diocese of Tucson and the Archdiocese of Hermosillo. The KBI's vision is to help make humane, just, workable migration between the U.S. and Mexico a reality. Its mission is to promote US/Mexico border and immigration policies that affirm the dignity of the human person and a spirit of bi-national solidarity through: direct humanitarian assistance and accompaniment with migrants; social and pastoral education with communities on both sides of the border; and participation in collaborative networks that engage in research and advocacy to transform local, regional, and national immigration policies.

Senda de Vida is a migrant shelter in Reynosa, Tamaulipas. Founded in 1999, Senda de Vida's mission is to provide for the basic requirements of migrants on the border, including food, clothing, and housing, as well as to provide assistance in the areas of family welfare, education, work, health, and human rights advocacy and defense.

Mass dispossession is abusive and systemic within DHS.

Mass dispossession is one of the most serious, if often overlooked, consequences of the mass incarceration and criminalization of migrants in the United States. Dispossession, like the stigma of migrant criminality,⁷ is an assault on people's dignity. Repatriated people surveyed in 2015 and 2016 in Northern Mexico describe a pattern of abuse that is consistent with the findings of recent studies of civil rights violations on the Southwest border of the United States.⁸ The complaints reveal individual

⁷ See, e.g., Edgardo Alaya, *Del sueño americano a la pesadilla de la deportación*, INTER PRESS SERVICE (El Salvador) (Dec. 19, 2014), available at <http://www.ipsnoticias.net/2014/12/del-sueno-americano-a-la-pesadilla-de-la-deportacion> (noting that many people repatriated to El Salvador from the United States are people who have "established themselves in the United States and return to [El Salvador] without friends or contacts and with the stigma of being criminals."); Enric Llopis, *Estados Unidos-México: control de fronteras y deportaciones masivas*, REBELIÓN (May 27, 2014), <http://www.rebelion.org/noticia.php?id=185195> (Repatriated migrants "bear the stigma of being 'criminals,' which leads to repatriated people also being discriminated against by their fellow citizens.").

⁸ See PERLA DEL ÁNGEL, ESMERALDA FLORES, LIZETH MARTÍNEZ, JOSÉ MORENO MENA, BLANCA NAVARRETE, AND ESMERALDA SIU, SEGUNDO INFORME: VIOLACIONES A DERECHOS HUMANOS DE PERSONAS MIGRANTES MEXICANAS DETENIDAS EN LOS ESTADOS UNIDOS 2011 – 2012 (May 2013), available at <https://programadefensaincidenciabinacional.files.wordpress.com/2012/05/2do-informe-violaciones-a-ddh-de-mexicanos-deportados-de-usa.pdf>; Daniel E. Martínez, Jeremy Slack, and Josiah Heyman, *Part II: Possessions Taken and Not Returned*, in BORDERING ON CRIMINAL: THE ROUTINE ABUSE OF MIGRANTS IN THE REMOVAL SYSTEM (Dec. 2013), available at <http://www.immigrationpolicy.org/sites/default/files/docs/ipc/Border%20-%20Possessions%20FINAL.pdf>, NO MORE DEATHS, SHAKEDOWN: HOW DEPORTATION ROBS IMMIGRANTS OF THEIR MONEY AND BELONGINGS (2014), <http://nomoredeaths.org/wp-content/uploads/2014/12/Shakedown-withcover.pdf>.

experiences within the broader, well-documented context of mass dispossession—a systemic abuse against those seeking asylum in the United States and those repatriated from the Southwest border.

Personal belongings are often important for people’s safety and well-being. Dispossession affects people long after they are deported to Mexico.

People migrating to the United States often carry critically important belongings with them—cellular phones, money, identity and legal documents, clothing, and objects of great personal value, such as wedding rings, family photographs, and religious objects. When U.S. government agents do not properly handle, retain, retrieve, and return belongings, repatriated individuals and people seeking asylum are exposed to serious risks of harm. In some cases, the effects of dispossession continue to harm people long after they return to their home communities in Mexico.

The pesos and dollars that people carry may represent wages earned over months, if not years, of low-wage work in Mexico. Without money, a recently repatriated person may have no means to pay for food or a bus ticket to leave the border region and may remain stuck and vulnerable to exploitation and abuse, as we describe here, in Ciudad Juárez, or in other border communities.

Identity and other legal documents—particularly the Mexican *credencial para votar* (voter card) and birth certificate—may be the only means by which a person can prove his or her identity. Without a voter card—a document that, under Mexican law, requires other official identity documents to replace—a recently repatriated person may not be able to prove his or her identity to purchase a bus ticket, receive a money transfer, or pass through military checkpoints in the interior of Mexico.⁹ A person must apply for a replacement voter card in his or her community of permanent residence and it can take a month for a person to receive a replacement card. As human rights defenders in Mexico have urged, the U.S. government’s failure to return identity documents causes Mexicans to be undocumented in Mexico.

Educational and work history documents, such as diplomas and letters of recommendation from prior employers, are often critical for obtaining work in Mexico. Without these documents, people may be shut out of employment and made more vulnerable upon deportation.

Some people carry documents showing the persecution they have suffered in their home communities—persecution that caused them to flee to the United States. In the United States, these documents are important for demonstrating a well-founded fear of persecution in asylum cases. They are often irreplaceable.

A cellular phone may hold an irreplaceable SIM card with the phone numbers of family members in the United States and Mexico. Without the phone and SIM card, a person may not have any means to communicate with or seek help from loved ones.

Other people carry layers of clothing to protect against cold weather, such as jackets and gloves. Winter temperatures in border communities are often in the 30s and deported people may lack adequate clothing.

⁹ See Instituto Nacional Electoral (National Electoral Institute), “Conoce los medios de identificación para obtener tu Credencial para Votar” (“Know the forms of identification to obtain your voter card”), available at <http://www.ine.mx/archivos2/portal/credencial/pdf-credencial/MediosIdentificacionINE2015s2.pdf>.

Many people also carry items of great personal importance, such as wedding rings, family religious items, and photographs. These items may be irreplaceable and serve as the primary material link that people have to their loved ones in Mexico and the United States.

CBP's new national TEDS Standards are inadequate to end the mass dispossession of people. And CBP agents are not following TEDS.

In October 2015, after years of advocacy by Mexico- and U.S.-based NGOs, CBP announced new TEDS standards. While the TEDS standards are a positive first step towards addressing the border-wide problem of dispossession and other grave civil rights abuses, Standard 7.0 on Personal Property is inadequate to end mass dispossession. TEDS Standard 7.1 requires that CBP agents and officers “make every effort to transfer a detainee’s personal property with the detainee when the detainee is transferred to another agency, repatriated, and/or released.” Yet many of the cases described below reveal that CBP has failed to make even a reasonable effort to ensure that people’s personal property is returned to them. As discussed further below, one of the greatest defects in Standard 7.0 is that it preserves CBP’s policy of destroying people’s belongings 30 days after their arrest. Thirty days is not an adequate period of time to allow people to reclaim their belongings—particularly when ICE and other government agents fail to advise people about how they can use CBP’s administrative process or incorrectly advise them that they must wait until after they are deported to reclaim belongings.

