

ANNUNCIATION HOUSE, INC.

Plaintiff,

v.

KEN PAXTON, in his official capacity as
Texas Attorney General

Defendant,

THE STATE OF TEXAS

Intervenor.

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IN THE DISTRICT COURT

OF EL PASO COUNTY, TEXAS

205th JUDICIAL DISTRICT

**THE OFFICE OF THE ATTORNEY GENERAL AND THE STATE OF TEXAS’
APPLICATION FOR TEMPORARY INJUNCTION AND MOTION FOR LEAVE
TO FILE FIRST AMENDED PETITION AND COUNTERCLAIM
IN THE NATURE OF QUO WARRANTO**

COME NOW the Office of the Attorney General (“OAG”) and the State of Texas (collectively, the “State”) and file this Application for Temporary Injunction and Motion for Leave to File First Amended Petition and Counterclaim in the Nature of Quo Warranto. In support hereof, the State shows as follows:

I. APPLICATION FOR TEMPORARY INJUNCTION

1. The State has an “intrinsic right to enact, interpret, and enforce its own laws.” *State v. Naylor*, 466 S.W.3d 783, 790 (Tex. 2015). This includes the right to “enforce existing policy” as declared by the Texas Legislature. *City of El Paso v. Heinrich*, 284 S.W.3d 366, 372 (Tex. 2009). Injuries to this right are sufficient to both create standing to sue and show irreparable harm. *See, e.g., Valentine v. Collier*, 956 F.3d 797, 803 (5th Cir. 2020); *Texas v. EEOC*, 933 F.3d 433, 447 (5th Cir. 2019); *Texas Ass’n of Bus. v. City of Austin*, 565 S.W.3d 425, 441 (Tex.App.—Austin 2018, pet. denied).

2. A temporary injunction is warranted where an applicant proves: (1) a cause of action against the adverse party; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002).

3. In the present case, and for the reasons set forth more fully in the State’s proposed First Amended Petition and Counterclaim in the Nature of Quo Warranto, and the exhibits attached thereto, which are fully incorporated herein by reference and attached as “Exhibit A” to this filing, each of these elements are satisfied here.

4. More specifically, as set forth in Exhibit A, by its own admissions, Annunciation House is engaged in systematic conduct that constitutes illegal alien harboring and operation of a stash house, as a matter of law – both of which constitute felony offenses under the Texas Penal Code. Ex. A, ¶¶ 30-71.

5. Annunciation House has also wholly refused to comply with certain portions of the State’s lawfully issued RTE (Ex. A, ¶ 48), and provided untimely document production in response to other portions of the State’s RTE. *Id.*

6. Accordingly, the State is entitled to, and seeks, a temporary and permanent injunction pursuant to § 65.011 of the Texas Civil Practice and Remedies Code; § 12.259 of the Texas Business Organizations Code (providing that “***the state has a right to [an] ... injunction, without bond, to aid in the enforcement***” of the state’s RTE powers) (emphasis added) *see also Day v. State*, 489 S.W.2d 368, 371 (Tex .App.—Austin 1972) (writ ref’d N.R.E.) (“temporary injunction” against operations for “fail[ure] to produce certain records”); and §§ 20.05, 20.07 of the Texas Penal Code to enjoin Annunciation House’s continued illegal alien harboring, operation of a stash house, and operations as a whole. *See also* Tex. Bus. Orgs. Code § 2.003; Tex. Gov’t

Code § 402.023; Tex. Civ. Prac. & Rem. Code § 6.001 (generally providing that the State of Texas is exempt from bond requirements).

II. MOTION FOR LEAVE

7. Pursuant to Texas Civil Practices and Remedies Code section 66.002(d) and Texas Business Organizations Code sections 12.152 and 12.255, the State moves this Court for leave to file its First Amended Petition and Counterclaim in the Nature of Quo Warranto (attached hereto as “Exhibit A”) against Annunciation House, Inc.

8. As detailed in the attached First Amended Petition and Counterclaim in the Nature of Quo Warranto, Annunciation House, Inc. is a domestic non-profit entity organized under the laws of the State of Texas and is registered in Texas for the purposes of transacting business in this state.

9. The State seeks to revoke Annunciation House’s registration on the grounds that it has violated the law and failed to permit OAG to inspect, examine, and make copies of Annunciation House’s records in response to a valid Request to Examine and is operating in a manner that violates at least two Texas felony statutes in a systematic fashion. *See generally* Ex. A.

10. Accepting the State’s allegations as true – as the Court must – the attached First Amended Petition and Counterclaim in the Nature of Quo Warranto contains sufficient bases to determine that probable grounds exist to file the pleading and grant leave to do so. *State v. City of Double Horn*, 2019 WL 5582237 at *4 (Tex.App.—Austin 2019) (“the trial court must accept as true the allegations contained in the State’s petition in making its probable-ground determination...”).

III. PRAYER

11. Accordingly, for the reasons stated herein and those set forth in the document attached and incorporated herein as “Exhibit A,” the State asks that the Court issue temporary injunctive relief to enjoin Annunciation House’s continued operations during the pendency of this lawsuit, grant the State leave to file its First Amended Petition and Counterclaim in the Nature of Quo Warranto, and grant all other relief to which the State may be justly entitled.

Respectfully submitted,

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ATTORNEYS FOR THE STATE

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document has been served on all attorneys of record via e-service on the 8th day of May 2024.

/s/ Rob Farquharson
ROB FARQUHARSON

EXHIBIT A

CAUSE NO: 2024-DCV-0616

ANNUNCIATION HOUSE, INC.

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**THE OFFICE OF THE ATTORNEY GENERAL AND THE STATE OF TEXAS’
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IN THE NATURE OF QUO WARRANTO**

The Office of the Attorney General (“OAG”) and the State of Texas (collectively, the “State”) file this Application for Temporary Injunction and [Proposed] First Amended Petition and Counterclaim in the Nature of Quo Warranto (“First Amended Quo Warranto Petition”). The State’s First Amended Quo Warranto Petition seeks an order terminating and revoking Annunciation House’s registration and certificate of formation to do business in Texas. Tex. Gov’t Code 402.023; Tex. Bus. Org. Code 12.155 *et seq.*; Civ. Prac. & Rem. Code 66.001 *et seq.* And the Application for Temporary Injunction seeks an immediate injunction halting Annunciation House’s operations *in toto*. In support hereof, the State would show as follows:

I. PRELIMINARY STATEMENT

On December 14, 2022, Governor Greg Abbott recognized that non-governmental organizations (“NGOs”) “may be engaged in unlawfully orchestrating [certain] border crossings through activities on both sides of the border,” including specifically “near El Paso.” *See* Office of the Governor, *Governor Abbott Calls for Investigation of NGOs Aiding Illegal Crossings* (Dec.

14, 2022), <https://gov.texas.gov/news/post/governor-abbott-calls-for-investigation-of-ngos-aiding-illegal-crossings> (“Governor Abbott Letter”). And the Governor called for “an investigation into the role of NGOs in planning and facilitating illegal transportation of illegal immigrants across our borders.” *Id.*

Annunciation House has long been at the epicenter of this conduct. Specifically, there is significant public record evidence set forth *infra* at pp. 20-28 suggesting that Annunciation House’s is systemically violating multiple criminal statutes. Accordingly, and pursuant to Governor Abbott’s request, OAG initiated an investigation into Annunciation House’s activities. Namely, on February 7, 2024, OAG served upon Annunciation House a Request to Examine (“RTE”), pursuant to chapter 12 of the Texas Business Organizations Code, seeking access to several discrete categories of documents relevant to this conduct.

Since then, two important developments have taken place. **First**, Annunciation House made a series of false representations in order to avoid producing documents in response to the RTE. It claimed that production would be “impossible” in the time permitted, and that doing so would burden its religion. But Annunciation House’s sworn testimony has since proved that those statements were false from the moment that they were made. **And second**, Annunciation has made sworn admissions that establish its systemic engagement in criminal conduct. Specifically, it is a felony to “encourage [] or induce[] a person to enter or remain in this country in violation of federal law by concealing, harboring, or shielding that person from detection.” Tex. Penal Code 20.05(a)(2). As set forth *infra* at ¶¶ 30-37, 65-71, Annunciation House’s sworn admissions indicate that it is knowingly harboring illegal aliens. And Annunciation House is shielding these aliens from detection by refusing government access to its facilities, concealing documents, and

flouting record-keeping requirements for money being spent to shield those aliens. As a result, Annunciation House is also operating an illegal stash house. Tex. Penal Code § 20.07.

For over a century, a corporation's commission of either of these two acts — (1) the unjustified refusal to produce documents in response to an RTE, and (2) systemic illegal conduct — have been grounds for revocation of a corporation's right to do business in Texas. Here, that remedy is warranted twice-over because Annunciation House's conduct is directly contributing to a state and national crisis of unprecedented proportions.

Accordingly, the Court should immediately issue a temporary injunction enjoining Annunciation House's operations. And, after an opportunity for consideration on the merits, the Court should revoke and terminate Annunciation House's registration and certificate of formation, dissolve its existence, enter a permanent injunction prohibiting Annunciation House from transacting business in this State, and appoint a receiver to wind-up its affairs.

II. DISCOVERY CONTROL PLAN

1. Discovery is intended to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

III. THE PARTIES

2. Plaintiff Annunciation House is a non-profit corporation organized under the laws of the State of Texas. Its registered agent is Ruben Garcia, 815 Myrtle Avenue, El Paso, Texas 79901. Annunciation House has already appeared in this lawsuit and service may be accomplished pursuant to Tex. R. Civ. P. 21(a). *See* Tex. R. Civ. P. 124.

3. Defendant, Ken Paxton, is the elected Attorney General of the State of Texas. The Office of the Attorney General has offices located at 300 W. 15th Street, Austin, Texas 78701.

4. Intervenor, the State of Texas, is a state of the United States of America and a sovereign entity that “has an intrinsic right to enact, interpret, and enforce its own laws.” *State v. Naylor*, 466 S.W.3d 783, 790 (Tex.2015).

IV. TEXAS RULE OF CIVIL PROCEDURE 97

5. The claims asserted herein constitute compulsory counterclaims within the jurisdiction of this Court and are not the subject of a separate pending action against Annunciation House. More specifically, the State’s claims arise out of the transaction or occurrence that forms the basis of Annunciation House’s claims for relief and upon which it obtained a Temporary Restraining Order and seeks judicial approval of its decision not to comply with OAG’s Request to Examine in violation of Texas Business Organizations Code section 12.151 *et seq.* This counterclaim does not require for adjudication the presence of third parties over whom the Court does not have jurisdiction.

6. For these reasons, the State’s claims represent compulsory counterclaims under Texas Rule of Civil Procedure 97(a).

V. STATEMENT OF RELIEF

7. Pursuant to Rule 47(c) of the Texas Rules of Civil Procedure, the State states that it seeks monetary relief of \$250,000 or less and non-monetary relief.

VI. THE ATTORNEY GENERAL’S INVESTIGATIVE AUTHORITY

8. OAG has broad authority to “investigate the organization, conduct, and management of a filing entity or foreign filing entity to determine if the entity has . . . engaged in acts or conduct in violation of . . . any law of [Texas].” Tex. Bus. Org. Code § 12.153; *accord* Tex. Const. art. IV, Section 22. “[T]he power to compel the production of the records of any

organization, whether it be incorporated or not, arises out of the inherent and necessary power of the . . . state governments to enforce their laws.” *United States v. White*, 322 U.S. 694, 700–01 (1944). And the Attorney General has the “undoubted right to require full information as to all of the business” of a corporation “permitted to come into the state.” *Humble Oil & Refining Co. v. Daniel*, 259 S.W.2d 580, 589 (Tex. App—Beaumont 1953).

9. For these reasons, the law makes clear that entities registered in Texas *must* allow “the attorney general to inspect, examine, and make copies, as the attorney general considers necessary in the performance of a power or duty of the attorney general, of any record of the entity.” Tex. Bus. Org. Code § 12.151. Upon receiving a written request for documents and information, a registered entity “shall immediately permit the attorney general to inspect, examine, and make copies of [its] records.” *Id.* § 12.152.

10. When an entity refuses to comply, the consequences are clear: “a filing entity that fails or refuses to permit the attorney general to examine or make copies of a record . . . forfeits the right . . . to do business” in the state. *Id.* at § 12.155. The law further instructs that upon such violation, an “entity’s registration or certification of formation . . . shall be revoked or terminated.” *Id.* (emphasis added); *Walker-Texas Inv. Corp. v. State*, 323 S.W.2d 603, 606 (Tex. App.—Austin 1959) (“following the language of the statute,” a “refus[al] to permit” OAG to “examine the books and records of the corporation” results in “forfeit[ure] [of] the charter”).

11. In addition, it is well-established that the Attorney General can terminate a corporation’s right to do business in Texas if “sufficient cause exists.” Tex. Gov’t Code § 402.023. Sufficient cause includes where there is “evidence” of “violations of some penal statute.” *Humble Oil*, 259 S.W.2d at 589-90; *see also Chesterfield Fin. Co. v. Wilson*, 328 S.W.2d 479, 482

(Tex.App—Eastland 1959) (“violation of the usury laws would involve a violation of [the company’s] rights and privileges and violations of statutes enacted for the purpose of controlling and regulating them”); *State v. Sw. Bell Tel. Co.*, 526 S.W.2d 526, 531 (Tex. 1975) (“unreasonably high—and hence unlawful—charges for [telephone] service by the people of Texas would be an abuse of [company’s] corporate power” and Attorney General “is authorized to take action in the courts to enjoin this being done”).

12. One of the many laws that Texas-chartered corporations must comply with is the state’s prohibition on illegal alien harboring. Alien harboring consists of “encourag[ing] or induc[ing] a person to enter or remain in this country in violation of federal law by concealing, harboring, or shielding that person from detection.” Tex. Penal Code § 20.05(a)(2).

