



**American Friends  
Service Committee**



The Honorable Edward M. Kennedy  
United States Senate  
Washington, D.C. 20510

The Honorable Zoe Lofgren  
United States House of Representatives  
Washington, D.C. 20515

Dear Senator Kennedy and Representative Lofgren,

Our organizations are concerned about the use of lethal force against rock-throwers by the U.S. Border Patrol. We ask that the Senate Immigration, Refugees, and Border Security Subcommittee and the House Immigration, Citizenship, Refugees, Border Security, and International Law Subcommittee investigate and seek to end this practice.

On August 11, 2008, another instance of this disproportionate use of force took place at the U.S.-Mexico border near San Diego. Edgar Israel Ortega Chavez, whom Border Patrol alleges was throwing rocks, was in Mexican territory when he was shot by a Border Patrol agent. The Mexican Consul General in San Diego has condemned the shooting and says Border Patrol violated protocols for such cases. "U.S. says agent fired after rocks thrown," *San Diego Union-Tribune*, Aug. 14, 2008.

This latest shooting evokes the memory of a tragic, fatal shooting less than three years ago. On December 30, 2005, Border Patrol shot Guillermo Martinez Rodriguez as he fled back across the border into Mexico, unarmed except for some rocks he scooped up on his way, according to local police accounts at the time. He died a day later in a Mexican hospital, where an autopsy revealed he was shot in the back.

The U.S. Border Patrol appears to fully support the shooting of rock-throwers. Prior to any investigation being conducted of the Martinez shooting, Border Patrol's spokesperson publicly justified the shooting: "If I was put in the same shoes of this agent, that's exactly what we'd have to do." "Shooting condemned by Mexico." *San Diego Union-Tribune*, Jan. 3, 2006. In this latest incident, Border Patrol has said nothing about the propriety of shooting rock-throwers but has said it wants Mexican authorities to help arrest Ortega for assault.

We ask that your subcommittees investigate the U.S. Border Patrol's practice of shooting rock throwers. We also respectfully request that you ask Secretary of Homeland Security Michael Chertoff to make clear to his Border Patrol agents that it is not acceptable to use deadly force when confronted with rock throwers.

Finally, these cases reveal again why it is necessary to bring some transparency and accountability to federal law enforcement agencies. To this day, our community does not know what happened in the Martinez case, because police investigators delivered their report to the U.S. Attorney where it disappeared into a black hole. With the anticipated massive increase of Border Patrol agents in our community, we deserve better. We reiterate with new urgency the longstanding call for increased transparency and independent oversight of federal law enforcement agencies in our communities.

The public has a vital interest in understanding and evaluating the Border Patrol's practices. The public needs to know that the agency complied with its own policies and procedures and whether the agency's response conformed to best practices. This overwhelmingly disproportionate use of force tarnishes the reputation of our law enforcement agencies and diminishes the confidence of the people in those meant to serve us.

Thank you for your consideration.

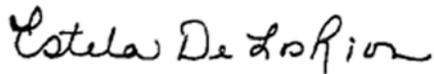
Sincerely,



Kevin Keenan  
Executive Director  
ACLU San Diego and Imperial Counties



Pedro Rios  
Director  
American Friends Service Committee, US/Mexico Border Program



Estela de los Rios  
Chair  
San Diego Immigrant Rights Consortium

cc: Joanne Lin, Legislative Counsel, ACLU Washington Legislative Office