Finally, CBP is not observing Standard 7.6’s requirement that genuine identification documents “be returned to the detainee upon release, removal or repatriation or maintained in the detainee[’s] personal property[.]” Under current policy, if an identification document is “maintained” in a person’s “personal property[.]” it may be destroyed 30 days after a person’s arrest.

II. Individual Complaints of Dispossession

The following complaints come from 26 people the U.S. government deported from the El Paso Border Patrol sector to Ciudad Juárez in 2015 and 2016. The complaints reflect broader patterns of abuse on the Southwest border of the United States.¹⁰

a. Border Patrol agent Michael Vanek and other unknown agents failed to fully inventory the belongings they seized from Félix Calles Valles near Deming, New Mexico. Mr. Calles Valles never again saw his cellular phone or 1,020 pesos that the agents took—the equivalent of US\$61.53 on the day of his arrest. *Deming, New Mexico, October 7, 2015.*

On October 7, 2015, Border Patrol agents arrested Félix Calles Valles (A#089 229 119), a 33-year-old man from Veracruz, near Deming, New Mexico. Border Patrol agent Michael Vanek was one of the arresting agents. The Border Patrol agents took Mr. Calles Valles’ voter card, a union membership card, religious cards, and US\$11 in cash and put them in an envelope. Agent Vanek gave Mr. Calles Valles an inventory sheet with a list of these items—a copy of which is shown in Appendix 1. The agents also took his cellular phone and 1,020 pesos and put those items in a separate bag. Yet the agents never gave Mr. Calles Valles a receipt for his cellular phone and pesos—the value of which

¹⁰ Many of the complainants referenced in the following paragraphs wish to remain anonymous. Records of their interviews are in the possession of PDIB.

was US\$61.53 on the day of his arrest or about 14.5 days of wages under Mexico's federal daily minimum wage law in the autumn of 2015.¹¹

The Border Patrol agents transferred the US\$11 to a commissary account at Luna County Detention Center, which Mr. Calles Valles used while he was detained. He was later transferred to the West Texas Detention Facility in Sierra Blanca, Texas, where the voter card, union membership card, and religious cards were returned to him. Mr. Calles Valles asked ICE officials about his cellular phone and the pesos. The officials simply told him that “cellular phones are never returned” and failed to respond to his request for the return of his money. He was deported to Ciudad Juárez on November 18, 2015.

b. The government failed to return US\$228.10 and a voter card to María Carreño Venegas. *Luna County Detention Center, date of deportation to Ciudad Juárez: November 18, 2015.*

On October 6, 2015, Border Patrol agents arrested María Carreño Venegas (A# 205 404 845) near Columbus, New Mexico. The agents took her voter card and US\$403 in cash. The agents transferred the US\$403 in cash, which was deposited into Ms. Carreño Venegas' commissary account at the Luna County Detention Center on October 7, 2015. Receipts in Appendix 2 show that US\$403 was deposited to her account.

Ms. Carreño Venegas made only one purchase at Luna County Detention Center: four instant soup containers and a deodorant for US\$5.85. When she was deported, she assumed the government would return the remaining US\$397.15—the balance in her commissary account at Luna County. Instead, before the government deported Ms. Carreño Venegas to Ciudad Juárez on November 18, 2015, agents gave her a check for US\$169.05—US\$228.10 less than what she should have received. The government also failed to return her voter card.

c. Border Patrol agents destroyed Perla García's prescribed cholesterol and kidney medications, failed to return her money, and refused to provide her with medical attention. *Sierra Blanca, Texas, July 21, 2015.*

On July 21, 2015, Border Patrol agents arrested Perla García, a 45-year-old woman from Zacatecas, on a road near Sierra Blanca, Texas. Border Patrol agents took from her 600 pesos and US\$2 in cash, cholesterol and kidney medications, gold earrings, her engagement ring, and religious items. Ms. García begged the Border Patrol agents not to throw away her cholesterol and kidney medications, but they ignored her. After Border Patrol agents disposed of her medications, they refused to provide Ms. García with medical attention to address her chronic cholesterol or kidney conditions—conditions that a physician had diagnosed as requiring daily medications to manage. The U.S. government returned the US\$2, but did not return any of the other belongings, including her 600 pesos—an amount that, on the day of her arrest, was worth about US\$37.60. Under the Mexican minimum wage law in the fall of 2015, one would have had to work eight and one-half days to earn 600 pesos.¹² The U.S. government deported Ms. García to Ciudad Juárez with US\$2, without medicine, and with untreated cholesterol and kidney conditions on September 1, 2015.

¹¹ The minimum daily wage in the fall of 2015 was 70.10 pesos. SECRETARÍA DE HACIENDA Y CRÉDITO PÚBLICO, SERVICIO DE ADMINISTRACIÓN TRIBUTARIA, *Cuadro histórico de los salarios mínimos (1982 – 2015)*, http://www.sat.gob.mx/informacion_fiscal/tablas_indicadores/Documents/salarios_minimos_historico.xls (last visited Feb. 23, 2016).

¹² *Id.*

d. Border Patrol failed to return any belongings to Pascual Barrios Gómez, including prescription glasses, a voter card, and money. Tornillo, Texas, December 15, 2015, and El Paso, Texas, February 24, 2016.

On December 15, 2015, Border Patrol agents arrested Pascual Barrios Gómez, a 52-year-old man from Oaxaca, in Tornillo, Texas. The agents took Mr. Barrios Gómez' prescription glasses, his voter card, 80 pesos and US\$100 in cash, and his cell phone. Even though Mr. Barrios Gómez had difficulty seeing without his glasses, the Border Patrol did not allow him to keep them. Border Patrol withheld the inventory and claim receipt from Mr. Barrios Gómez. Instead, the agents deposited those documents into his belongings bag. While Mr. Barrios Gómez was detained in the United States, he contacted the Mexican consulate for help with CBP's administrative process. But because the U.S. government had taken his cellular phone, which had all of the contact information for his family in Mexico in it, Mr. Barrios Gómez had no contact information to provide to the consulate so that they could contact him about his belongings after he was deported to Mexico.