13. A person “enter[s]” into the country in “violation of federal law” within the meaning of the Texas alien harboring statute if he crosses the border at somewhere “other than as designated by immigration officers.” 8 U.S.C. § 1325(a)(1).

14. Texas’s alien harboring statute was “modeled” after a similar federal statute barring similar conduct. *Cruz v. Abbott*, 849 F.3d 594, 599-600 (5th Cir. 2017); see 8 U.S.C. 1324(a)(1)(A)(iii). Accordingly, “it is presumed that the [Texas] legislature intended to adopt the settled construction given to the” federal statute by federal courts. *Tex. Dep’t of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 412 (Tex.App—Austin 1992); see also *State v. Wiess*, 171 S.W.2d 848 (Tex. 1943).

15. Under the federal statute, “affording shelter to an illegal alien is conduct which by its nature tends to substantially facilitate the alien’s remaining in the United States illegally.”

United States v. Balderas, 91 F. App'x 354 (5th Cir. 2004). Accordingly, knowingly providing “shelter to illegal aliens constitutes” alien harboring. *Id.*

16. An entity may also engage in prohibited alien harboring if it hosts illegal aliens and “refuse[s] to admit [law enforcement] agents without a search warrant,” *See United States v. Cantu*, 557 F.2d 1173, 1175 (5th Cir. 1977), or if its “paperwork management” is “indicative of an intent to prevent the government from discovering the illegal aliens.” *See United States v. Ye*, 588 F.3d 411, 417 (7th Cir. 2009).

17. It is also a third-degree felony to operate a “stash house,” meaning to knowingly “use[] or permit[] another to use any real estate, building, room, tent, vehicle, boat, or other property owned . . . to commit an offense or to facilitate the commission of an offense” related to a host of crimes, including the prohibition on alien harboring. Tex. Penal Code § 20.07.

VII. FACTUAL BACKGROUND

A. The Illegal Immigration Crisis at Texas’ Southern Border

18. Under federal law, attempted entry into the United States typically falls into two buckets: (1) legal attempted entry at a designated Port of Entry; or (2) illegal attempted entry at a location in-between or outside the Ports of Entry. *See, e.g., State of Texas v. U.S. Dep’t of Homeland Sec.*, 2023 WL 8285223, at *11 (W.D. Tex. Nov. 29, 2023) (“[E]ntering the United States by crossing the river other than at an official port of entry is a federal crime.”); 8 U.S.C. § 1325.

19. Individuals who enter through a Port of Entry (or otherwise encounter, and are processed by, federal immigration officers) are considered “documented.” U.S. Customs and Border Protection and/or U.S. Immigration and Customs Enforcement processes such individuals,

and those individuals are provided with what is known as a “Form I-94.” See U.S. Customs and Border Protection, *I-94 Automation Fact Sheet*, <https://www.cbp.gov/sites/default/files/assets/documents/2016-Mar/i-94-automation-fact-sheet.pdf>.

20. A “Form I-94” represents “proof of the bearer’s current immigration status and the time period during which his stay in this country is authorized.” *Mariscal-Sandoval v. Ashcroft*, 370 F.3d 851, 853 n.4 (9th Cir. 2004). And the “Form I-94 is frequently used as an identification document.” *United States v. Pahlavani*, 802 F.2d 1505, 1506 (4th Cir. 1986). “[A]n alien must present his Form I-94 whenever a [federal] official asks him to do so” as well as “whenever he seeks employment” or “welfare or student aid, from federal or state agencies.” *Id.* at 1505-06.

21. By contrast, aliens who avoid a Port of Entry and enter illegally necessarily have no documentation unless, and until, they encounter Customs and Border Patrol or Immigration and Customs Enforcement.

22. Illegal entry outside the Ports of Entry has become a national crisis. At least “2.2 million” migrants entered “in between POEs without authorization” in Fiscal Year 2022. 88 Fed. Reg. at 31,331.

23. Among other things, “conveying all those people to the doorstep of the United States has become an incredibly lucrative enterprise for the major Mexican drug cartels.” *State of Texas v. U.S. Dep’t of Homeland Sec.*, 2023 WL 8285223 at *3.

24. And Texas has borne the brunt of this catastrophe. As just a small handful of examples:

- a. Texas found a “male carrying a long gun guiding a group of illegal immigrants across the Rio Grande River” to enter illegally. Texas Office of the Governor, Press Release, *Texas Arrests MS-13 Gang Members, Smugglers Known for Sexual Abuse* (Aug. 11, 2023), <https://gov.texas.gov/news/post/texas-arrests-ms-13-gang-members-smugglers-known-for-sexual-abuse>
- b. Texas found “10 children abandoned by smugglers near Sullivan City” after the smugglers transported the children “across the Rio Grande River on a raft.” *Id.*
- c. Texas found a “known MS-13 gang member from Honduras . . . after he was found hiding on a train in Maverick County”—he was a “registered sex offender with a violent criminal history, including kidnapping, abduction, and sexual violence.” *Id.*
- d. A migrant who “entered the U.S. illegally” near “El Paso” was recently arrested for the murder of a 22 year-old Georgia nursing student. *See S. Dev. Suspect in murder of Georgia nursing student entered U.S. illegally, ICE says* CBS News (Feb. 26, 2024).
- e. And just two months ago, another migrant that entered the country illegally through El Paso was arrested for sexual assault of a 14 year-old girl. *See* <https://www.foxnews.com/us/venezuelan-illegal-immigrant-charged-sexual-assault-14-year-old-virginia>.

25. The reasons why anyone would choose to cross the border illegally are critically important to the scope of this problem. Namely, it is very easy to apply for asylum at a Port of Entry, establish “credible fear,” and then gain entry into the country for an indefinite period of time. *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109-11 (2020). As the Supreme

Court put it in 2020, “[o]ver the last five years, nearly 77% of screenings have resulted in a finding of credible fear.” *Id.* at 111.

26. So why wouldn’t a migrant want to enter at a Port of Entry and apply for asylum? The answer is that “many individuals are *barred* from asylum eligibility for reasons such as fraud, criminal convictions, and illegal reentry.” 88 Fed. Reg. at 31,326 (emphasis added). For example, a migrant is ineligible for asylum if he has “been convicted...of a particularly serious crime” and “constitutes a danger to the community of the United States.” 8 U.S.C. § 1158(b)(2)(ii), or if he was engaged in “terrorist activity.” *Id.* at § 1158(b)(2)(v).

27. These particularly dangerous migrants rationally conclude that their only ability to gain entry to the United States is to avoid the Ports of Entry and cross illegally.

28. This dynamic provides a clear incentive for organized crime. As the United States has recognized, “criminal enterprises . . . seek to take advantage” of this situation, “leading to untold human suffering and far too many tragedies.” 88 Fed. Reg. at 31,340. “[H]uman traffickers” also thrive by taking advantage of the flood of migrants “attempting to cross between” Ports of Entry to avoid immediate expulsion from the United States. *Id.* at 31,325.

29. And the United States has recently taken action underscoring this problem. Namely, DHS and DOJ promulgated a rule to “incentivize[] migrants to use lawful, safe, and orderly” ways of entry, including specifically through Ports of Entry. *Id.* at 31,316. Those who fail to do this are tagged with a “presumption of asylum ineligibility.” *Id.* at 31,314.

B. Annunciation House

30. Annunciation House claims that its “mission has always been to provide safe and free housing to refugee families in the Gospel spirit of service and solidarity.” Annunciation House Second Am. Pet. ¶ 3. It claims that it does so to “express[] the Catholic faith of its directors, supporters, and volunteers.” *Id.* ¶ 12.

31. Annunciation House’s public representations, however, also reveal that the organization knowingly and deliberately fosters and commits immigration related crimes.

32. For example, according to media reports, Annunciation House’s Executive Director, Ruben Garcia, has publicly admitted that the organization shelters “many” migrants “who[] are stuck in limbo because they were never processed by immigration officials.” Ex. 1, p. 3. Those same reports indicate that these migrants “avoid[] Border Patrol when crossing the Rio Grande, out of fear that agents would send them back to Mexico.” *Id.* at 2. And the reports indicate that Garcia knows this—including about the migrants’ fears—because he has stated that at least some of those migrants are avoiding immigration authorities due to fear they “will be deported” if they “request asylum.” *Id.* at 3.

33. According to public reporting, Garcia has also said it is “[m]ost important” that “Annunciation House can help not just those who have pending asylum cases but also people who are undocumented.” Ex. 2, p. 16.

34. Indeed, Annunciation House’s full-time staff have published material admitting that it “direct[s] its limited resources to” assisting “unauthorized immigrants.” Ex. 3, p. 24.

35. Specifically, its staff has admitted in legal filings that they actually cross *into Mexico* to help migrants enter the United States, including those who have already been turned

away by the federal government. Levy Decl. (Ex. 4) at ¶¶ 24-26 (“As I watched, the CBP officer gestured forcefully again three times to the man to turn back and cross the border back into Mexico...When the man crossed back across the border line back into Mexico, I stopped him and introduced myself... I offered to accompany him if he wanted to enter again...as we passed the border line...the same CBP officers stopped us...They once again asserted that he could not come into the United States”).

36. According to Annunciation House’s website, it has also been “operating houses of hospitality for migrants and refugees in El Paso *and* Ciudad Juarez.” Ex. 5, p. 2 (emphasis added).

37. Moreover, Annunciation House’s website is replete with advocacy broadcasting to the world that it is a welcome site for illegal border crossers. For example, **Annunciation House’s website boasts that its activities have “enabled Annunciation House to become the primary receiving site for refugees who have fallen from the border wall.”** Ex. 11, p. 5. Annunciation House also proudly claims that it houses guests who have crossed the border with “help from a coyote.” *Id.* at 10. And Annunciation House has republished poetry depicting its organization as a collection of persons who “have put our trust in and been abandoned by coyotes—human smugglers.” Ex. 12, p. 2.

C. OAG’s Request to Examine.

38. On February 7, 2024, OAG served the Request to Examine at issue in this litigation to Annunciation House’s House Coordinator, Mary Bull. Bull Depo. (Ex. 6), 75:18-24.

39. The RTE demanded “immediate access” to eight categories of documents. These categories included:

- (1) Documents sufficient to show all Referrals within the relevant time period;
- (2) Documents sufficient to show all services that Annunciation House provided to Aliens, whether present in the United States legally or illegally;
- (3) Documents sufficient to identify all Facilities in Texas under Annunciation House’s control or operating at its behest;
- (4) All applications for humanitarian relief funding submitted by Annunciation House through the federal Emergency Food and Shelter Program (EFSP);
- (5) All of the underlying documentation supporting Annunciation House’s applications for humanitarian relief funding under the EFSP, including all documentation that it is required to maintain under that program;
- (6) All documents provided to Annunciation House by individual Aliens as a part of its intake process;
- (7) All documents provided by Annunciation House to individual Aliens as a part of its intake process; and
- (8) All logs identifying Aliens to whom Annunciation House provided services in the relevant time period.

Pl.’s First Amd. Pet. for Declaratory Judgment and Application for Temp. Inj., Ex. B.¹

40. Importantly, the RTE’s demand for “immediate access” was not made in a vacuum. Rather, OAG agents were monitoring Annunciation House during the period leading up to service of the RTE, and the covert activity that was discovered raised concerns about how truthful Annunciation House might be in document production. Sgt. Carter Decl. (Ex. 7).

41. Specifically, Annunciation House appeared to be knowingly engaged in a host of illegal conduct, as described above. Annunciation House was also observed to be operating in an

¹ In its *Plea to the Jurisdiction, Answer, and Motion for Leave to File [[Proposed]] Counterclaim in the Nature of Quo Warranto*, filed on February 16, 2024, the Attorney General’s office erroneously attached a version of the RTE which contained only 7, instead of the 8, topics identified here.

unusually covert way. For example, although it houses hundreds of people, it paradoxically does not allow members of the public to enter freely, and restricts free access to a very small number of people in possession of keys. *See Id.* at ¶ 5-6.

42. Upon service of the RTE, Mary Bull called Executive Director, Ruben Garcia, to inform him of its receipt. *See Bull Depo.* (Ex. 6) at 20:13-16.

43. Garcia declined to comply with the RTE and the Attorney General’s agents agreed to allow time for Mr. Garcia to confer with an attorney, but requested that he provide a response by the end of the day. *See Ex. 8.*

44. Later that day, Annunciation House’s attorney emailed the Attorney General’s agents to indicate that he “expect[ed] to provide” a “response” “within 30 days.” Ex. 8, p. 3.

45. An agent from the Attorney General’s office promptly responded and reminded Annunciation House’s attorney that the statute guarantees the Attorney General “immediate access” to the records. *Id.* at 1-2 (quoting Tex. Bus. Orgs. Code 12.152). The Attorney General’s agent’s response also cited multiple authorities explaining that the office’s right to examine these documents is “full and unlimited and unrestricted.” *Id.* (quoting *Humble Oil & Ref. Co.*, 259 S.W.2d at 589). Nevertheless, the Attorney General’s agent provided an additional day for Annunciation House to comply with document production. And if it did not, Annunciation House would be “deem[ed]” to “be in non-compliance with the Request to Examine.” *Id.*

D. Annunciation House’s Pretextual Objections to the RTE.

46. On February 8, 2024, instead of producing a single document to OAG, Annunciation House sought and obtained an *ex parte* Temporary Restraining Order (“TRO”).

47. Annunciation House’s application for the *ex parte* TRO asserted that compliance with the RTE would be impossible in the time provided, and that the RTE violated Annunciation House’s “rights of association by seeking sensitive information.” Pl.’s Verified Orig. Pet. for Declaratory Judgment, Application for TRO, and Application for Temp. Inj., at ¶ 24; *see also* Ex. 8, p. 1 (claiming “it is impossible to comply with your deadline”).

