

**Testimony of Rochelle M. Garza, Esq.,
President of *the* Texas Civil Rights Project,**



to the U.S House of Representatives,
U.S. House Committee on Energy and Commerce,
Joint Oversight and Investigations Subcommittee,
and Health Subcommittee *on*

“President Biden’s Border Crisis is a Public Health Crisis.”

February, 15, 2023, Weslaco, TX

I. Introduction

My name is Rochelle Garza and I am the President of the Texas Civil Rights Project. The Texas Civil Rights Project is a non-profit organization boldly serving the movement for equality and justice in and out of the courts since 1990. We do so by using strategic litigation and advocacy to empower and fight for the human dignity of those most marginalized in our state.

I am also a mother to a 10-month old daughter, a 5th generation Tejana and civil rights attorney from Brownsville, Texas – in the Rio Grande Valley – where I have spent my career fighting for the rights of children, immigrants, and families. As a border native, I am grateful to share my perspective as a resident of this community and an advocate from the front lines of the humanitarian crisis at the United States-Mexico border.

My goal in providing this testimony is two-fold: First, to dispel misconceptions about what are actually two separate issues: the public health crisis related to fentanyl and the humanitarian crisis at the border. Second, I want to share how the current approach of heavy-handed policies that prioritize military force as the only solution, has not and will not help address either crisis.

II. The public health crisis related to fentanyl and the humanitarian crisis at the border are two separate issues that should not be conflated.

The families at our doorstep have fled persecution, war, famine, climate disasters, and other horrors are seeking safety and refuge. They are not the source of fentanyl entering this country. I know this feels contrary to what you've been told. Our Governor, Greg Abbott has been doing all that he can to blame the ongoing fentanyl health emergency on vulnerable people, including women and children requesting asylum.

The fentanyl crisis is a very real public health crisis that claimed the lives of over 107,000 Americans last year, and has been felt in cities and rural areas across our country – from sparsely populated counties in Wisconsin and Alabama, to large cities like New Orleans and Philadelphia. Lives are being lost and we need evidence-based, public health solutions to address the problem of opioid addiction.

Instead, in response to President Biden's remarks on fentanyl at the State of the Union last Tuesday, Governor Abbott tweeted: "To truly solve this crisis, Biden must secure the border".¹ Which, as RGV residents well know, means building an expensive, divisive, and unnecessary

¹ Abbott, Greg [@GregAbbott_TX]. "Tonight, Pres. Biden announced initiatives to lessen the flow of deadly fentanyl into the U.S. Texas has been fighting this surge ever since Biden opened our borders to the influence of Mexican drug cartels. To truly solve this crisis, Biden must secure the border. #sotu2023" *Twitter*, 7 Feb 2023, https://twitter.com/GregAbbott_TX/status/1623171700027273217?s=20&t=oSqR4Jnns0ymw7BbVg1HPA.

border wall in our community, sending the military and state troopers to flood our small towns, and luring people awaiting the resolution of their immigration cases into busses only to dramatically drop them off at the homes of his political opponents.

Unfortunately, our Governor is wrong about how fentanyl enters the United States. The vast majority of fentanyl seized at the border is intercepted at either U.S. ports of entry or through U.S. mail, with most smugglers being U.S. citizens.² There have also been instances where national guardsmen themselves have been charged with smuggling narcotics while on duty.³ The facts do not lie: the overwhelming majority of migrants who have crossed into the United States at the Rio Grande do not attempt to smuggle drugs in their crossing.

Despite this, both the State and Federal government have already dedicated unprecedented amounts of money - together totaling in the tens of billions of dollars - to either detain, expel, or prosecute migrants. We must call out the attempt to conflate fentanyl with migrants for what it is - a cheap political trick to use a serious public health crisis as justification to waste public resources on the same ineffective border policies they have been pushing in communities like mine for years.

III. The current approach of heavy-handed policies that prioritize military force as the only solution, has not and will not help address either crisis.