When Mr. Barrios Gómez was deported to Ciudad Juárez on February 24, 2016, he had none of his belongings. He did not know what, if anything, the consulate had done on his behalf to try to reclaim them. He was especially worried that the U.S. government had repatriated him without returning his voter card. The voter card, he said, "I need for work, for everything." PDIB helped Mr. Barrios Gómez contact the Mexican consulate to seek the return of his belongings. Without PDIB's intervention, however, the Mexican consulate would not have been able to contact Mr. Barrios Gómez about his belongings after he was deported to Mexico.

e. Border Patrol agents took 12,449 Mexican pesos, a voter card, and other items from José Lorenzo Reyes López, failed to properly inventory his money, and failed to return any of his belongings. Desert near El Paso, Texas, February 2, 2016 and El Paso, Texas, February 23, 2016.

On February 2, 2016, Border Patrol agent Christopher Mendillo and other Border Patrol agents apprehended José Lorenzo Reyes López, a 23-year-old man from Zacatecas, in the desert near El Paso, Texas. The agents took Mr. Reyes López' voter card, 12,449 pesos in cash, a cell phone battery, clothing, a wallet, and a hat. But Agent Mendillo did not inventory all of the belongings. Agent Mendillo incorrectly recorded the amount of cash that the agents took as 6,449 Mexican pesos, rather than 12,449 Mexican pesos—6,000 pesos (or US\$324.59) less than the amount that he should have recorded. And agent Mendillo did not include Mr. Reyes López' wallet, hat, and clothing in the inventory.

Mr. Reyes López reviewed the inventory list and saw that the amount of cash recorded in the inventory was not correct. He asked the Border Patrol agents to count his pesos again. One of the agents counted the pesos again and realized agent Mendillo's error. However, rather than electronically correcting the error on the inventory form (as required under TEDS Standard 7.1, which states "The type, amount, and value of all detainee's cash, currency, and negotiable instruments must be recorded in the appropriate electronic system(s) of record."), the agent simply crossed out the cash line item on the inventory in ink and handwrote "12,449 Mexican pesos." Mr. Reyes López asked the agent to print a new inventory form with the correct amount of cash on the inventory list, but the agent refused, claiming that the handwritten correction would be adequate for Mr. Reyes López to reclaim the full amount of the cash Border Patrol took. It was not.

On February 23, 2016, the U.S. government deported Mr. Reyes López without any of his cash—which was the equivalent of US\$673.48 on the day of his arrest—and without his voter card. Mr. Reyes López was concerned about whether he would ever be able to reclaim his money because of the discrepancy on his inventory form and about how he would be able to work without his voter card.

A photograph of the inventory form with the handwritten correction is in Appendix 3.

f. Border Patrol agents took 4,095 pesos from a young man and failed to give him any documents showing that they took his money. He was deported without any money. *January 15, 2016, desert near El Paso, Texas, and February 24, 2015, El Paso, Texas.*

On January 15, 2016, Border Patrol agents apprehended a 22-year-old man from Guanajuato in the desert near El Paso, Texas. The agents took the young man's voter card, cellular phone, and 4,095 pesos in cash—the equivalent of US\$224.58 on the day of his arrest. The agents failed to give the man a receipt or an inventory for any of his belongings.

Although the U.S. government returned the man's voter card, the government repatriated him to Ciudad Juárez on February 24, 2016 without his money and without any documents showing that Border Patrol agents had taken his money. Without his money, the man did not know how he would pay for the bus ticket home.

g. Border Patrol took all of a 19-year-old's belongings and failed to return any of them, including a voter card, cellular phone, religious items, jewelry, and 12,621 pesos.

On February 2, 2016, Border Patrol agents apprehended a 19-year-old teenager from Zacatecas near the border fence in El Paso, Texas. The agents took the teenager's voter card, cellular phone, religious items, jewelry, and 12,621 pesos—an amount that was the equivalent of US\$682.78 on the day of his arrest. Although the agents gave the teenager an inventory and receipt for his belongings, he could not use the administrative process to reclaim them.

The U.S. government deported the teenager to Ciudad Juárez on February 23, 2016, with nothing. "I'm broke," the teenager said, worrying about how he would reclaim any of his belongings.

h. After U.S. government agents took a belongings claim receipt from a 43-year-old Sonoran man, the man was unable to reclaim his belongings, including his Mexican voter card. *El Paso, Texas, July 7, 2015.*

On December 9, 2014, Border Patrol agents apprehended a 43-year-old man from Sonora in Sasabe, Arizona. When he was apprehended, U.S. Border Patrol agents took his wallet, belt, and Mexican voter card. Although the agents in Sasabe failed to give the man an inventory of the belongings that they took from him, they did give him a claim receipt that he believed he could use to reclaim his belongings. Before he was deported to Ciudad Juárez on July 7, 2015—more than 175 miles away from his home state of Sonora—U.S. government agents took the claim receipt from him. He could not reclaim his belongings and would have difficulty replacing his Mexican voter card.

i. After Border Patrol agents took a 58-year-old woman's jewelry and pesos, officials at a detention facility in Otero County incorrectly advised the woman that she would have to wait until she was deported to reclaim her belongings. Believing the government agents, the woman waited. When she was deported to Ciudad Juárez, she learned that she could not in fact

reclaim her belongings because more than 30 days had passed between her arrest and deportation. Pursuant to CBP's 30-day destruction policy, the woman's belongings were presumably destroyed, despite the detention officials' advice. *Santa Teresa, New Mexico, and Otero County, Date of Deportation: July 8, 2015.*

On June 1, 2015, Border Patrol agents apprehended a 58-year-old woman from Guanajuato, near Santa Teresa, New Mexico. The agents gave her both an inventory of her belongings and a claim receipt to reclaim them. Her belongings included a Mexican voter card, jewelry, and 1,005 pesos in cash. The government returned her Mexican voter card to her, but retained the jewelry and pesos. She was detained at a facility in Otero County. There, she asked detention officials about how to reclaim her jewelry and pesos. The detention officials wrongly told her that she would need to wait to reclaim her belongings until after she was deported to Mexico. She was deported to Ciudad Juárez on July 8, 2015 and learned there that she could not reclaim her belongings pursuant to CBP's 30-day destruction policy.

j. Border Patrol and ICE officials took María Trinidad Andrade Frausto's belongings. At the El Paso Processing Center, ICE officials refused the woman access to a telephone to speak with the Mexican consulate about reclaiming her belongings and failed to provide her with a receipt for cash that ICE confiscated. *El Paso County Processing Center, between June 22, 2015 and July 8, 2015.*

On June 22, 2015, María Trinidad Andrade Frausto, a 36-year-old woman from Jalisco, was apprehended by Border Patrol in El Paso, Texas. At the time of her apprehension, Border Patrol took her clothing, photographs, religious items, jewelry, two cellular phone memory chips, two cellular phone chargers, and cosmetics.