48. On March 3, 2024 – without any adjudication or judicial intervention pertaining to its claimed rights – Annunciation House produced untimely records in response to RTE requests 2, 3, and 4. Letter from Annunciation House to Levi Fuller (Mar. 3, 2024) (Ex. 9). But it refused – and continues to refuse – to produce records responsive to requests 5, 6, 7, and 8 until “the court decides whether to sustain [Annunciation House’s] objections.” *Id.* And it has refused to produce records in response to RTE request 1 because Annunciation House allegedly “cannot understand” the request. *Id.*

49. Since that time, Annunciation House has added to its arguments as to why it is entitled to withhold documents from OAG. As set forth below, however, significant evidence has emerged indicating that those arguments are frivolous, pretextual, and that they were false and insincere when made.

Frivolous Objection No. 1: Due Process and Impossibility

50. According to Annunciation House, the RTE’s demand for immediate access was initially impossible to comply with because Annunciation House has “limited volunteer staff” and because of the “breadth” of the RTE. Pl.’s Verified Orig. Pet. for Declaratory Judgment, Application for TRO, and Application for Temp. Inj., at ¶ 24. The implication was that

“immediate” compliance imposed too burdensome of a task and that more time was required. But that was false.

51. OAG expressly told Annunciation House before initiation of this lawsuit that the RTE required immediate production *only of documents that Annunciation House could immediately produce*, such as those it “physically possessed.” Ex. 8, p. 1-2. And OAG expressly told Annunciation House that the RTE did not require “impossible feats.” *Id.*

52. In the time since Annunciation House made these representations, its House Coordinator, Mary Bull, has admitted under oath that when the RTE was served, physical copies of almost all of the documents sought were organized in three separate filings cabinets at Annunciation House, and that there was no physical impediment that prevented her from making those records available to the Attorney General’s agents that served the RTE. Bull Depo (Ex. 6), 72:12-23, 82:2-6 (“you could have given [the records] to the Assistant Attorneys General on that day?”...“Physically, yes”). Although Annunciation House later raised other substantive objections to production of the documents, there is simply no explanation—and Annunciation House has never offered one—corroborating its initial complaint of “impossibility.” Instead, by all indications, it was a pretext to buy time.

Frivolous Objection No. 2: Religious Exercise

53. Annunciation House asserted in its First Amended Petition that “providing any documents or information to General Paxton in response to the RTE” would violate its rights under the Texas Religious Freedom Restoration Act (“TRFRA”) unless those documents were ones Annunciation House had already made public. Pl.’s First Amd. Pet. for Declaratory Judgment and Application for Temp. Inj. at ¶ 56. And relying on the standard to make a TRFRA claim, it claimed

that document production would “burden[]” its “exercise of religion.” *Id.* ¶ 57. But Annunciation House has since admitted that claim was false.

54. For starters, it is highly doubtful whether Annunciation House, as an institution, even has any *bona fide* religious component. *See* Bull Depo (Ex. 6), 106:1 – 107:14 (stating that Annunciation House goes periods of “nine, ten months” without offering Catholic Mass, does not offer confessions, does not offer baptisms, does not offer communion, and makes “no” efforts to evangelize or convert its guests to Catholicism). By its House Director’s own admission, “probably only about half” of its volunteers subscribe to any particular religion. *Id.* at 99:23 – 100:17. Instead, Annunciation House’s members appear to subscribe to a more Bohemian set of “seven commandments,” including commandments to “visit” people when “incarcerated” and “care [for them] when they’re sick.” *Id.* at 101:11-25.

55. Moreover—regardless of whether Annunciation House and its staff have *bona fide* religious motivations—**Annunciation House’s Executive Director admitted under oath that the document production called for by the RTE does *not* burden Annunciation House’s religion.** For example, when directly asked whether disclosure of Annunciation House’s guest logbooks (RTE Number 8) created a burden on Annunciation House’s religion, the Executive Director flatly admitted that it would not.

15	It sounds like it wouldn't burden your
16	religion to share that book with someone?
17	A. I don't see it as -- no.

Garcia 3/7/2024 Testimony (Ex. 10), 58:6-17.

Frivolous Objection No. 3: Expressive Association

56. Annunciation House has also asserted that it cannot produce documents because production would “dissuad[e] volunteers from serving at” Annunciation House and “dissuad[e] guests from seeking shelter at” Annunciation House. Pl.’s First Am. Pet. for Declaratory Judgment and Application for Temp. Inj. at ¶ 68.

57. The Executive Director testified under oath that this objection was based on the fact that production would violate a “relationship between” Annunciation House’s staff and any “individual guest” whose information was in the documents. Garcia 3/7/2024 Testimony (Ex. 10), 59:12-19. He was further concerned about “the possibility that some of the information that is contained in [the documents] could fall into the hands of someone who could present a harm to someone who has passed through” Annunciation House’s shelter. *Id.* at 59:20-23.

58. When he made these statements, however, Annunciation House’s Executive Director was “not aware” that documents provided under the RTE are treated as confidential by OAG as a matter of law. *Id.* at 59:24-60:2; Tex. Bus. Org. Code § 12.154. Nevertheless, although this was “helpful to know,” he said that his “concern” about production still “remains.” *Id.* at 60:5-6.

59. When pressed about how he could still have this concern in light of the confidentiality assurance, the Executive Director offered no explanation. For example, he admitted he has “no” “reason to believe that anyone at the Attorney General’s office wants to harm one of [his] guests.” *Id.* at 60:15-18. Instead, he doubled down on his purported concern on the basis that he was “not familiar with how” the Attorney General’s office functions. *Id.* at 60:22-24.

60. Annunciation House’s Executive Director also offered testimony indicating that Annunciation House’s purported concern about guest safety is itself pretextual. Specifically, he admitted that Annunciation House takes zero precautions to protect its guests. For example, he stated that, as ostensible refugees, people from his guests’ “home countries . . . might want to harm” the guests. *Id.* at 61:4-7. But when pressed, he admitted that “[i]f one of those people” who sought to harm his guests “came to [his] door and said they were a ‘refugee’” he “probably” would just “let them in.” *Id.* at 61:8-11.

Frivolous Objection No. 4: Purported Inability to “Understand” RTE Request Number 1.

61. As noted *supra* at ¶ 48, Annunciation House refused to produce documents responsive to RTE request number 1 because Annunciation House “cannot understand” that request. That too was false; Annunciation House’s Executive Director admitted under oath that he understood this request perfectly.

62. RTE request number 1 sought “Documents sufficient to show all Referrals within the relevant time period.” Pl.’s First Amd. Pet. for Declaratory Judgment and Application for Temp. Injunction, Ex. B, p. 7. And the RTE defined a “Referral” to mean “any action taken to refer an Alien, whether here legally or illegally, to a lawyer or any legal services organization.”

Id. at Ex. B, p. 5. Annunciation House’s Executive Director testified that he understood exactly what this meant.

14	Q. Right. About how many times has an
15	organization like Las Americas, or a lawyer, a legal
16	services organization helped your guests apply for
17	asylum in the last year?
18	A. I would say maybe three or four times in an
19	organized manner.
20	Q. Are there any organizations other than
21	Las Americas to which Annunciation House refers its
22	guests?
23	A. Diocesan Migrant & Refugee Services. It's the
24	other legal service organization in El Paso.

Garcia 3/7/2024 Testimony (Ex. 10), 55:14-24.

63. The Executive Director also testified that he has no “objection to sharing the names of the legal services organizations” to whom Annunciation House refers aliens. *Id.* at 56:2-5.

E. Annunciation House’s Sworn Admissions about Criminal Conduct

64. Annunciation House’s Executive Director also admitted under oath that Annunciation House is systemically engaged in various forms of conduct highly relevant to OAG’s investigation.

65. First, he admitted that Annunciation House regularly admits aliens that it knows came into the country illegally; and chooses not to require any form of identification from its guests. Garcia 3/7/2024 Testimony (Ex. 10), 47:24-48-7 (“you don’t check for any identification;

right?” “We accept their word”), 71:4-8 (affirming that “not all” Annunciation House guests have been processed by Border Patrol).

66. Second, he admitted that Annunciation House refuses essentially any and all law enforcement requests to enter the premises in the absence of a warrant.

23	Q.	You don't require any documentation from
24		refugees who want to enter; correct?
25	A.	Correct.
1	Q.	But you require law enforcement to have a
2		warrant to enter; right?
3	A.	Correct.

Garcia 3/7/2024 Testimony (Ex. 10), 68:23-69-3.

67. Indeed, Annunciation House goes to unusual and extraordinary lengths to deny law enforcement requests to enter the premises. For example, there was one incident where someone was “staying at the Annunciation House who had been shot.” *Id.* at 69:4-7. But when law enforcement responded to the incident and “tr[ie]d to enter Annunciation House,” the Executive Director refused to let them in. *Id.* at 69:8-17.

68. In a similar vein, Annunciation uses extreme protocols to ensure that it can monitor who comes in and out of its shelters. As the Executive Director testified, “you need a key to enter” the facilities because he does “not want the doors to remain free all of the time.” *Id.* at 45:10-21. But “[g]uests do not have keys”—meaning they must obtain assistance from staff in order to enter or exit. *Id.* at 46:7-14. This creates particular difficulties for guests because Annunciation House has a “curfew,” and is adamant that no one be allowed in or out after curfew. *Id.* at 46:16-47:8.

Indeed, “If a guest leaves in the middle of the day and he returns after curfew and his belongings are inside the house,” that guest will not be allowed entry to retrieve those belongings. *Id.* at 47:19-23.

69. Annunciation House’s Executive Director also explained why he maintains a policy of refusing all law enforcement requests to enter without a warrant. Namely, the presence of law enforcement “could very well frighten” his guests. *Id.* at 70:23-25.

70. And efforts to conceal Annunciation House’s underlying operations are not isolated to the prevention of physical entry by law enforcement officers. Indeed, Annunciation House is refusing to produce documents because doing so might “dissuad[e] guests from seeking [its] shelter.” Pl.’s First Amd. Pet. for Declaratory Judgment and Application for Temp. Inj. at ¶ 68. And it is flouting federal EFSP record-keeping requirements in a manner that minimizes its record-keeping pertaining to illegal aliens. Bull Depo (Ex. 6), 62:20-63:5; *see* Emergency Food and Shelter National Board Program, *Humanitarian Relief Funding Guidance FY 2022*, pp. 11-16, 55 (providing that EFSP recipients must maintain supporting documentation, including daily logs of the migrants and meals that they serve, for a minimum of three (3) years); *see also* 42 U.S.C. § 11334(b)(1).

71. Relatedly, in other fora Annunciation House’s staff have also made sworn statements effectively admitting to violations of federal criminal law. For example, it is a federal crime for anyone to bring an alien to the United States if that alien “has not received prior official authorization to come”—and that is so “regardless of any official action which may later be taken with respect to such alien.” 8 U.S.C. § 1324(a)(2). But, as explained earlier, Annunciation House staff have admitted in legal filings that they cross into Mexico to help migrants enter the United

States, including those who have already been turned away by the federal government. *Supra* at ¶ 35.

72. For the reasons stated herein, and because Annunciation House is engaged in systematic illegal conduct, and has refused, and otherwise provided untimely, document production pursuant to the State’s RTE, Annunciation House has forfeited its right to do business in this state and its registration and certificate of formation must be revoked and terminated.

VIII. BRIEF SUPPORTING APPLICATION FOR TEMPORARY INJUNCTION

Annunciation House’s operations must be enjoined pending resolution on the merits. A temporary injunction is warranted where an applicant proves: (1) a cause of action against the adverse party; (2) a probable right to the relief sought; and (3) a probable, imminent, and irreparable injury in the interim. *Butnaru v. Ford Motor Co.*, 84 S.W.3d 198, 204 (Tex. 2002). The State satisfies all of these prerequisites here.

There is no question that the State is entitled to injunctive relief in the present case. Indeed, “[t]he [State] would be impotent to enforce its own laws if it could not temporarily enjoin those breaking them pending trial.” *State v. Hollins*, 620 S.W.3d 400, 410 (Tex. 2020). The State has an “intrinsic right to enact, interpret, and enforce its own laws.” *State v. Naylor*, 466 S.W.3d 783, 790 (Tex. 2015). This includes the right to “enforce existing policy” as declared by the Texas Legislature. *City of El Paso v. Heinrich*, 284 S.W.3d 366, 372 (Tex. 2009). Injuries to this right are sufficient to both create standing to sue and show irreparable harm. *See, e.g., Valentine v. Collier*, 956 F.3d 797, 803 (5th Cir. 2020); *Texas v. EEOC*, 933 F.3d 433, 447 (5th Cir. 2019); *Texas Ass’n of Bus. v. City of Austin*, 565 S.W.3d 425, 441 (Tex.App.—Austin 2018, pet. denied).

Simply put, the State is “the guardian and protector of all public rights” and has authority to sue to redress any violations of those rights. *Yett v. Cook*, 281 S.W. 837, 842 (Tex. 1926).

The question, then, for the State’s entitlement to a temporary injunction is whether it has a “probable right” to the relief sought—namely, whether Annunciation House has engaged in unlawful conduct. As set forth herein, that inquiry is satisfied here.

A. Annunciation House’s Operations Must be Temporarily Enjoined Pending Final Judgment Because it is Systemically Engaged in Illegal Conduct.

Annunciation House’s operations must be temporarily enjoined pending final judgment because Annunciation House is engaged in systemic violations of the criminal prohibition on alien harboring, Tex. Penal Code § 20.05(a)(2), and operation of a stash house, *Id.* § 20.07.