Requesting asylum is a right guaranteed by U.S. law. What border communities have been seeing in the past few years is an unprecedented amount of people, facing desperate situations in their home countries, seeking to exercise that right - and the lack of action to address this increased need on the border has led to a humanitarian crisis. People are in desperate need of humanitarian aid - people need shelter, food, medicine. These are needs that a militarized response cannot fulfill.

Responding purely with militarized force along the border, as the state & federal government have been doing for decades, and with particular force in the last few years, has only worsened the situation in communities like mine.

Consider the immeasurable damage caused by just two years of Governor Abbott's Operation Lone Star. Over less than two years, this program has spent over \$4.4 billion in Texas taxpayer dollars, much of it covid relief funding⁴ locking up and jailing people seeking safety over trespassing charges, employing the Texas National Guard and State Troopers to do so.

² Bump, Philip. "Most Fentanyl Is Seized at Border Crossings — Often from U.S. Citizens." The Washington Post, 4 Oct. 2022, <https://www.washingtonpost.com/politics/2022/10/04/border-fentanyl-seizures-americans/>. Accessed 13 Feb. 2023.

³ U.S. Attorneys Office, Southern District of Texas "Army National Guardsman ordered to prison for trafficking cocaine." Press Release U.S. Attorneys Office, Southern District of Texas, 20 Sept. 2022, <https://www.justice.gov/usao-sdtx/pr/army-national-guardsman-ordered-prison-trafficking-cocaine>. Accessed 13 Feb. 2023

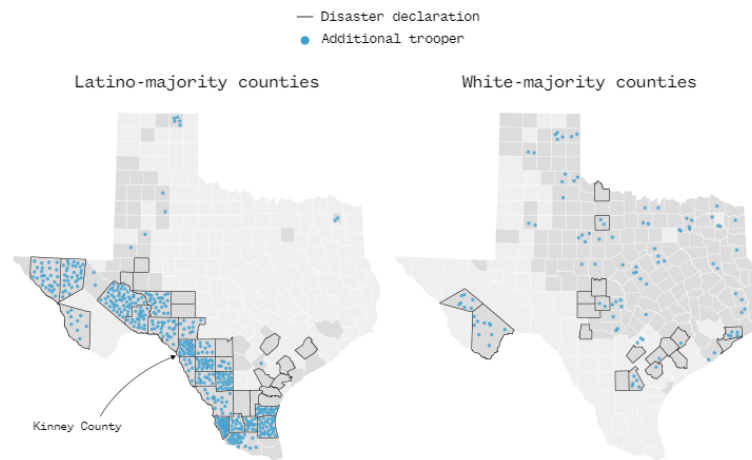
⁴ Koepfel, Barbara. "Exclusive: Texas Governor Greg Abbott Used Covid Aid to Pay for a Border Wall." The Nation, 6 Oct. 2022, <https://www.thenation.com/article/politics/texas-covid-money-operation-lone-star/>. Accessed 13 Feb. 2023.

As a result of this massive program, border communities - from cities to rural towns - have been flooded with additional law enforcement, military-style weapons, and in some cases even right-wing nationalist militia groups. This has serious consequences for everyone living in these communities. We heard from Gage Brown, a resident of Brackettville, who says that high-speed chases have become the norm in her sleepy town⁵. After law enforcement crashed into a building off of the main street, the local school put boulders around the perimeter of campus for additional safety.

Local residents are also getting ticketed and stopped more often. For Texans who live in these communities, the response to the current border crisis has brought surges of stops, searches, and ticketing of Latino drivers, which the rest of the State does not experience. In one county alone, Kinney County, TX, the rate of ticketing has gone up by over 400% - which we estimate has translated into a roughly \$2 million increase in fines. A report by NBC of where State troopers have surged in response to the humanitarian crises, shows that the result is over-policing of Latino communities.⁶

Where state troopers were added

Trooper deployments in Gov. Abbott's disaster declaration counties in the wake of Operation Lone Star have increased more in Latino-majority counties.



Notes: Where officers were working was measured by analyzing which officers made traffic stops in a county. Officers who made one or two stops in a county were not included. Trooper stops from March 2019-Feb. 2021 were compared with trooper stops from March 2021-Dec. 2021.