Ms. Andrade Frausto was carrying an additional 1,000 pesos in her headband—pesos that the Border Patrol agents had overlooked when they took her other belongings. While she was detained in the El Paso County Processing Center, an ICE guard took the 1,000 pesos that the woman had in her headband. The guard refused to give her a receipt for them and did not deposit the pesos into a commissary account. Although she wanted to ask the Mexican consulate for assistance in reclaiming her belongings, the El Paso County Processing Center ICE guards refused her requests for access to a telephone to speak with the consulate. She was unable to reclaim her belongings before her deportation.

Ms. Andrade Frausto was deported to Ciudad Juárez on July 8, 2015. There, she asked PDIB for help. PDIB's attorney contacted the Mexican consulate to reclaim the belongings that Border Patrol and ICE agents had taken from her. Because fewer than 30 days had passed between Ms. Andrade Frausto's arrest and her deportation, the Mexican consulate in El Paso was finally able to reclaim the belongings that CBP had taken from Ms. Andrade Frausto and mailed them to her in Jalisco in December 2015—five months after she was deported. The consulate also tried to reclaim the 1,000 pesos that the ICE guard took from her, but could not. The El Paso County Processing Center told the consulate that there was “no record” of the 1,000 pesos. Failing to fully inventory and safely store property violates ICE policy.¹³

¹³ ICE's 2011 Performance-Based National Detention Standards, Section 2.5, Funds and Personal Property requires that “[e]ach detainee's funds, valuables, baggage and personal property shall be inventoried, receipted, stored and safeguarded for the duration of their detention.” https://www.ice.gov/doclib/detention-standards/2011/funds_and_personal_property.pdf.

k. Border Patrol agents took and summarily destroyed most of Marcelina Martínez Robles' belongings, except for her money and voter card. *Near Santa Teresa, New Mexico, July 21, 2015.*

On July 21, 2015, Border Patrol apprehended Marcelina Martínez Robles, a 21-year-old woman from Zacatecas, in the hills near Santa Teresa, New Mexico. When they arrested her, Border Patrol agents took her money, voter card, clothing, religious cards, backpack, wallet, and the medicines that she had been taking during her pregnancy. The agents immediately and summarily threw away most of her belongings, except for her money and voter card, which were eventually returned to her. She was deported to Ciudad Juárez on July 29, 2015.

l. U.S. government agents told Oscar Hernández Ortiz that he would be detained for four more months if he reclaimed his belongings. *Near El Paso, Texas, April 29, 2015.*

On April 29, 2015, when Border Patrol agents apprehended Oscar Hernández Ortiz, a 27-year-old man from Chiapas, in the desert near Tucson, Arizona, they took 200 pesos and his Mexican Clave Única de Registro de Población (CURP, Unique Population Registry Code), a Mexican identity document that is essential for filing taxes in Mexico and is used to obtain a passport and for school enrollment and public health benefits. Although the agents told Mr. Hernández Ortiz that he would have 30 days to reclaim his belongings, they failed to provide him with a claim receipt for or an inventory of his belongings. Mr. Hernández Ortiz was deported to Ciudad Juárez on August 11, 2015. When he was interviewed in Ciudad Juárez about why he did not reclaim his belongings while he was detained, he explained that U.S. government agents had told him that he would be detained for four more months if he tried to reclaim them.

m. Border Patrol agents took a 23-year-old man's money without providing him a receipt and threw away his cell phone. The U.S. government deported him to a city nearly 1,300 miles away from his home community with no money and no means to communicate with his family. *Columbus, New Mexico, June 12, 2015, and El Paso, Texas, August 11, 2015.*

On June 12, 2015, Border Patrol agents arrested a 23-year-old man from Guerrero in the desert near Columbus, New Mexico. They took his shirt, jacket, sunglasses, photographs, 100 pesos and US\$100 in cash, and his cell phone memory chip. The Border Patrol agents failed to give him a claim receipt or an inventory for the cash that they took from him. The agents threw away his phone. When he was deported to Ciudad Juárez on August 11, 2015, the young man told the PDIB attorney who interviewed him:

I don't remember [my family's] phone numbers to call them and I don't have money to return to Guerrero . . . They [the Border Patrol agents] threw away the phone chip. That was what mattered because it had [my family's] phone numbers.

Under CBP's 30-day policy on personal belongings in the El Paso Border Patrol sector, the confiscated cash would have reverted to a CBP suspense account. With no money and no means of communicating with his family, the man worried about how he would travel the nearly 1,300 miles from Ciudad Juárez to his home state of Guerrero.

n. Border Patrol agents took 3,000 pesos and US\$80 in cash, a cellular phone, and a voter card from Karina Salas and failed to return them. *Near El Paso, Texas, July 29, 2015.*

On July 29, 2015, Border Patrol agents apprehended Karina Salas, a 22-year-old woman from Guerrero, at a ranch near El Paso, Texas. They took 3,000 pesos and US\$80, her voter card, her cellular phone, and a political party card. Although Border Patrol delivered the US\$80 to the woman's commissary account at the El Paso County Processing Center, they failed to deliver any of her other belongings, including the 3,000 pesos—an amount that, on the day of her arrest, was worth US\$185.25. When she was deported to Ciudad Juárez on August 13, 2015, she told the attorney who interviewed her, “I am going to struggle without [my voter card]”—a card which, as described above, is important for identifying oneself while traveling and difficult to replace. The woman's home community is more than 1,300 miles from Ciudad Juárez, where she was deported. When she was deported, the consulate said that it would try to reclaim her belongings, but that it would send them to the Foreign Ministry office in the capital of the State of Guerrero. It would take Ms. Salas six hours to travel from her home community to the Foreign Ministry office.

o. Border Patrol agents took 1,150 pesos in cash and a cellular phone from Mariana González and failed to return them. *Near El Paso, Texas, June 19, 2015.*

On June 19, 2015, Border Patrol agents apprehended Mariana González, a 39-year-old woman from Mexico City, in the desert near El Paso. The agents took her cellular phone and 1,150 pesos in cash—the equivalent of US\$74.96 on the day of her arrest. Although the agents gave her a claim receipt, they failed to give her an inventory of her belongings. They did not return any of her belongings. When she was deported to Ciudad Juárez on August 13, 2015, Ms. González told the lawyer who interviewed her: “I am going to struggle [to pay] for the trip [home, to the interior of Mexico]. I'm short 106 pesos. No one can send me any money.”

p. Border Patrol agents took and failed to return a 23-year-old woman's 6,000 pesos, medical documents, voter ID cards, and other belongings. *El Paso, Texas, July 27, 2015.*