A non-profit corporation organized under the laws of this state “may not [] engage in a business or activity that [] is expressly unlawful or prohibited by a law of this state.” Tex. Bus. Orgs. Code § 2.003; *see also* § 22.051. Under the Constitution and by law, where a corporation does act unlawfully, the attorney general “shall” (1) act to prevent continuation of the conduct, and (2) seek judicial forfeiture of the corporation’s charter. Tex. Gov’t Code § 402.023 (emphasis added); Tex. Const. art. IV, § 22. And an injunction is a proper vehicle to prevent a corporation’s ongoing violations of law. *Chesterfield Fin. Co.*, 328 S.W.2d at 482; *State v. Sw. Bell Tel. Co.*, 526 S.W.2d at 531.

Annunciation House’s own sworn admissions and court filings demonstrate that Annunciation House is engaged in alien harboring as a matter of law. Section 20.05(a)(2) of the Texas Penal Code prohibits alien harboring, which is defined as “encourag[ing] or induc[ing] a person to enter or remain in this country in violation of federal law by concealing, harboring, or

shielding that person from detection.” Texas’s alien harboring statute was “modeled” after a similar federal statute barring similar conduct. *Cruz*, 849 F.3d at 599-600; *see* 8 U.S.C. 1324(a)(1)(A)(iii). Accordingly, “it is presumed that the [Texas] legislature intended to adopt the settled construction given to the” federal statute by federal courts. *Gilbreath*, 842 S.W.2d at 412; *see also State v. Wiess*, 171 S.W.2d 848. Annunciation House’s sworn conduct satisfies all the elements for alien harboring.

First, Annunciation House openly admits—and knows—that many of its guests “enter or remain in this country in violation of federal law.” Tex. Penal Code 20.05(a)(2). Namely, a person “enter[s]” into the country in a “violation of federal law” if they cross the border at somewhere “other than as designated by immigration officers.” 8 U.S.C. § 1325(a)(1). That describes a lot of Annunciation House guests. *See e.g. supra* ¶ 37 (regarding Annunciation House’s self-proclaimed status as the primary receiving site for refugees that have “fallen from the border wall”). Moreover, “affording shelter to an illegal alien is conduct which by its nature tends to substantially facilitate the alien’s remaining in the United States illegally.” *United States v. Balderas*, 91 F. App’x 354 (emphasis added).

Second, Annunciation House “conceal[s], harbor[s], or shield[s]” those “person[s] from detection.” Tex. Penal Code 20.05(a)(2). It is undisputed that Annunciation House provides shelter to these people, and in that way conceals, harbor, or shields them. *See e.g.* Pl.’s First Amd. Pet. for Declaratory Judgment and Application for Temp. Inj., Ex. A, p. 3 (“[t]here was no place where the undocumented could receive food, shelter, clothing, and medical attention...[a]nd thus the decision was made that the undocumented would be the ones whom Annunciation House would

primarily serve.”). And it does so in a way deliberately designed to prevent their “detection,” as evidenced in at least four ways:

(1) Annunciation House’s Executive Director admitted that, although he lets essentially anyone enter his facility, he would not let *law enforcement* enter without a warrant, and that law enforcement’s presence would scare his guests, *see supra* ¶ 69; *See Cantu*, 557 F.2d at 1175 (illegal harboring to conceal aliens by refusing to “admit [law enforcement] agents without a search warrant”);

(2) Annunciation House’s pleadings in this case concede that the reason Annunciation House refuses to produce documents relevant to OAG’s investigation is that production will “dissuad[e] guests from seeking shelter at” Annunciation House, Annunciation House First Am. Pet. ¶ 68, *see Ye*, 588 F.3d at 417 (“paperwork management” can be “indicative of an intent to prevent the government from discovering the illegal aliens”);

(3) Although Annunciation House allows almost anyone (other than law enforcement) to enter its facilities, *see supra* ¶¶ 60, 65, it paradoxically takes unusual and extreme security measures to lockdown its facility to restrict entry and exit, *see supra* ¶¶ 67-68; *United States v. Ramirez*, 250 F. App’x 80, 83 (5th Cir. 2007); and

(4) Annunciation House does not maintain daily logs of the number of migrants that it feeds, as specifically required by its federal EFSP funding, so as to limit its record-keeping pertaining to the illegal aliens that it serves. *Supra* at ¶ 70; *see Ye*, 588 F.3d at 417 (“paperwork management” can be “indicative of an intent to prevent the government from discovering the illegal aliens”)

Third, Annunciation House’s conduct plainly “encourage[s] or induce[s]” illegal aliens to enter or remain in the country. Tex. Penal Code § 20.05(a)(2). As a matter of law, the act of concealing, harboring, or shielding illegal aliens from detection encourages or induces them to enter or remain in the country. That is clear because the State statute was “modeled” after the analogous federal statute, *Cruz*, 849 F.3d at 599-600, but that statute does not contain this language, 8 U.S.C. § 1324(a)(1)(A)(iii). The State statute should accordingly be interpreted in a

similar way, which would require not construing the State statute’s words “encourage” or “induce” to impose additional elements into this crime.

But even if “encourage” or “induce” were independent elements, they are satisfied here. In multiple statements on its website and in the press, Annunciation House has broadcast to the world that it is a refuge for illegal aliens. *See supra* ¶¶ 30-37. As a matter of basic logic, that conduct encourages at least some aliens to enter and then seek refuge at Annunciation House (after all, why else would Annunciation House be worried that compliance with the RTE might “dissuade” illegal aliens?). Moreover, it is legally irrelevant that the aliens might enter or remain in the United States regardless of Annunciation House’s assistance. *See United States v. Shum*, 496 F.3d 390, 392 (5th Cir. 2007) (rejecting this type of argument); *Ye*, 588 F.3d at 416 (harboring is punishable “regardless of how effective a defendant’s efforts to help the alien might tend to be”). So even if Annunciation House could show that all aliens in its shelters would be here regardless of Annunciation House’s help, that would not change the fact that Annunciation House is engaged in the criminal act of alien harboring.

Annunciation House’s potential defenses to liability fail. Annunciation House’s Executive Director has testified that his “understanding” of the law—and his ostensible reason for engaging in alien harboring—is based on a handful of lines from the opinion in *Cruz v. Abbott* and an erroneous understanding of the Fourth Amendment. 849 F.3d 594. *See Garcia* 3/7/2024 Testimony (Ex. 10), 19:16-20:20 (offering this defense).

The challengers in *Cruz* were two persons who “rent[ed] residential property to persons regardless of immigration status,” and two persons who “provide[d] social services to low-income individuals.” *Id.* at 597. To establish standing to challenge this statute, they hypothesized that they

could be accused of harboring illegal aliens from detection “by failing to report them to authorities after learning of their immigration status.” 849 F.3d at 600. The court rejected that the law should be read in that broad way, and so rejected those plaintiffs’ standing. *Id.* at 600-02. Ostensibly, this language supports the notion that Annunciation House could not be penalized for “failing to report” aliens to authorities upon “learning of their immigration status.” *Id.* at 600. But that is a *non-sequitur* here because Annunciation House is engaged in conduct that is far more overt and culpable. Annunciation House’s stated *mission* is to help illegal aliens, *see supra* ¶¶ 30-37, and in countless respects it has admitted to the press and under oath that it conceals these aliens from the government, including by refusing access to law enforcement officers and refusing to permit inspection of its records pertaining to such aliens, *see supra* ¶¶ 64-71. That is a far cry from the nonfeasance associated with failing to report an alien to law enforcement.

Annunciation House additionally has no basis to claim that the Fourth Amendment entitles it to demand a warrant from law enforcement, or to otherwise conceal aliens. “What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection.” *Katz v. United States*, 389 U.S. 347, 351 (1967). And there is no doubt that Annunciation House’s general facilities are open to the public. Annunciation House permits *anyone* (other than law enforcement) who claims “refugee” status to enter, regardless of whether that person has identification. Garcia 3/7/2024 Testimony (Ex. 10), 44:25-45:5, 47:24-48:7, 61:4-11. The only limitation is that the person cannot appear to be drunk and must be coherent. *Id.* at 45:6-9. Moreover, Annunciation House hosts dozens of new aliens every single night. *See Id.* at 43:7-17; Levy Decl. (Ex. 4) at ¶ 7. That all well-exceeds the conditions necessary to be considered open to the public. *See, e.g., Liebman v. State*, 652 S.W.2d 942, 945 (Ct. Crim. App. 1983)

(“booth” inside adult theater was considered open to the public). The fact that Annunciation House employs certain security procedures, such as locked doors, changes nothing about the analysis. *Hearrean v. State*, No. 08-13-00338-CR, 2016 WL 3021627, at *3 (Tex.App.—El Paso May 25, 2016, pet. ref’d) (holding that whether a park is locked, gated, and closed at night is irrelevant to the “public place” analysis if the public, or a substantial group of the public, nevertheless has access to the park even after it is closed); *State v. Gerstenkorn*, 239 S.W.3d 357, 358 (Tex. App.—San Antonio 2007, no pet.) (gated community was a “public place” even though the community had a security guard and limited access where evidence showed that anyone could gain access to the community under the right circumstances); *Woodruff v. State*, 899 S.W.2d 443, 445 (Tex. App.—Austin 1995, pet. ref’d) (holding that Bergstrom Airforce Base was a “public place” in spite of the fact that it “wasn’t open just for any vehicle”).

B. Annunciation House’s Operations Must Be Temporarily Enjoined As A Matter of Law Because it Has Refused to Provide Documents in Response to OAG’s RTE.

Annunciation House’s operations must be temporarily enjoined pending final judgment for the additional reason that Annunciation House has refused to provide documents in response to an RTE. *See, e.g., Day v. State*, 489 S.W.2d 368, 371 (Tex. App.—Austin 1972) (writ ref’d N.R.E.) (“temporary injunction” against operations for “fail[ure] to produce certain records”).

As the U.S. Supreme Court has explained time and again, generally a “corporation has no privilege to refuse” a demand for documents. *Wilson v. United States*, 221 U.S. 361, 382 (1911). A State may terminate a corporation’s charter as punishment for refusal and, if the corporation cannot convince a court that the corporation was entitled to refuse, then charter termination can constitutionally proceed as a matter of course. *See, e.g., Nat’l Cotton Oil Co. v. State of Tex*, 197

U.S. 115, 117 (1905). This is the long-settled state of the law nationally and in Texas, where courts have repeatedly upheld charter termination as a penalty for non-compliance with a corporation's duties, including the duty to allow the Attorney General to inspect documents. *Walker-Texas Inv. Corp.*, 323 S.W.2d at 606 (“following the language of the statute,” a “refus[al] to permit” OAG to “examine the books and records of the corporation” results in “forfeit[ure] [of] the charter”); *Day v. State*, 489 S.W.2d 368, 371 (Tex. App.—Austin 1972) (writ ref'd N.R.E.) (forfeiture for “fail[ure] to produce certain records”); *see also Empire Life Ins. Co. v. State*, 492 S.W.2d 366, 367 (Tex. App.—Austin 1973) (explaining that corporation's charter in *Day* was forfeited for this reason). As the Business Organization Code explicitly provides: A corporation that fails or refuses to produce documents to an RTE “forfeits the right . . . to do business in this state, and the entity's registration or certificate of formation shall be revoked or terminated.” Tex. Bus. Org. Code § 12.155. What is more, “the state has a right to [an] . . . injunction . . . to aid in the enforcement” of its RTE powers. *Id.* at § 12.259

Of course, if a corporation has a lawful excuse not to produce documents, such as a constitutional protection for those documents, then charter forfeiture would not be warranted. But Annunciation House has no excuse as a matter of law or fact. That is true as a matter of law for the reasons comprehensively explained in The Office of the Attorney General's Resp. to Pl.'s First Amd. Pet. for Declaratory Judgment and Application for Temp. Inj. at ¶¶ 63-109. And it is true as a matter of fact because, as explained *supra* ¶¶ 50-63, Annunciation House's purported excuses here are false and pretextual. *See Day v. State*, 489 S.W.2d at 371 (injunction warranted where party, “by subtle and devious artifice . . . failed to produce certain records”).

IX. PRAYER FOR RELIEF

The State incorporates by reference the preceding paragraphs and introduction as if fully set forth herein. As explained above, Annunciation House has refused to comply with the State's lawful Request to Examine and is engaged in systemic illegal conduct. Accordingly, Annunciation House has performed or omitted an act that requires a surrender or causes a forfeiture of its rights and privileges as a corporation registered to transact business in Texas. *See e.g.* Tex. Gov't Code § 402.023; Civ. Prac. & Rem. Code § 66.001; Tex. Bus. Orgs. Code 12.155; *Walker-Texas Inv.*, 323 S.W.2d at 606.

NOW THEREFORE, the State respectfully prays that the Court enter judgment in its favor and order the following:

- a. That quo warranto relief is warranted;
- b. That Annunciation House forfeit its rights and privileges as a registered corporation;
- c. That Annunciation House's registration is immediately dissolved and void;
- d. Temporary and permanent injunctive relief prohibiting Annunciation House from conducting any operations in Texas;
- e. A receiver be appointed to wind up Annunciation House's affairs;
- f. OAG be awarded all costs and expenses in prosecuting this Counterclaim; and
- g. OAG be awarded any further relief to which it demonstrates entitlement under the law.

Respectfully submitted,

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Attorney General of Texas

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ATTORNEYS FOR THE STATE

CAUSE NO: 2024-DCV-0616

ANNUNCIATION HOUSE, INC.

Plaintiff,

v.

KEN PAXTON, in his official capacity as
Texas Attorney General

Defendant,

THE STATE OF TEXAS

Intervenor.