Source: NBC News analysis of Texas Department of Public Safety data

Graphic: Alex Ford / NBC News

⁵ Clayton, Jerry. "High-Speed Chases Endanger Lives of Migrants and Area Residents in South Texas." Texas Public Radio, 6 Aug. 2022, https://www.tpr.org/news/2022-08-06/high-speed-chases-endanger-lives-of-migrants-and-area-residents-in-kinney-county?utm_source=headtopics&utm_medium=news&utm_campaign=2022-08-08. Accessed 13 Feb. 2023.

⁶ Gamboa, Suzanne and Murphy, Joe. "In Texas, Resentment Builds as Border Crackdown Ensnares Local Drivers." NBC News, 21 Aug. 2022, <https://www.nbcnews.com/news/latino/texas-lone-star-latinos-citations-border-abbott-rcna42022>. Accessed 13 Feb. 2023.

Then there's the individuals who have actually been locked up under Operation Lone Star. We have heard reports of terrible conditions in overcrowded county facilities unequipped for processing this surge in minor trespassing charges, leading to mass violations of civil and due process rights, and extreme cases of sexual and physical violence against immigrants in Federal and State detention facilities.

None of what I've just described, addresses either the humanitarian needs at the border or the fentanyl public health crisis.

IV. We must rethink our approach to the border and true community safety

For the past decades, both the federal and state government have prioritized military force along the border. This has not and will not stop the famine, war, poverty, and other disasters that lead people to seek safety here. Aggressive enforcement policies through deterrence policies are not only harmful, but wholly ineffective and will not end mass migration. We must change course. What we're asking for is simple: accountability for the failed policies that have led us to this crisis point, relief for the humanitarian needs at the border, and real solutions that will move us forward.

First and foremost, we need accountability. We're at a point where for almost two-years now our Governor has been operating an illegal State-based immigration enforcement scheme - contrary to Supreme Court precedent. In response, we have submitted complaint after complaint with stacks of evidence to the United States Department of Justice (DOJ) to highlight OLS's illegality, including the civil and human rights abuses it is levying on immigrants and Texans alike. We have also called on the Department of Homeland Security (DHS) to cut its ties with OLS operations. Unfortunately, nearly two-years later, Texas is expanding - not ending - its abusive anti-immigrant efforts. Congress can and must hold Texas to account.

Secondly, border communities and organizations need relief. While Texas and the Federal government both spend billions to hunt down and lock up immigrants by the thousands, border Texans have been left alone to muster a humanitarian response. Texans, largely without government aid, have fundraised for shelter, cooked warm meals, listened to those who've endured severe trauma or provided legal orientation. Not only do these border-led relief efforts mean immigrants are treated with dignity, public safety is enhanced and lives are saved by keeping immigrant families off the streets, out of medical centers, and humanely transported to their destination.⁷ Without these understaffed and underfunded border humanitarian groups, the abuse and loss of human life on the border would be staggering.

⁷ Shifting Federal immigration policy, sometimes upended by State legal action, has at times meant unpredictable periods of *en masse* release of migrants from law enforcement custody at all hours of the day and night, at times without coordination with humanitarian spaces. See: Gonzalez, Richard. "Border Patrol Starts Releasing Asylum-Seeking Migrants To South Texas Streets." NPR News, Mar. 20, 2019. <https://www.npr.org/2019/03/20/705341748/border-patrol-starts-releasing-asylum-seeking-migrants-to-south-texas-streets>. Accessed 13 Feb. 2023.

Lastly, we need to turn toward real solutions that move us forward. Were humanitarian organizations to receive even a fraction of the budget given to projects like State or Federal border walls, it would be an unprecedented win for border communities. It would be one of the few times humanitarian relief groups receive some kind of support, instead of being villainized. By focusing our Federal and State energy on strategies that advocates on the ground have been leading, we can find real meaningful solutions that benefit all. Border Texans have been and still are showing us how to rise to the occasion of the humanitarian crisis we are seeing and will continue to see for years to come - we must stop and listen.

In the public health crisis caused by fentanyl, we need to target our efforts at providing public health solutions to address opioid addiction in this country.