Border Patrol agents arrested a 23-year-old woman from Guerrero near an international bridge in El Paso, Texas, on July 27, 2015. Border Patrol agents took several items from her, including 6,000 pesos and US\$40 in cash, the woman's and her husband's voter cards, her cellular phone, and medical documents that included important information from her physician about when she would need to have an anti-contraceptive device removed. Border Patrol transferred the US\$40 in cash to the woman's commissary account at a detention center and that money was returned to her upon deportation. But the government failed to return 6,000 pesos—valued at US\$368.88 on the day of her apprehension—and her other belongings. When she was deported to Ciudad Juárez, she told the attorney who interviewed her that she would struggle because Border Patrol had taken so much of her savings and had failed to return it. She worried that she no longer had the medical documents with information about her anti-contraceptive device. And she did not know how she and her husband would replace their voter cards.

q. Border Patrol agents threatened a 42-year-old man with dispossession if he attempted to cross the border again and summarily destroyed his wallet and clothing. *Hidalgo County, New Mexico, August 23, 2015.*

On August 23, 2015, Border Patrol agents arrested a 42-year-old man from Chihuahua in the desert of Valle de las Ánimas in Hidalgo County, New Mexico. He was carrying one U.S. dollar and 70 pesos, as well as a wallet, a hat, and socks. The Border Patrol agents summarily destroyed his wallet, hat, and socks, and took his money. The Border Patrol agents told the man that they would return the money to him this time, but they threatened that if he ever returned to the United States, they

would take his money and not return it to him. The man was deported to Ciudad Juárez on August 25, 2015.

r. After Border Patrol agents confiscated all of a 24-year-old woman's belongings, ICE agents incorrectly told her that the consulate would have to reclaim her belongings for her after she was deported to Mexico. The U.S. government deported the woman to Mexico with nothing. *El Paso, Texas, July 20, 2015.*

On July 20, 2015, Border Patrol agents arrested a 24-year-old woman from Guerrero near one of the international bridges in El Paso, Texas. The agents took 100 pesos, her cell phone, her voter card, clothing, and religious items. The agents never advised her that the Mexican consulate could assist her in reclaiming her belongings while she was detained in the United States. Then, ICE agents at the El Paso Processing Center incorrectly told her that the consulate would need to reclaim her belongings after she returned to Mexico. On September 1, 2015, the U.S. government deported the woman to Ciudad Juárez with nothing.

s. Border Patrol agents coerced Fabian Ruiz into unknowingly signing away his rights to his belongings. Despite the purported waiver of his rights, Border Patrol agents nevertheless gave Mr. Ruiz a claim receipt for his belongings. The U.S. government deported Mr. Ruiz without any of his belongings except for US\$18. *Near Sierra Blanca, Texas, July 13, 2015.*

On July 13, 2015, Border Patrol agents arrested Fabian Ruiz, a 57-year-old man from Oaxaca, near Sierra Blanca, Texas. The agents took US\$18 in cash, his voter card, a Mexican consular identity document (the Matrícula Consular), a cellular phone, clothing, jewelry, and a small book with phone numbers in it.

Border Patrol agents then gave Mr. Ruiz a claim receipt for his belongings and an inventory sheet with a list of his belongings. The agents transferred the US\$18 to Mr. Ruiz' commissary account at the El Paso County Processing Center, which was returned to him when he was deported. But the government failed to return his identity documents or any of his other belongings. Mr. Ruiz told the attorney in Ciudad Juárez who interviewed him, "I think I will have problems without my identification." The journey from Ciudad Juárez to his home community in Oaxaca would take days and he would have no way of proving his identity.

t. Border Patrol agents coerced a 23-year-old man into unknowingly signing away his rights to his belongings. The U.S. government deported him with nothing. *Antelope Wells, New Mexico, February 22, 2015.*

On February 22, 2015, Border Patrol agents arrested a 23-year-old man from Chihuahua on a road near Antelope Wells, New Mexico. The agents took all of his belongings. Although the agents told him that they would keep his belongings for 30 days, at which point the Border Patrol would destroy them, the agents nevertheless forced him to sign an "Aviso de Abandono" form, in which he purportedly gave up his rights to his belongings. The man did not understand the contents of the form, and the agents never advised him of his right to reclaim his belongings. The U.S. government deported the man with nothing to Ciudad Juárez on September 10, 2015.

u. Border Patrol agents took and failed to return a 45-year-old woman's 400 pesos, purse, earrings, and voter card—the woman's only identification document. The U.S.

government deported the woman to Mexico without any document she could use to prove her identity. *El Paso, Texas, August 29, 2015.*

On August 29, 2015, Border Patrol agents arrested a 45-year-old woman from the State of Mexico in El Paso, Texas. The agents took her voter card, 400 pesos and US\$300 in cash, her purse, and her earrings. The agents gave her a claim receipt for and an inventory of her belongings. They transferred the US\$300 to a commissary account at the El Paso Processing Center. While she was detained in El Paso, another detainee mentioned that the Mexican consulate might be able to help her to reclaim her belongings. She contacted the Mexican consulate to ask for help with the rest of her belongings. The U.S. government then deported her to Ciudad Juárez on October 1, 2015. The U.S. government returned the US\$300, but did not return any of her other belongings. In Ciudad Juárez, she asked for a PDIB attorney's assistance in contacting the Mexican consulate about the status of her request to reclaim her belongings. In her interview with the attorney, the woman conveyed her concern about not having her voter card—her only identity document. “One needs the [voter card] for everything,” she said. “It was my only identification.”

v. OFO officers arrested José Adiel Mejía on an international bridge in El Paso, took his voter card, and failed to return it to him. *El Paso, Texas, May 26, 2015.*

On May 26, 2015, CBP OFO officers arrested José Adiel Mejía, a 26-year-old man from Chihuahua, as he was crossing one of the international bridges from Ciudad Juárez to El Paso, Texas. The OFO officers took his voter card and 200 pesos in cash. Although the government returned the 200 pesos to him upon his deportation to Ciudad Juárez on October 22, 2015, the government failed to return his Mexican voter card. He worried that the police in Mexico would detain him for not having his identification card.

w. Border Patrol agents took Mr. Noé Javier Torres' voter card, cellular phone, clothing, and a photograph of his son and failed to return any of his belongings to him. *Deported from El Paso, Texas, October 22, 2015.*

On May 25, 2015, Border Patrol agents arrested Noé Javier Torres, a 33-year-old man from Sinaloa, in the desert near Nogales, Arizona. The agents took his voter card, cellular phone, clothing, and a photograph of his son. When Mr. Torres was deported to Ciudad Juárez on October 22, 2015, he told the PDIB attorney who interviewed him that what he wanted most was the photograph of his son. Because more than 30 days had passed between his arrest and deportation, Mr. Torres' photograph and his other belongings would have been destroyed under Border Patrol's 30-day destruction policy.

x. Border Patrol agents took and failed to return a 29-year-old man's 1,200 pesos and voter card. *Santa Teresa, New Mexico, October 13, 2015 and El Paso Processing Center, October 13 – 20, 2015.*

On October 13, 2015, Border Patrol agents arrested a 29-year-old man from Michoacán, in the desert near Santa Teresa, New Mexico. The agents took the man's voter card and 1,200 pesos in cash, which the government failed to return. He was repatriated to Ciudad Juárez on October 20, 2015 with nothing.

y. Border Patrol agents took a 32-year-old man's voter card, passport, 700 pesos in cash, a cellular phone, a backpack, and shoes. The U.S. government deported him with nothing. *Deported from El Paso, Texas, November 4, 2015.*

On May 8, 2015, Border Patrol agents arrested a 32-year-old man from Yucatán on a road near Green Valley, Arizona. The agents took his voter card, passport, 700 pesos in cash—an amount that, on the day of his arrest, was worth US\$46.29—cellular phone, backpack, and shoes.