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IN THE DISTRICT COURT

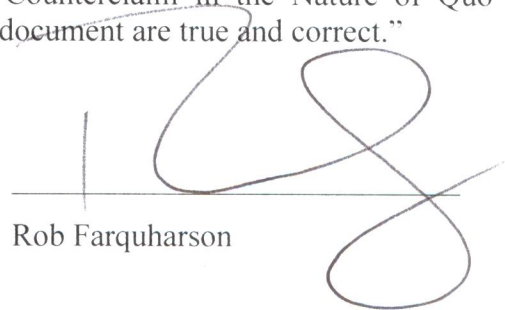
OF EL PASO COUNTY, TEXAS

205th JUDICIAL DISTRICT

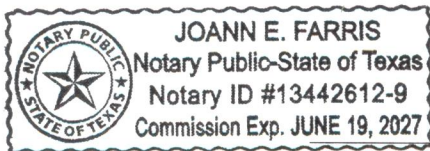
VERIFICATION

Before me, the undersigned notary, on this day personally appeared Rob Farquharson, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

“My name is Rob Farquharson. I am over 18 years of age and am competent to make this verification and to testify to the matters stated herein, all of which are within my personal knowledge as an Assistant Attorney General employed at the Office of the Texas Attorney General. In my capacity as an Assistant Attorney General, I have read the foregoing document entitled ‘The Office of the Attorney General and the State of Texas’ Application for Temporary Injunction and [Proposed] First Amended Petition and Counterclaim in the Nature of Quo Warranto,’ and the facts stated in paragraphs 30-71 of that document are true and correct.”


Rob Farquharson

SUBSCRIBED AND SWORN TO BEFORE ME on this 7th day of May 2024, to certify which witness my hand and official seal.



Notary without Bond

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

Joann E. Farris

EXHIBIT 1

IMMIGRATION

Annunciation House helps undocumented immigrants apply for asylum



by **Priscilla Totiyapungprasert**

January 20, 2023



About 40 migrants attended an asylum workshop at the Casa Papa Francisco shelter on Thursday. (Priscilla Totiyapungprasert/El Paso Matters)

Kiara longs to see the Chicago that enchanted her on TV, the sanctuary city of emerald parks, elevated trains and, she hopes, plenty of jobs for people like her.

She arrived in El Paso on New Year's Eve with her husband and toddler after fleeing Venezuela more than four months ago. The family joined other migrants who avoided Border Patrol when crossing the Rio Grande, out of fear that agents would send them back to Mexico. Her family took refuge with Annunciation House, a faith-based organization that shelters and supports migrants and refugees.

The nonprofit is now helping Kiara and other migrants apply for asylum online, so they can begin the process of obtaining a work permit and have a chance of recreating a new life.

“They’ll kill you if you have money, they’ll kill you if you don’t,” Kiara said while describing the *colectivos* – paramilitary groups, allies of Venezuelan president Nicolás Maduro, that extort, murder and kidnap people.

Migrants have the right to request asylum and remain in the United States while their case is pending. But since March 2020, immigration officials have used the emergency health order [Title 42](#) to immediately expel people from certain countries, cutting off this legal avenue for many.

On Thursday morning, Kiara was in a group of about 40 people who attended an asylum workshop at the Casa Papa Francisco shelter. Ruben Garcia, director of Annunciation House, invited immigration attorney Nancy Oretskin to guide them through the process of requesting asylum. In the first half of the day, Oretskin explained what situations qualified for asylum and what records they could gather to establish their case. Molly Molloy, a research librarian and professor at New Mexico State University, gave interpretation in Spanish.



Immigration attorney Nancy Oretskin helped guide several migrants through the process of requesting asylum. (Priscilla Totiyapungprasert/El Paso Matters)

Garcia said his organization is housing close to [300 migrants right now](#), many of whom are stuck in limbo because they were never processed by immigration officials. Some fear they will be deported if they turn themselves into immigration authorities to request asylum.

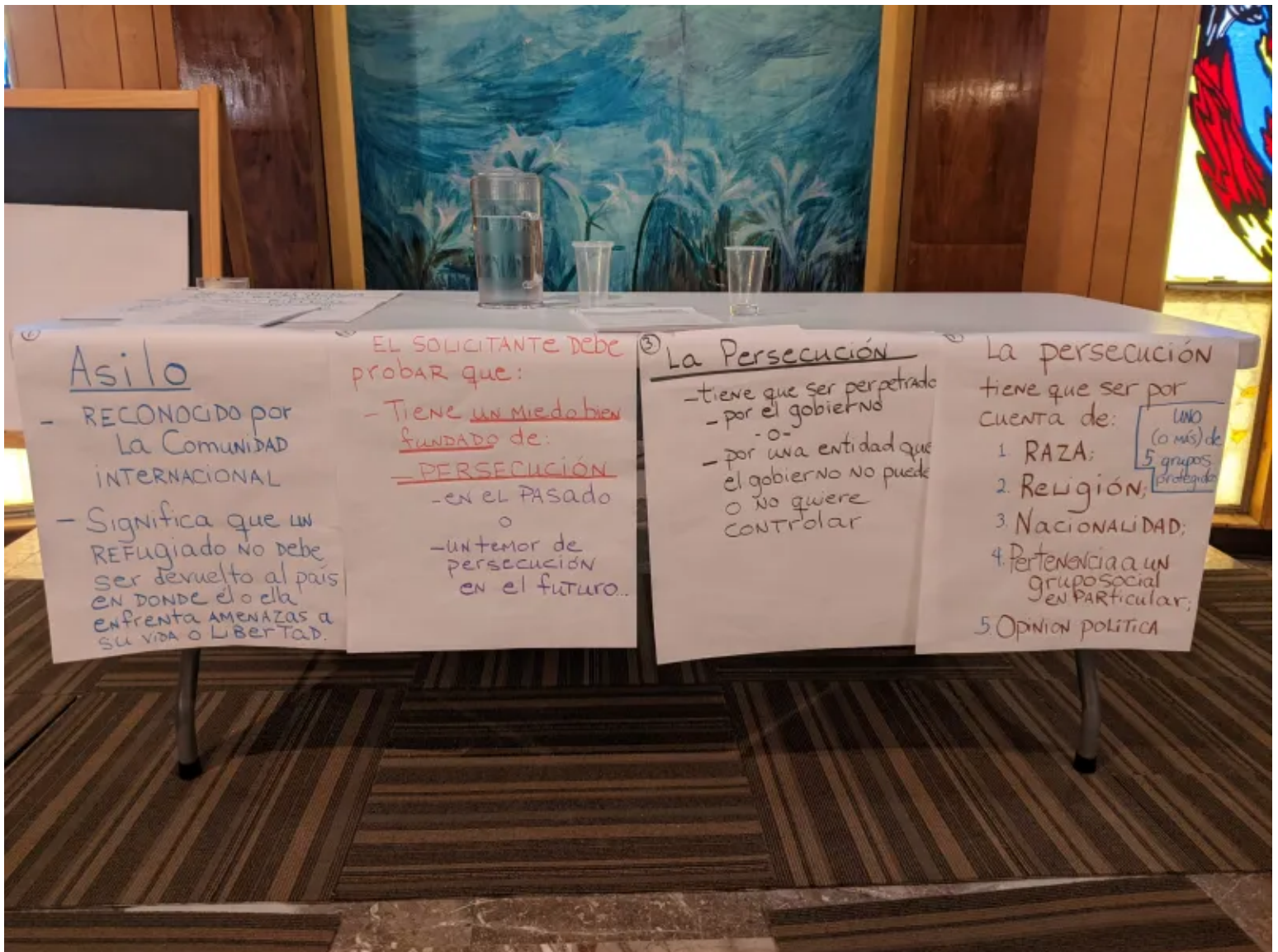
“They’re saying, ‘We want to present ourselves. We want to get processed. We want to proceed with our asylum.’ So from that was born the idea, let’s have a workshop on asylum,” Garcia said. “It’s about enabling asylum seekers to actually access the asylum process, which is their right to do, which has been denied.”

After a lunch break, people could begin to fill out their asylum applications on paper in Spanish. Next, their documents will get translated to English. The asylum seekers will then return so a translator can go over their application for accuracy. The applicant will then fill out and submit their form online.

“If people are given the tools and they have a valid claim and they know how to proceed, they should be able to win,” Oretskin said. “There are a lot of professionals that prey on uneducated people. For example, the application is free, but they need some assistance on how to complete it.”

Attorneys often charge by the hour, and the unscrupulous ones exploit migrants in vulnerable positions. In 2013, Oretskin co-founded the Southwest Asylum and Migration Institute to provide free and low-cost legal services to asylum seekers, undocumented immigrants who were brought to the U.S. as children, and immigrants in detention.

Many people who want to open an asylum case don't have the ability to obtain an attorney, Oretskin said. People qualify for asylum if they experience persecution in their home country because of their race, religion, nationality, social group or political opinion – or political opinion someone thinks they have. Applications must be submitted in English, so attorneys need to work with translators, including in languages outside of Spanish.



Several nonprofits are providing migrants information on how to seek asylum. (Priscilla Totiyapunprasert/El Paso Matters)

At Thursday's seminar, Oretskin taught people how to recognize if they have a case and what types of documentation they can use as proof, such as police reports and baptism records to show they're a member of a church. Phone call records and text messages are types of evidence that asylum seekers might not think about, Oretskin said.

One participant in the workshop said he left Venezuela because of the stigma of being a gay man diagnosed with HIV, especially in his hometown where a machista culture is pervasive. Even his family was indirectly affected through association, he described. He's also been unable to get HIV treatment, which is controlled by the state.

"I didn't want to fight for my life over there," he said.

Immigration courts are working through a massive backlog of asylum cases, Oretskin said. There were nearly 1.6 million people awaiting asylum hearings, according to a December 2022 [report](#) from Syracuse University. The highest number of applicants come from Guatemala, Honduras, El Salvador, Mexico and Venezuela.



Ruben Garcia, executive director of Annunciation House, speaks at a protest against the expansion of Title 42 at Chihuahueta Park on Saturday, Jan. 7. (Corrie Boudreaux/El Paso Matters)

Venezuelan nationals were initially excluded from Title 42, but the Biden administration expanded the policy in October after Mexico agreed to accept expelled Venezuelans. The federal government was then scheduled to lift Title 42 altogether in December, but the Supreme Court ruled it would keep the health order in place indefinitely. Many migrants from the restricted countries, who spent months living in Mexico without work or home, expressed dismay because they had been waiting to cross the border. Those who crossed without getting processed were rejected from the city’s federally-funded shelters, which only allows documented migrants to enter.

“Do people in El Paso want to see hundreds and hundreds of people sleeping on the street? They don’t,” Garcia said. “We’ve had tens of thousands of people pass through El Paso in an orderly safe manner, and now that’s not happening because the rules of the game have been changed.”

Garcia said the [Annunciation House](#) is planning additional workshops to help more migrants fleeing persecution go through the asylum process.

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EXHIBIT 2

LETTER FROM THE SOUTHWEST

EL PASO'S SAINT OF THE BORDER NEGOTIATES A NEW REALITY

For nearly fifty years, Ruben Garcia has welcomed migrants and refugees at Annunciation House. Amid record border crossings, Texas is now trying to shut down his network of shelters.


By Rachel Monroe

February 23, 2024





Photographs by Desiree Rios for The New Yorker

 Save this story

Ruben Garcia’s days start early, with a text message from Border Patrol. On a bright day in mid-January, the message arrived a little after 5:45 A.M. Ninety-two people who had crossed the border illegally as part of family units would be released today, the text said. Where would they go?

As the director of Annunciation House, a nonprofit shelter system, Garcia, who is seventy-five, has welcomed migrants and refugees arriving in El Paso for nearly fifty years. Record numbers of people are crossing the border, many of them into El Paso, one of the country’s busiest ports of entry. Ninety-two people was “very manageable” compared with the number on many other days, he said. Without Garcia’s efforts, “over the years, tens of thousands of people would have been on the streets of El Paso without food, without shelter, without comfort,” Veronica Escobar, the congresswoman who represents El Paso, told me. When Escobar took a congressional delegation to the border, earlier this month, she made sure her colleagues talked to Garcia, whom she refers to as “a saint who still walks the earth.”

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Increasingly, people in positions of power are eager for Garcia's expertise, even if they don't always agree with his opinions on immigration; he has met with representatives of both the Trump and Biden Administrations. Last January, when New York's mayor, Eric Adams, visited the southern border to better understand how to handle the influx of migrants to New York, he sat down with Garcia. "He was basically, like, 'Why are you sending all these people to New York City?' " Garcia recalled. Garcia has white hair and a mild, tolerant manner that belies his underlying steeliness; he has little patience for people who see migrants as someone else's problem. "This is us encountering our own humanity," he told me. "This is what we were made for." He encouraged the Mayor to enlist local faith communities to support migrants until they got on their feet. Wasn't New York the wealthiest city in the world? Adams seemed unconvinced. "He was, like, 'Ruben, you don't live in my world,' " Garcia recalled.



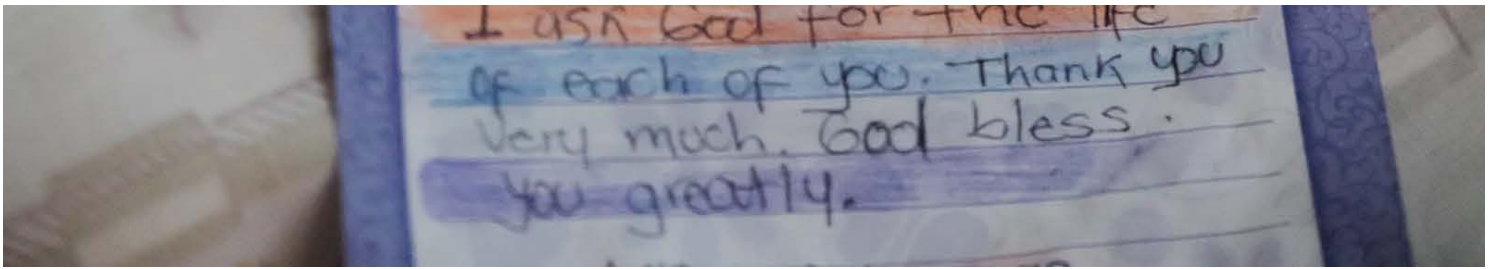
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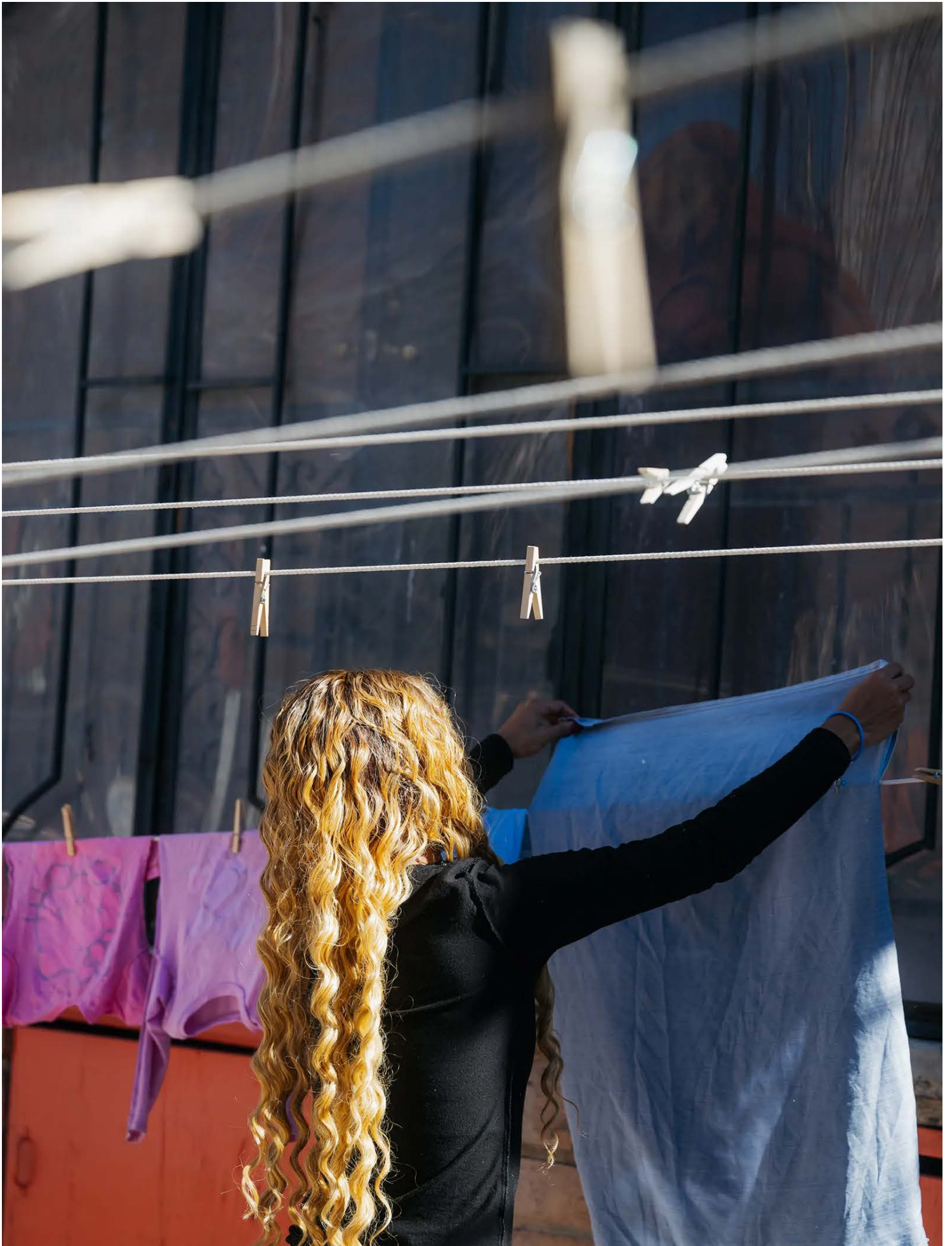
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First of all, I thank God for putting people as kind as you in my path, thank you for the beautiful hospitality, I felt very good like family. Thank you for your care.



A letter written by a guest at Casa Papa Francisco, one of the Annunciation House's hospitality sites.





A guest hangs laundry on a clothesline at Casa Papa Francisco.

Accommodations at Casa Papa Francisco, one of the Annunciation House's hospitality sites.

The increasing political prominence of immigration has also put aid organizations in the crosshairs. This week, Ken Paxton, Texas's attorney general, announced a suit against Annunciation House, accusing the organization of "astonishing horrors," among them "facilitating illegal entry to the United States, alien harboring, human smuggling, and operating a stash house." (The lawsuit stems from a dispute over Annunciation House's failure to turn over paperwork that the attorney general had requested with one day's notice.) A ruling against Annunciation House might force the organization to cease operations in Texas.

Garcia was born and brought up in El Paso, where he attended Catholic schools. When he was in his twenties, he ran youth-outreach programs for the local diocese, but he hungered for a larger sense of purpose. Garcia and a group of friends began meeting regularly, trying to determine how to lead meaningful lives. It was the mid-seventies, and all around the country young people were embarking on soul-expanding quests. Garcia was emphatically not a hippie—"Chances are, if I had met a hippie, I would've said, 'Don't you have anything better to do with your time?'" he told me—but he was drawn to his

faith's radical practitioners, including Dorothy Day, who opened “houses of hospitality” to feed and provide shelter for the poor, and Cesar Chavez, who incorporated prayers into marches for workers' rights.

During the months of prayer and discussion, Garcia kept circling back to the same realization: “The God of Scripture identifies first and foremost with the least among us. And we're not that,” he said. “That insight was extremely helpful. Because it allowed us to understand that, if you want to find greater meaning and purpose and depth to your life, then go place yourself among the people that God does identify with, and they will teach you. At that time, in El Paso, there were two shelters, and neither of them would let you stay there if you were undocumented. So when we asked the question, ‘In El Paso, in 1978, who would be some of the people that God would identify with?’ The answer was, ‘The undocumented.’ ” That year, the Diocese of El Paso granted Garcia and his friends use of the second floor of a brick building a mile from the border. Garcia wrote to Mother Teresa, whom he had met a couple of years prior, telling her about their work. He says she replied, “Now that you have the building, you can go out and announce the good news.” Thus the name of the project: Annunciation House. In keeping with the tradition started by Day, Garcia and his co-founders referred to the residents of Annunciation House as “guests.” “We had one guest who was undocumented, and then we had two, we had three, we had four,” Garcia said. Volunteers and guests lived communally. Within a few years, they had taken over the first floor of the building, too. Garcia's co-founders eventually left, but Garcia says he lived in Annunciation House and its network of shelters for thirty-five years, until his parents died, when he moved into their house.

Several weeks before Paxton sued Annunciation House, I met Garcia at Casa Papa Francisco, a former convent building that, in 2022, was repurposed as a shelter, one of several that the organization runs. Its guests had crossed the border illegally before either being apprehended or seeking out immigration officials to apply for asylum. The building had the tidy but functional atmosphere of a place

that many people pass through on the way to somewhere else. A map of the United States was tacked to a wall, near a list of phone numbers for bus companies. In the kitchen, people stood chatting: the daily bus to New York had been cancelled, owing to bad weather.

Cots are turned on their side inside Casa Rita Steinhagen, one of Annunciation House's newest hospitality sites. Most people who come to Annunciation House shelters stay for a handful of days or a few weeks, before leaving to connect with friends or family or work prospects elsewhere. But some guests stay longer. That day, Garcia was taking two of them to a dentist appointment: Yara, a teen-ager who had arrived from Venezuela with her mother seven months before, and Wilson, a thin young man with lively eyes who had been severely burned in the March, 2023, fire at Juárez's detention center. Garcia lifted Wilson, who uses a wheelchair, into the front seat of his work vehicle, a white Toyota truck with nearly two hundred thousand miles on the odometer, then hoisted the chair into its bed.

In Annunciation House's early days, its blend of religious faith and civil disobedience was not unique. In the eighties, as civil wars—which were in some cases fought by U.S.-funded paramilitaries—ravaged Central America, the Reagan Administration enacted policies that made it difficult for those fleeing violence to claim asylum. Hundreds of congregations of many faiths offered themselves as shelters to undocumented refugees as part of the sanctuary movement. After the September 11, 2001, attacks and the formation of the Department of Homeland Security, the border became increasingly militarized; in

2003, a Border Patrol agent shot and killed Juan Patricio Peraza Quijada, a nineteen-year-old who was staying at Annunciation House. (A judge later ruled that the agent's actions were justified.) Garcia still bristles when he discusses the shooting, and every year he hosts a memorial Mass for Peraza on February 22nd, the anniversary of his death. Peraza's death marked "a low point" in Garcia's relationship with the Border Patrol, he said.

Then, in 2014, Garcia says, representatives from the Border Patrol and from the El Paso office of Immigration and Customs Enforcement requested to meet with Garcia. "I'm, like, What the hell are they wanting? Because, at that point, there wasn't really a relationship," Garcia said. The officials wanted to discuss a shift in migrant populations. Instead of single adults hoping to find work under the table, many border crossers were now families planning to apply for asylum. Instead of attempting to evade the Border Patrol, they were seeking out agents, and ICE didn't have the capacity to house family units while their cases were pending. (U.S. immigration courts currently have a backlog of more than three million cases.) "They said, 'We want to release them to Annunciation House—will you take them?' And that's when I was able to say to them, 'With certain conditions,'" Garcia recalled. He asked that the asylum seekers be released with papers that enabled them to travel, and that Annunciation House's volunteers not be enlisted to monitor guests. "No enforcement," as he put it. (An ICE representative was unable to confirm Garcia's account of the 2014 meeting before publication. C.B.P. did not respond to a request for comment.)

That meeting marked the beginning of Garcia's new relationship with the border-enforcement agencies. Nowadays, once asylum seekers either are apprehended or turn themselves in to Border Patrol, they are processed into the immigration system, and, if released, brought to Annunciation House's network of shelters, where they are fed, housed, and provided assistance to travel onward. "Otherwise, you're going to see people sleeping in the streets," Garcia said. (In the Rio Grande Valley, a similar support network is run by Sister Norma Pimentel.) Even as Garcia works closely with federal agents, Annunciation House rarely accepts

government funding, relying instead on donations. “That’s given us a lot of freedom,” Garcia told me. Most important, it means that Annunciation House can help not just those who have pending asylum cases but also people who are undocumented. A few years ago, Garcia says, when ICE tried to officially recognize Annunciation House as a partner in its work, Garcia turned down the offer. “I’m sorry, no offense, no offense—but I couldn’t do it,” he told me.

As we sat in the dentist’s waiting room, Garcia explained that, during the Trump Administration, as the number of migrants continued to rise, Annunciation Houses’s resources grew strained. In one year, Garcia told me, ICE released more than a hundred and fifty thousand people to the organization’s shelters. “The reasons are always the same—I can’t feed my family, I’m afraid. It’s just that the numbers have gone up,” Garcia said. (According to a D.H.S. report, under the Biden Administration, C.B.P. has taken more than six million migrants into custody, deported approximately four million, and released more than 2.3 million while their cases were pending; the majority of those who arrived as families were released.) Annunciation House had always run on a shoestring budget, and the COVID-19 pandemic made things even harder; volunteer levels dropped, even as border crossings rose, after a brief lull in 2020, to record numbers. “We were doing all of it, and the city and county were doing none of it,” Garcia said. “We just couldn’t keep going at that pace.” In 2022, Garcia shut down Casa del Refugiado, one of Annunciation House’s satellite shelters, which had a capacity of more than a thousand beds—at the time, one of the largest shelters on the southern border.

The situation put El Paso, a city that has traditionally welcomed immigrants, in a bind. Declaring a state of emergency because of the migrant crossings would unlock state and federal funds, but some local lawmakers feared that doing so would accord with Governor Greg Abbott’s rhetoric about a migrant “invasion” at the border. The city did eventually issue a disaster declaration, and opened shelters of its own, but the money came with strings attached. “When the City of El Paso declared a disaster,” the El Paso County judge Ricardo Samaniego testified before

the House Judiciary Committee, last February, “we did not get the resources that we needed but instead saw the state send Texas National Guard, the placement of concertina wire lined haphazardly in certain areas, and pseudo barriers of tanks and cargo containers.” “With the disaster declaration, you get the money. And you get the razor wire,” Garcia said.

Abbott’s busing program, in which chartered buses take migrants to cities elsewhere in the country, has also helped relieve the pressure on El Paso. Abbott was criticized for using migrants as pawns in order to make a political point. But Garcia pointed out that busing migrants away from border cities also helped make their plight visible to more people: “So, one-fourth of the population of Venezuela—probably six million people—has left Venezuela. But those six million people aren’t here. They’re in Colombia, they’re in Ecuador. Those countries have absorbed many, many more people than have come here. But our reaction—the richest country in the world!—has been that we’re overwhelmed. As long as the Venezuelans are overwhelming Colombia, we don’t give a shit. We don’t raise a finger. We only pretend to be concerned when they start showing up here.” Many Americans seemed to think of migrants as someone else’s problem; what if, instead, we considered them our collective responsibility? “All of us have skin in this game,” he said. But, as rhetoric around migration grows more heated, the humanitarian work done by organizations like Annunciation House becomes more fraught. An anti-immigrant activist recently filmed volunteers aiding migrants in Arizona, accusing them of “aiding and abetting the cartels.”

Later in the afternoon, Garcia visited a former church building that Annunciation House was converting into a shelter. He planned to name it Casa Rita Steinhagen, in honor of a Minnesota nun and peace activist who served time in prison for protesting the School of the Americas, a U.S. Army training program for Latin American military officers. The shelter will use FEMA money as part of its operating budget, only the second time Garcia has accepted government funding. (It will remain separate from the rest of Annunciation House’s operations.) The

church's sanctuary was already cluttered with cots and stacks of boxes containing blankets from the Red Cross. "You've got enough blankets, at least," Garcia told a volunteer. She eyed the boxes appraisingly. "Just enough, probably," she said.