The U.S. government deported him to Ciudad Juárez on November 4, 2015 with nothing. The man was nearly 2,000 miles from his home and worried about how he would travel without money or his identification. “At least they should have left us with an identification card,” he said of the U.S. government. The man thought that he would have problems crossing through all of the checkpoints in the Mexican border region because he had previously been stopped at a checkpoint in Sonora, a border state in Mexico.

z. Border Patrol agents took a 34-year-old man’s voter card, 550 pesos in cash, and clothing, failing to provide him with a claim receipt or an inventory of his belongings. The U.S. government deported the man with nothing. *El Paso, Texas, October 20, 2015.*

On October 20, 2015, Border Patrol agents arrested a 34-year-old man from Michoacán, near an international bridge in El Paso, Texas. The agents took his voter card, 550 pesos in cash—an amount that, on the day of his arrest, was worth about US\$33.18—a cellular phone, and clothing. They did not give him a claim receipt or an inventory of his belongings. The U.S. government deported the man to Ciudad Juárez with nothing on November 5, 2015. The man worried about how he would pass through all of the military checkpoints between Ciudad Juárez and Michoacán without any way of proving his identity.

The complaints above describe the following pattern of problems that result in mass dispossession.

- **Border Patrol agents coerce people into signing so-called “Avisos de Abandono”—poorly written forms that purport to serve as waivers of rights to personal belongings and “authorize” the immediate destruction of belongings or “authorize” the destruction of belongings after 30 days. At times, the abandonment forms are available only in English. Forcing people to sign such forms without their informed consent violates their due process rights.**
- **At times, Border Patrol agents summarily destroy belongings, including legal and identity documents.**
- **Even when Border Patrol agents make an inventory of or a claim receipt for people’s belongings, many agents deposit those documents into the belongings bag, rather than giving the documents directly to the owner of the belongings, making it difficult, if not impossible, for people to reclaim their belongings.**
- **Border Patrol and ICE agents often fail to give people a complete inventory of the belongings the agents take, a claim receipt, or any other document which would allow people to reclaim their belongings.**

- **The 30-day destruction policy in the El Paso Border Patrol sector and other Border Patrol sectors does not give people an adequate opportunity to reclaim their belongings.**
- **U.S. government agents often erroneously tell people that they will have to wait until they are deported to reclaim their belongings or will have to rely on their consulate to assist them in reclaiming their belongings—despite the fact that people should never be forced to speak with consular officials when they are seeking protection from the government the consular officials represent.**
- **When the U.S. government returns confiscated dollars and pesos in the form of fee-laden pre-paid debit cards and U.S. bank checks, people often lose part or all of the money that the government takes from them.**
- **Too often, U.S. government agents fail to properly inventory and return the U.S. and foreign currency they confiscate.**

The complaints in Part II are not isolated instances of dispossession. They reflect a well-documented pattern of Border Patrol and ICE abuse against people and their personal belongings. The rate of dispossession among people who are arrested along the border is high. According to a 2013 study on civil rights violations and other abuses against people in U.S. removal proceedings, two groups of people are particularly vulnerable to dispossession: people who have been prosecuted for the federal crimes of illegal entry, 8 U.S.C. § 1325, or illegal reentry, 8 U.S.C. § 1326, and people who are detained in the United States for “longer periods of time[.]”¹⁴ The prosecutions of illegal entry and illegal reentry are often carried out through Operation Streamline, which is a mass prosecution program that was intended to create zones of “zero tolerance” with respect to immigration enforcement.¹⁵ Of the people surveyed in the 2013 study, 57 percent of those who were prosecuted under Operation Streamline reported that at least one of their belongings was taken and not returned. Twenty-three percent of people who were deported through other means and not prosecuted under Operation Streamline reported that at least one of their belongings was taken and not returned.¹⁶

The rates of dispossession vary by Border Patrol sector, with people who were apprehended in or deported from the El Paso Border Patrol sector suffering extremely high rates of dispossession. In one study, 85 percent of the people who were apprehended there reported that the government took at least one of their possessions and failed to return it. Similarly, 65 percent of the people who were deported from the El Paso sector reported that the government had failed to return at least one of their possessions.¹⁷ The general rate of dispossession—that is, the percentage of people reporting that the government took at least one of their belongings and did not return it—is 34 percent.¹⁸ In other words, one of every three people surveyed suffered dispossession at the hands of U.S. government agents.

In the 2013 study, one of every four people who were carrying identity documents when they tried to enter the United States was stripped of those documents before being repatriated to Mexico.¹⁹

¹⁴ Martínez, Slack, and Heyman, *supra* note 8, at 2.

¹⁵ *US: Reject Mass Migrant Prosecutions*, HUMAN RIGHTS WATCH (July 28, 2015), <https://www.hrw.org/news/2015/07/28/us-reject-mass-migrant-prosecutions>.

¹⁶ Martínez, Slack, and Heyman, *supra* note 8, at 3.

¹⁷ *Id.* at 7.

¹⁸ *Id.*

¹⁹ *Id.* at 6.

One of every five people whose belongings the government took was robbed of his or her money. Fifty-five dollars was the median amount that U.S. government agents took and failed to return.²⁰ To put the weight of this theft in perspective, between 2009 and 2012, when the migrant border-crossing survey was conducted, it would have taken more than 11 days of work for a person earning the highest of the established minimum wages in Mexico in those years to replace US\$55 taken by government agents.²¹ Of the same group—people whose belongings the US government took and failed to return—31 percent reported that the government did not return their clothes or their backpacks, 21 percent, their cell phones; 15 percent, their wallets or purses; 11 percent, their jewelry; and 5 percent, their credit or debit cards.²² Anecdotal accounts from lawyers who represent people seeking asylum reveal that asylum seekers also suffer dispossession. Border Patrol agents often take and refuse to return their identity documents and documentary evidence of the violence they have suffered in the countries from which they are fleeing.²³ Border Patrol agents do this despite the fact that such documents often corroborate a person’s fear of persecution or torture.