As we headed back to Casa Papa Francisco, Garcia checked his phone—another text from Border Patrol, then a call from a volunteer trying to sort out the disrupted bus schedules. Amid the constant work of coordination, Garcia began to muse on his eventual retirement. He's decided that, when the time comes, he'll step back all the way; he doesn't want to become one of those people who hovers over what he's built, unable to leave it behind. "Maybe *then* I'll become a hippie," he said. ♦

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EXHIBIT 3

IN SEARCH OF REFUGE: MEXICAN REFUGEES AND ASYLUM SEEKERS TO THE U.S.
FROM 1980 TO THE PRESENT

by

TAYLOR KRISTINE LEVY, B.A.

THESIS

Presented to the Faculty of the Graduate School of
The University of Texas at El Paso
in Partial Fulfillment
of the Requirements
for the Degree of

MASTER OF ARTS

Department of Sociology and Anthropology
THE UNIVERSITY OF TEXAS AT EL PASO
MAY 2014

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Abstract

An estimated 130,000 Mexicans have been murdered since 2006, with another 27,000 having been officially “disappeared;” approximately 2-3% of the adult Mexican population has been forced to leave their homes due to this violence, many of whom have entered the United States seeking refuge (Molloy, 2013; Olivares, 2012). These refugees have emigrated using a variety of both authorized and unauthorized channels, with a significant (and increasing) number applying for political asylum in the United States (Lyst, 2013). This thesis seeks to provide a historic background and comprehensive analysis of the identity and struggles of the four types of modern Mexican refugees. The U.S. government has a moral and legal obligation to provide refuge to the thousands of Mexicans who have been persecuted and displaced since the beginning of the hyperviolence in 2006. Ultimately, I argue that political bias has caused Mexican asylum seekers to be treated unfairly by the U.S. government despite moral and legal *nonrefoulement* obligations to protect asylum-seeking migrants from persecution, torture, and death in their countries of origin. My research seeks to address this bias and give voice to the experiences and struggles of the modern Mexican refugee.

Table of Contents

Acknowledgements.....	v
Abstract.....	vi
Table of Contents.....	vii
List of Tables.....	ix
List of Figures.....	x
Chapter 1.....	1
Mexican Refugee Typology.....	3
Paper Outline.....	5
Chapter 2: Literature Review.....	7
Adversity Experienced by Refugees.....	7
Refugee Resilience.....	8
Violence in Mexico.....	11
Contemporary Mexican Refugees.....	16
Chapter 3: Methodology.....	24
Participant Observation.....	24
Primary Sources.....	26
Interviews and Personal Communication.....	26
Chapter 4: Refugee and Asylum Overview.....	30
Historical Creation of the Contemporary Refugee and Asylum system.....	30
Contemporary U.S. Asylum Bureaucracy.....	34
Problems with the U.S. Asylum Bureaucracy.....	37
Disparities in Asylum Adjudication.....	43
Bias against Mexican Asylum Applicants.....	47
Possible explanations for low Mexican asylum grant rates.....	52
Chapter 5: Mexican Refugees and Asylum Seekers Prior to 2006.....	57
Mexicans Seeking Refuge in the U.S. before 1980.....	57
Selected Case Studies: 1980s.....	62
Selected Case Studies: 1990s.....	68
Selected Case Studies: 2000-2006.....	70

Conclusion	73
Chapter 6: Contemporary Mexican Asylum Seekers.....	74
Domestic Violence.....	74
Sexual Orientation and Gender Identity	76
Journalists	77
Activists	89
Police Officers	98
Business Owners.....	105
Others.....	111
Advocacy on behalf of Contemporary Mexican Asylum Seekers.....	122
Conclusion	129
Chapter 7: Contemporary Non-Asylum Seeking Mexican Refugees	131
U.S. Citizens and Immediate Relatives.....	132
Refugees with Valid Non-Immigrant Authorization	146
Refugees without Authorization	156
Conclusion	176
Chapter 8: Conclusion.....	177
Research Limitations and Future Directions.....	177
Conclusions and Policy Change Recommendations.....	179
References.....	182
Appendix A: Informed Consent.....	210
Appendix B: Interview Guide.....	213
Appendix C: Petition for Protection	214
Appendix D: Annunciation House Statement from August 13, 2013	217
Vita.....	220

List of Tables

Table 1: Immigration Court Asylum Statistics FY2009-FY2013: All Countries Combined	50
Table 2: Top Ten Nationalities Granted Asylum by Immigration Courts FY2009-FY2013	50
Table 3: Immigration Court Asylum Statistics FY2009-FY2013: Mexico	51
Table 4: Immigration Court Asylum Statistics FY2009-FY2013: China	51
Table 5: Immigration Court Asylum Statistics FY2009-FY2013: Colombia	51
Table 6: Individuals Granted Asylum Affirmatively FY2009-FY2012	51
Table 7: B1/B2 Border Crossing Card Parameters	158

List of Figures

Figure 1: Immediate Relative Visas Issued by the U.S. Department of State to Mexicans FY2005-FY2013	142
Figure 2: F-1 & M-1 Visas Issued by the U.S. Department of State to Mexicans FY2005-2012	148
Figure 3: E-1, E-2, and L-1 Visas Issued by the U.S. Department of State to Mexicans FY 2005-2012	153
Figure 4: Border Crossing Cards and Border Crossing Visas Issued by the U.S. Department of State to Mexicans FY2005-2013	159

Chapter 1

President Felipe Calderón's declaration of a "War on Drugs" in 2006 sparked the beginning of a period of extreme violence in Mexico which subsequently led to the massive internal displacement and emigration of hundreds of Mexican citizens fleeing violence in their home communities (Molloy, 2013). Academics from the *Universidad Iberoamericana* in Mexico City estimated that between 2010-2011, approximately 2-3% of the adult Mexican population has been forced to leave their homes due to violence, many of whom have entered the United States seeking refuge (Olivares, 2012). The year 2006 therefore marks the beginning of a new era of violence-driven Mexican refugee migration, the likes of which have not been seen since the Mexican Revolution of 1910 (Cardenas, 2013). These individuals, therefore, are also contemporary Mexican refugees because the primary impetuses behind their decisions to migrate were *violence and persecution*, not economics, family reunification, or adventure as has been generally observed in prior Mexican immigration flows (Gamio & Burma 1971; Durand, Massey, & Zenteno 2001; Massey, Durand & Malone 2003; Zúñiga & Hernández-León 2006).

Unfortunately, the Mexican migration literature is lacking in terms of rigorously investigating the linkage between violence and emigration (Alvarado & Massey 2010; Morales et al. 2013). One exception is the research of Alvarado and Massey (2010), who found that violence in Mexico actually has "a significant negative effect on the likelihood of out-migration to the United States, acting to deter rather than instigate movement north of the border" (p.9). The authors postulate that violence may serve as a deterrent for migration for low-income families who face increased travel risks, while encouraging migration among higher-income individuals who possess a greater degree of the economic and "transnational capital" needed for successful migration (Morales et al. 2013, p.95). However, Alvarado and Massey (2010) only looked at homicide rates,

failing to include other indices of rampant violence in Mexico such as kidnappings, car-jackings, assaults, and extortion (all potential push-factors for emigration).

Rios (2012), on the other hand, argues that Mexican hyperviolence has led to increased emigration. He estimates that 264,693 Mexicans have migrated to the U.S. in “direct response to drug-related homicides” and extortion (p.4). Conversely, Escobar Latapí, Lowell, & Martin (2013) recently found that violence in Mexico is negatively correlated to emigration, once again only taking into account homicide rates. However, they did observe that violence-driven emigration is more common in the US-Mexico border region due to the close proximity of a feasible escape route; persecuted individuals living in the interior regions of Mexico are likely deterred by the dangers associated with northbound migration (Escobar Latapí, Lowell, & Martin, 2013). Thus the migration effects of violence are not felt equally across all segments of the population.

Therefore, Mexican refugee migration is understandably more prevalent in some regions than others, especially given the fact that the violence has not been distributed evenly throughout the country (though few could argue that there is anywhere left in Mexico that could be characterized as a safe haven, as even Mexico City has begun to experience higher rates of cartel-linked violence and extortion in recent years). For example, in notoriously-violent Ciudad Juárez (estimated to have population of 1.3 million inhabitants at the start of 2008), a significant number of people have fled the city and surrounding areas since the period of hyperviolence began in that region. The highest estimates (developed by academics at the Ciudad Juárez Autonomous University) conclude that “approximately 250,000 people fled Juárez from 2008 to 2010” with approximately 124,000 of those people immigrating to El Paso, Texas (Cardenas, 2013, p.223). Lower estimates, however, put the number of Mexicans having fled to El Paso due to the violence at 30,000 (according to Police Chief Greg Allen in 2010) or even 10,000 (according to the Mayor,

John Cook). Likewise, analysis of public school enrollment figures from 2010-2011 indicate only moderate increases (Cardenas, 2013). However, this metric is likely artificially-low considering that students frequently attend school in El Paso while actually living in Ciudad Juárez; therefore if the families of these children chose to move to El Paso, their migration would not be reflected statistically in terms of increased school enrollment (Ibid.). The disparities between these estimates illustrates the common frustration at the difficulty involved with trying to obtain accurate estimates of this population, especially considering that many of these migrants have safety incentives to stay in the shadows.

Mexican Refugee Typology

Like Cardenas (2013), Morales, Morales, Menchaca, and Sebastian (2013) also provide a fascinating analysis of the various types of individuals who have migrated to the U.S. after having experienced violence in Ciudad Juárez, Mexico. The authors conducted “63 in-depth interviews with Juárez-El Paso border residents,” and constructed a three-part “typology of international migrants who are represented in the Juárez exodus: the Mexican business elite, the ‘Refugees without Status,’ and those who resided in Mexico but who are U.S. born or have legal permanent residency in the U.S.” (Morales et al., 2013, p.80). The first group—the business elite—did leave Mexico due to the violence in Ciudad Juárez, but their exodus was hugely aided by their socioeconomic ability to secure costly “U.S. business investor visas” (Morales et al. 2013, p.87).

The second group—“Refugees without Status”—consists of migrants who entered the U.S. fleeing violence, but who were unable to obtain political asylum and are therefore residing in the U.S. without the proper immigration documentation. The final group—U.S. citizens and legal permanent residents—consists of individuals who were living in Ciudad Juárez despite having the

ability to reside in the U.S. with legal status, but who then decided to leave Mexico because of the violence. Using this typology as an analytical framework, Morales et al. (2013) identify the various similarities and differences among the three groups in relation to their experiences of violence-based migration. The authors conclude that the “migration stream mostly represents the upper and middle-class residents of Juárez,” since even the “Refugees without Status” group possessed “transnational capital” in the form of student or visitor visas that enabled them to cross the international border without seeking political asylum (Morales et al. 2013, p.95-96).

Inspired by the work of Morales et al. (2013), I have developed a similar, four-part typology of victims of violence in Mexico who have subsequently migrated to the U.S. seeking refuge. Shifting the focus somewhat away from socioeconomic status, my typology centers instead around the migrants’ immigration status, though the two characteristics are often inextricably linked. I have chosen to employ a legal framework of analysis because an individual’s status within the eyes of the U.S. immigration bureaucracy has a substantial impact on their ability to survive and thrive in this country. Legality, documentation, authorization, “papers”—whatever one chooses to call it, people on the correct side of these bureaucratic delineations are blessed with varied set of rights and privileges labeled by Payan (2012) as economic, political and legal “enfranchisement.” Building on this framework, I use the following five categories to identify the various types of modern Mexican refugees:

1. *Asylum Seekers*: Mexican nationals who are currently in the process of seeking political asylum in the U.S.; and Mexican nationals who have successfully obtained political asylum in the U.S. and are thereby eligible to become Legal Permanent Residents and, subsequently, U.S. citizens;
2. *U.S. Citizens and Immediate Relatives*: individuals with U.S. citizenship who were living in Mexico until deciding to migrate to the U.S. due to violence in their home communities; and individuals who decided to apply for legal permanent residency through their immediate relatives in response to violence in their home communities.

3. *Refugees with Non-Immigrant Authorization*: Mexican nationals who migrated to the U.S. due to violence in their home communities who are *not* currently seeking political asylum, but who do possess various forms of non-immigrant authorization including valid student visas (F1), and business/investor visas (E1/E2);
4. *Refugees without Authorization*: Mexican nationals who migrated to the U.S. due to violence in their home communities who are *not* currently seeking political asylum, and who do not have valid immigration authorization.

There is a wide degree of heterogeneity among and within each category, in terms of background, history, and socioeconomic standing. Moreover, the categories are not bound, and a great deal of movement between them is to be expected. However, this status-based typology provides an ideal framework within which to analyze the varied experiences of the contemporary Mexican refugee.

Paper Outline

This thesis seeks to provide a historic background and comprehensive analysis of the identity and struggles of the four types of modern Mexican refugees. The U.S. government has a moral and legal obligation to provide refuge to the thousands of Mexicans who have been persecuted and displaced since the beginning of the hyperviolence in 2006. Ultimately, I argue that political bias has caused Mexican asylum seekers to be treated unfairly by the U.S. government despite moral and legal *nonrefoulement* obligations to protect asylum-seeking migrants from persecution, torture, and death in their countries of origin. My research seeks to address this bias and give voice to the experiences and struggles of the modern Mexican refugee.