Considering the staggering number of deportations in recent years, the number of people who have suffered or will suffer dispossession is significant. At the height of mass deportations under the Obama administration, in 2013, DHS “removed” 438,421 people²⁴—more people than the population of Miami. That same year, DHS apprehended 662,000 people, 64 percent of whom they identified as being Mexican citizens.²⁵

III. Restoring the Rule of Law on the Southwest Border: An Observation and Recommendations

When DHS officials systematically deny the constitutional rights of the people they arrest on the Southwest border and routinely ignore protocols on personal belongings, the U.S. government and its agents erode the rule of law on the Southwest border.

Over the past several years, ACLU-NM, PDIB, and many other non-governmental organizations have met with top administration officials and made basic recommendations that would help improve coordination among the agencies that control the custody and movement of detained people in the United States. These recommendations would reduce dispossession. In February 2015, we provided high-level officials from DHS International Affairs, CBP, ICE, the U.S. Marshals, and the Bureau of Prisons with these recommendations, which are reproduced below. We urge DHS to adopt them.

All belongings should be returned at the moment of release/repatriation. Failing that, as a second-choice alternative, certain essential items should be returned at

²⁰ *Id.*

²¹ To make this calculation, this memorandum uses 12.943 pesos to the dollar, which was the most generous peso-to-dollar exchange rate from the years 2009 to 2012. *Yearly Average Currency Exchange Rates: Translating foreign currency into U.S. dollars*, INTERNAL REVENUE SERVICE (Jan. 23, 2015), <http://www.irs.gov/Individuals/International-Taxpayers/Yearly-Average-Currency-Exchange-Rates>. It uses 62.33 pesos per day, the highest of all of the daily minimum wages established by the Mexican Secretariat of Finance and Public Credit in the years between 2009 and 2012. SECRETARÍA DE HACIENDA Y CRÉDITO PÚBLICO, SERVICIO DE ADMINISTRACIÓN TRIBUTARIA, *supra* note 11.

²² Martínez, Slack, and Heyman, *supra* note 8, at 6.

²³ Conversation with Talia Inlender, Attorney, Public Counsel, Washington, DC (July 17, 2015).

²⁴ John F. Simanski, *Immigration Enforcement Actions: 2013*, in ANNUAL REPORT (Dept. of Homeland Security, Sept. 2014), http://www.dhs.gov/sites/default/files/publications/ois_enforcement_ar_2013.pdf.

²⁵ *Id.*

release/repatriation, and the rest should be preserved (so that these may still be recovered) rather than destroyed.

Essential Items include:

- **MONEY** (both U.S. dollars and foreign currency, including balances earned or received while in custody)
 - Detainees should be allowed to choose whether to have their cash retained in storage alongside their other belongings or have it placed in a commissary account.
 - Foreign currency should go with the individual to detention, like U.S. currency (provided the detainee chooses this option). It should be converted to U.S. currency and placed in the detainee's account. The exchange rate should be a competitive market rate and should be disclosed to the detainee in advance.
 - All detainee funds should be returned in cash in the currency of the destination country, or in U.S. currency, whichever the detainee prefers. Debit cards are a second-choice alternative at best, and should be used only if they are issued by reputable banks, have been fully tested for usability in the destination country (including whether or not the banks in the receiving country charge unreasonable fees), and do not carry unreasonably high fees or daily fees (e.g., a daily fee that is charged until the balance is depleted). An unreasonable fee is defined as an amount that takes into consideration the purchasing power of the currency in the receiving country and the individual's socioeconomic status (e.g., a \$3 fee may not be cost-prohibitive in the United States, but may be excessive for an individual living within the poverty threshold of the receiving country).
 - In no case should individuals be repatriated with checks or money orders. These instruments are only appropriate for U.S. agencies' use in transferring funds.
 - A joint procedure should be established to facilitate the transfer of detainee funds from CBP/USMS/BOP facilities into ICE custody. Funds should be transferred to ICE electronically and then refunded upon release/removal. Alternatively, funds could be transferred to ICE in cash, as some BOP facilities currently do (e.g., C.I. Dalby and C.I. Willacy County, both operated by Management and Training Corp.). Any check issued by a USMS or a BOP facility in a detainee's name should be converted into cash that is returned to the detainee before the detainee is repatriated.
 - Under certain conditions CBP or another agency converts a detainee's cash to a money order. The cost of purchasing these money orders should be borne by the agency that purchases them, not taken out of the detainee's cash. Money orders should always be deposited in the detainee's account or converted back to cash, rather than being given directly to the detainee.
- **CELL PHONES, including the cell phone memory cards**, should be returned to individuals at the moment of repatriation/release.

- USMS and BOP detainees should be allowed to receive a cell phone from their family in their “release package,” when their personal effects do not include a cell phone.
- **ALL IDENTIFICATION DOCUMENTS AND CARDS**, including passports, voter identification cards, birth certificates, and other forms of identification.
 - Identification documents from other countries should be treated as legal documents. These should be stored and returned to individuals at the moment of release/repatriation.
 - Identification cards should follow detainees from one facility to the next, unless the individual prefers to have them stored.
- **LEGAL DOCUMENTS**, including copies of all documents signed between apprehension and release/repatriation
- **ITEMS OF SENTIMENTAL VALUE** (which are of reasonable size), such as photographs, religious medals, tokens, etc.)
- **DOCUMENTS CONTAINING CONTACT INFORMATION** for family members and loved ones
- **MEDICAL TREATMENT OR HEALTH-RELATED FILES AND DOCUMENTS**
- **PRESCRIPTION MEDICATIONS**
- **PRESCRIPTION EYEWEAR** (glasses and contacts)
- **PROSTHETIC DEVICES AND DENTURES**
- **JEWELRY** (such as wedding bands, necklaces, etc.) and watch(es)
- **ALL ARTICLES OF CLOTHING**, except clothing that is so badly damaged as to make it unusable or in a condition that will permanently damage other belongings (e.g., very wet and muddy)

Adopting these policies would enable the U.S. government to fulfill its commitment, expressed in the local repatriation arrangements that the Mexican and United States governments signed on February 22, 2016, to “take all feasible steps to ensure that property, valuables, and money retained, are available for return to the rightful owner at the time of initial release from DHS custody.”²⁶

We request that you immediately investigate the 26 individual complaints of misconduct that we describe in this complaint. Some of the complaints—such as those involving money that disappears and those involving illegal threats of additional detention time—raise serious questions of agent misconduct, quite possibly criminal. We ask that, in these cases, you discipline individual agents who have engaged in misconduct. Finally, we ask that you review and revise CBP policies on belongings and the implementation of those policies to ensure, first, that the policies do not hinder repossession, and second, that all agents in the El Paso Border Patrol sector understand and follow the policies, including TEDS. Furthermore, given the increasing concern and scrutiny among NGOs in Mexico and the United States and federal judges on the Southwest border, we urge you to publish the results of your investigation.

²⁶ Dept. of Homeland Security, “Updated U.S.-Mexico Local Repatriation Arrangements,” Feb. 22, 2016, <https://www.dhs.gov/publication/updated-us-mexico-local-repatriation-arrangements>.

We thank you for your prompt attention and await your response. Please contact Kristin Greer Love at klove@aclu-nm.org or 505-266-5915, extension 1007, if you have questions or wish to speak directly with the complainants.

Sincerely,

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CC:

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1330 Longworth House Office Building
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Congressman Steve Pearce
2432 Rayburn House Office Building
Washington, DC 20515

Senator Martin Heinrich
303 Hart Senate Office Building
Washington, D.C. 20510

Senator Tom Udall
531 Hart Senate Office Building
Washington DC, 20510

Appendix 1

Custody Receipt for some of the Belongings that Border Patrol agent Michael Vanek and other agents took from Félix Calles Valles on October 8, 2015, near Deming, New Mexico

DEPARTMENT OF HOMELAND SECURITY
CUSTODY RECEIPT for
SEIZED PROPERTY and EVIDENCE

No. 7106554

Handbook 5200-59

1. IPE No.
 2. Incident No.
 3. Investigative Case No.
 4. Enforce No.
 5. Price Delivered? Yes ☐ No ☐ If yes, DHS 6051D No.
 6. Date Seized (mm/dd/yyyy) 10/08/2015 7. Time Seized (hh:mm) 0300 8. FDIN/Misc.
 9. Seized From Name: CALLES, RAEL, FELIX 10. Entry No. 11. Seal or Other ID Nos.
 Address:
 Telephone No. () Ext.
 12. Remarks: 177:6258707 A# 089 229 119
 13. Send Correspondence to:
 14. PROPERTY (By Line Item) Attach DHS Form 58 if conveyance
 a. Line Item No. b. Description c. Packages Number Type d. Measurements Qty. UM e. Est. Dom. Value
 001 \$11.00 USD \$
 002 MEXICAN ID CARD 1 \$
 003 LASER VISION CARD 1 \$
 004 RELIGIOUS CARDS 3 \$
 15. Seizing Officer: MICHAEL VANEK x [Signature] 10/08/2015
 Print Name Signature Date
 16. ACCEPTANCE / CHAIN OF CUSTODY
 a. Line Item No. b. Description c. Print Name/Title/Organization d. Signature e. Date
 001-004 Same as above Jaramila, Helene DO LCLC [Signature] 10/8/15

Appendix 2

Receipts Showing María Carreño Venegas' Inmate Commissary Account at the Luna County Detention Center and her only purchase at Luna County

Inmate Accounting Transaction Receipt

Today's Date: 10/7/15 20:27

CARRENO-VELEGAS, MARIA
Booking # 2015-11900 Permanent # 69477 EAST-A-100-102-BOT

Transaction Date: 10/07/2015 20:26
Transaction Type: Walk In - Cash
Amount: \$403.00
Check Number:
Receipt Number: 68968
Adding Officer: Perea, Amy
Card #:

Deposit From/Withdrawal To:
Document Locator Number:
Case/Order Number:
Memo:
Batch Verifying Officer:
Batch Number:

Cost Recovery Collected:

Transaction Date/Time	Credit/Debit	Amount	Description	Reference	Pay Method	Check #
G/L Account Number: 10000						
Description: All Cash Drawers In Facility						
10/07/15 20:26	Debit	\$403.00	Inmate Deposit		Transaction Deposit	
Total: \$403.00						
G/L Account Number: 21000						
Description: Main Inmate Fund - (ADULT TRUST)						
10/07/15 20:26	Credit	\$403.00	Inmate Deposit		Transaction Deposit	
Total: \$403.00						

RECEIPT

No. 691994

DATE 10-7-15

FROM Maria Carreno Venegas \$403.00

four hundred dollars and 00/100 DOLLARS

☐ FOR RENT ☒ FOR New make

ACCT. ☒ CASH

PAID 403.00 ☐ CHECK

DUE ☐ MONEY ORDER

FROM TO

BY Amy Perea A-1152 T-4161

☐ CREDIT CARD

LUNA COUNTY PRISON

Canteen Receipt 374509 10/21/2015

201511900 CARRENO-VELEGAS MARIA
EAST A-100 10230
underID 019456

Qty	Item Description	Price Total
1	1012 Deodorant-Ladies	2.59 2.59
4	4009 Soap- Ficante 50	0.79 3.16
0	TAX TAX THIS SALE	0.00 0.00
Sub Total: \$		5.85
MCCS Charge \$		0.00
Original Total: \$		5.85
Filled Total: \$		5.85

Signature _____

REJECTS

TAX 1 TAX THIS SALE 0.00 PLU

Appendix 3

Receipt for Property, including Property Inventory, for the Personal Belongings of José Lorenzo Reyes López, showing a handwritten correction, violating TEDS Standard 7.1's requirement that monetary personal property "be recorded in the appropriate electronic system(s) of record"

BAGGAGE CHECK
4628129

DEPARTMENT OF HOMELAND SECURITY
Customs and Border Protection
RECEIPT FOR PROPERTY
Handbook 5200-09

Alien Corp

1. Reference No. YST160201		A#: 208 263 906 DOB: 12/19/1992	Property Tag # 4628129
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2. Received By:		3. Received From:	
(Print) Name: Christopher Mendillo Address: 12245 Pine Springs Dr., El Paso, Texas 79936 Telephone No: 915-435-1100 Agency/Title: Border Patrol		(Print) Name: Jose Lorenzo, REYES-Lopez Address: Cuatemoc 2 San Jose De La Venta Pinos, Zacatecas, Mexico Telephone No:	

4. FPF No.

5. Property			
a. Line Item	b. CF	c. Description of Item(s)	d. Amount or Quantity
1	6051	12,444 <i>12,444</i> Mexican Pesos	
2		1 Cell Phone	1
3		1 Cell Phone Battery	1
4		2 Mexican Voter ID Cards	2
5			
6			
7			
8			
9			
10			

JLR

6a. Received By (Signature)	6b. Date	6c. Print Name/Title/Organization
7a. Received From (Signature)	7b. Date	7c. Print Name/Title/Organization
8a. Witness (Signature)	8b. Date	8c. Print Name/Title/Organization

CBP Retains Original Copy to Other Party

Page 2 of 2

CBP FORM 6051R (08/03)