Chapter 1 introduces the concept of the modern Mexican refugee. Chapter 2 is made up of a four-part literature review: first, I briefly survey existing literature pertaining to general refugee experiences looking at both adversity and resilience; next, I provide an overview of the period of Mexican hyperviolence that began in 2006; and, finally, I review various scholarly articles that

have been published concerning contemporary Mexican refugees. In Chapter 3 I discuss my personal background and research methodology. Chapter 4 consists of a general refugee and asylum-law overview, focusing specifically on the history, development, and flaws of the current U.S. asylum bureaucracy, especially in relation to Mexican nationals. In Chapter 5 I discuss Mexican refugees from a historic perspective from the 1980 Refugee Act to the current era. Chapter 6 includes the stories and experiences of select Mexican asylees and asylum seekers, including both well-publicized and anonymous cases. Similarly, Chapter 7 tells stories of these Mexican refugees who fled violence without formally applying for political asylum from the U.S. government. Finally, Chapter 9 concludes with a discussion of the limitations of my study, ideas for what future researchers should explore, and policy change recommendations.

Chapter 2: Literature Review

Adversity Experienced by Refugees

Prior to having decided to emigrate, refugees, by definition, have been subjected to extreme trauma and persecution in their countries of origin, and these experiences have significant psychosocial repercussions. As stated by Lusk, McCallister, and Villalobos (2013): “The psychosocial effects of war and armed conflict are well documented and known to contribute to human suffering, poor mental health, diminished quality of life, increased burden of disease, and chronic disability” (p.4). Refugees are also likely to experience additional stress and trauma during the migration process, such as “lack of shelter, food, and water; exploitation, physical abuse, including rape; extortion; and police harassment” (Ibid.). All of these experiences lead to heightened risk of PTSD, anxiety, and depression among refugee populations (Ibid.). High rates of one or more of these psychological conditions have been observed among Sudanese refugees (Schweitzer, Greenslade, & Kagee, 2007); Tamil asylum seekers and refugees (Steel, Silove, Bird, McGorry & Mohan, 1999); asylum seekers and refugees from Chechnya, Afghanistan, and West Africa (Renner & Salem, 2009; Riolli, Savicki, & Capani, 2002); Kosovar refugees living in Albania; unaccompanied asylum seeking adolescents in the UK (Hodes, Jagdev, Chandra, & Cunniff, 2008); Guatemalan refugees living in Mexico (Sabin, Cardozo, Nackerud, Kaiser, & Varese, 2003); Bosnian refugees living in Croatia (Mollica et al., 1999); and Latino immigrants in the U.S. who had experienced political violence (Fortuna, Porche, & Alegria, 2008 and Eisenman, Gelberg, Liu, & Shapiro, 2003).

Refugees, as immigrants to a new country, also face a great deal of post-migration adversity, including “detainment, discrimination, unemployment and poverty, homelessness, separation from family, social isolation, and possible deportation” (Lusk et al., 2013). Migration

in and of itself is a certain kind of prolonged stressor (Grinberg & Grinberg, 1989); because an immigrant feels the ongoing stress of “prolonged separation from one’s place of origin and loved ones” (Castañeda & Buck, 2011, p.88). Migration can also lead to a loss of one’s sense of identity (Akhtar, 1995). Additionally, economic and employment concerns for many newly-arrived immigrants are particularly salient sources of stress (Parra-Cardona, Bullock, Imig, Villarruel, & Gold, 2006; Wong & Song, 2008; Tutu, 2012; Sellers Campbell, 2008; Graham & Thurston, 2005). Finally, asylum seekers to the U.S. are frequently held in prison-like immigration detention centers, despite findings that post-migration detention among asylum seekers has a significant effect on “worsened mental health status” (Kerwin, 2012; Schoenholtz, 2004; Ichikawa, Nakahara, & Wakai, 2006, p. 344). All of these post-migration stressors further aggravate psychological conditions such as depression, anxiety, and PTSD among refugees (Ibid; Eisenman, Gelberg, Liu, & Shapiro, 2003; Lie, 2002; Marshall, Schell, Elliott, Berthold, & Chun, 2005; Eisenman et al., 2003; Miller et al., 2002).

Refugee Resilience

Research related to resilience—most often seen in the fields of psychology and social work—seeks to understand the ways in which individuals, families, and social groups are able to respond effectively to trauma and hardship. Most early research on this topic focused on childhood resilience (Garmezy, 1974; Werner, Bierman, & French, 1971), paying particular attention to individual personality traits held by “resilient” children (Masten & Garmezy, 1985). According to Luthar, Suniya, Cicchetti & Becker (2000), “Resilience refers to a *dynamic process encompassing positive adaptation within the context of significant adversity*” (543; emphasis theirs). Recent resilience literature has expanded to also address adults and can be loosely divided into three main

areas: “internal personal strengths,” “interpersonal resources and skills,” and “external supports” (Killian, 2004, p. 45-47). This model offers a more comprehensive view of resiliency that takes into account various factors and the ways in which they interact and contribute to positive outcomes. Resiliency thereby consists of multiple areas of positive adaptation including physical and psychological health, financial stability, and overall well-being following adversity. According to Cardoso and Thompson (2010), an “individual is considered resilient if he or she meets the cultural and societal expectations for adaptation and if this status was achieved in the presence of perverse adversity” (p.257).

In recent years resiliency has been used to examine the ways in which migrants and refugees are able to positively adapt to their new situations following trauma, such as witnessing/experiencing violence, and/or migration. These studies focus primarily on psychological resiliency in terms of mental health status—defined by rates of depression and PTSD—following trauma and/or migration. All have demonstrated that resiliency among this population is strongly affected by individual personality traits, familial support, and/or external support structures. However, it is important to also note that several researchers found that psychological symptoms were also significantly impacted by factors related to social and economic capital including acculturation, education, language-acquisition, and socioeconomic status (Guinn, Vincent, & Dugas, 2009; Graham & Thurston, 2005; Sellers Campbell, 2008; Tutu, 2012; Wong & Song, 2008; Parra-Cardona et al., 2006).

A significant portion of the existing literature addressing psychological resiliency among migrants and refugees focuses on the protective role of individual personality traits. For example, Riolli et al. (2002) demonstrate the positive effect various personality traits have on resiliency among Kosovar refugees and Albanian immigrants, including “optimism, extraversion, openness

to experience, conscientiousness, and control coping” (p.1604). Bromand et al. (2012) found that extraversion and self-efficacy had a strong protective effect on mental health resiliency among Turkish migrant women living in Germany. Aroian and Norris (2000) found that resiliency, defined as personality traits and coping resources, had a strong negative effect on depression among recent Russian immigrants to Israel. Graham and Thurston (2005) identified the strong resiliency effect of hope and optimism among recent immigrant women in Calgary, Alberta. Similarly, Sellers Campbell (2008) found that “inner strength” was the most important resiliency factor among unauthorized Mexican women in South Carolina (p.239). Religiosity and spirituality have also all been shown to have a significant effect on resilience among migrant and refugee populations (Schweitzer, Greenslade, & Kagee, 2007; Hull, Kilbourne, Reece & Husaini, 2008; Thompson & Gurney, 2003). Finally, several scholars have found that unique cultural traits, rituals, and belief systems among Latino immigrants serve as protective resiliency factors in the face of adversity (Trueba, 2002; Castro et al., 2007; Chapman & Perreira, 2005; Parra-Cardona et al., 2006; Perreira & Chapman, 2006).

In addition to the role of individual personality traits, much of the literature related to psychological resiliency also discusses the role of familial support—both material and emotional—as a protective factor for migrants and refugees. In a study comparing unaccompanied minors seeking asylum and children to their accompanied peers, the latter group was found to have much lower instances of posttraumatic stress symptoms and depressive symptoms, a finding primarily attributed to the protective role of familial support in reducing the negative effects of war-related trauma and migration strain (Hodes et al., 2008). Parra-Cardona et al. (2006) found extended family support to be a major protective factor for low-income Mexican-origin migrants in Michigan. Additionally, marriage, and the resulting familial/spousal support was found to

positively correlate to stress resilience among Mexican American women living in the lower Rio Grande valley of Texas (Guinn et al., 2009). Likewise, while less statistically significant than economic/material factors, marital status was found to positively correlate to mental health among male Chinese migrant workers (Wong & Song, 2008). Similarly, Tutu (2012) found that having a boyfriend/girlfriend was the most important form of social capital operating as a resiliency factor for slum-dwelling migrant youths in northern Ghana.

Finally, several scholars have also demonstrated the ways in which non-familial external supports, such as community-based social networks, impact resiliency following experiences of trauma and/or migration. Involvement with neighborhood associations, church membership, peer groups, and schools has all been shown to have a positive effect on psychological health among Latino immigrant populations (Hull et al., 2008; Thompson & Gurney, 2003). Community support has been shown to be extremely helpful for recent Latino immigrants who are charged with “navigating new social systems (e.g. health care, school, and employment), cultural differences, and language barriers” (Cardoso & Thompson, 2010, p.261; Perreira et al., 2006). Developing strong support networks through “church groups, immigrant service organizations, ethno-cultural groups, and friends who lived nearby” proved to be the most effective strategy for coping with adversity among recent Latino immigrant women respondents in Calgary, Alberta (Graham & Thurston, 2005, p.74).

Violence in Mexico

The goal of this section is not to deliver a comprehensive analysis of violence in Mexico, but to provide a brief context with which to contextualize trauma experienced by contemporary Mexican refugees fleeing violence in their home communities. Other scholars, and many

journalists, have written extensively about contemporary violence in Mexico (e.g. Ainslie, 2013; Bowden, 2010; Bowden & Molloy, 2012; Campbell, 2009; Carpenter, 2013; Corchado, 2013; Estévez, 2012; Flores Perez, 2012; Grillo, 2011a; Hernandez, 2013; Lopez & Juárez, 2013; Molloy, 2013; Valenzuela, 2008).

In December 2006, Felipe Calderón assumed the Mexican presidency after promising throughout his campaign to fight a “War on Drugs.” Almost immediately, Calderón “deployed the Mexican army into the streets and countryside,” beginning a period of militarization and “hyperviolence” that has continued unabated to this day (Molloy, 2013). An estimated 130,000 Mexicans have been murdered during this time period, with another 27,000 having been officially “disappeared;” most of the disappeared are presumed dead, but their bodies have yet to be found or identified (Ibid.). Throughout Calderón’s presidency, the murder rate averaged 56 people per day, a figure that has mostly continued since the inauguration of Calderón’s successor, Enrique Peña Nieto, in December of 2012 (Ibid.). In Ciudad Juárez alone, which can be considered the “epicenter of violence” in Mexico from 2008-2011, more than 11,400 have been murdered since 2007, with an average daily murder rate that topped out at 12 homicides per day (Ibid.). These homicides rates have included victims of drive-by shootings, beheadings, bombings, deadly beatings, dismemberments, attacks on rehabilitation centers and large-scale massacres (Ibid.). Some scholars and journalists have revealed that there is also evidence of “social cleansing aimed at those deemed worthless to society” in which paramilitary-style groups commit killings-for-hire on behalf of “organized crime, private businesses, and the state” (Molloy, 2013; Alvarado, 2010; Carrasco Araizaga, 2013; “La Limpieza Social,” 2013). Mass graves are uncovered frequently, often holding hundreds of bodies in varying states of decay (Molloy, 2013).

Though the Mexican government consistently claims that 90 percent of the homicide victims were members of organized crime, they are unable to provide any hard evidence to support these assertions, especially considering widespread impunity; the vast majority of murders in Mexico are neither investigated nor solved (Molloy, 2013). In Ciudad Juárez, for example, the impunity rate for homicides is estimated to top 97 percent (Ibid). In 2010, the Mexican government even admitted that, on a national level, “fewer than five percent of the crimes were ever investigated” (Molloy, 2013). Amnesty International’s (2013) most recent Annual Report for Mexico states that “the criminal justice system remained gravely flawed with 98% of all crimes going unpunished.” Likewise, most murder victims are found dead without any weapons near their bodies (e.g., 98% of homicide victims in Ciudad Juárez from January 2010-July 2011), yet another fact that calls into question the assertion that they are all violent criminals (Molloy, 2013). According to Molloy (2013), a New Mexico State University Research Librarian who has been recording and investigating this topic since 2008, most of the people who have been murdered in Mexico since 2006 are “civilian:” (Ibid.):

...considering what we know, it appears that in this war, the overwhelming majority of the deaths are people shot down on the street, in their homes or workplaces, on playgrounds, etc. In my reading of the daily accounts of the killings, it is clear that most of the victims are ordinary people, exhibiting nothing to indicate they are employed in the lucrative drug business.

Finally, it is reasonable to argue that even homicide victims who *were* involved with criminal activity do not deserve to be murdered with impunity.

In addition to homicides, generalized insecurity and impunity have caused petty crime to skyrocket; kidnappings, rapes, armed robberies, extortions of individuals and businesses, and violent car-jackings have become the norm in many parts of the country (Campbell, 2009). Extortions, in particular, have become a particularly serious problem in Mexico, with both private

individuals and business owners being forced to pay large sums to organized crime in the form of weekly or monthly *cuotas* (Cawley, 2013). Across the country, filed reports of extortion are at a record high and have grown by 170 percent between May 2013 (737 reports filed) and May of 2006 (272 reports filed), the year that President Felipe Calderón took office (Ibid.). These numbers likely only represent a fraction of the total instances of extortion, considering that many victims are unwilling to report this crime due to general fear and distrust that government officials will be able or willing to provide protection from criminal threats; one study has estimated that only 15% of such crimes are reported officially (Cullinan, 2011). In Ciudad Juárez, “an estimated 80 percent of food vendors are regularly extorted for amounts ranging from \$50 to \$500” (Ibid.). Failure to pay extortionists is often met with extreme violence, including beatings, arson, kidnappings, and murder; due to these threats, many businesses unable or unwilling to pay the *cuota* have instead chosen to shut their doors (“Negocios cierran por extorsion del narco,” 2010).

Throughout this time period, scores of Mexican journalists have been threatened, kidnapped, tortured, disappeared, and murdered by members of organized criminal organizations (and their governmental allies) who are opposed to the publication of certain stories. According to Mexico’s National Human Rights Commission (Comission Nacional de Derechos Humanos), 82 Mexican journalists had been murdered as of July 2012 (Olsen, 2013). Most of these murders remain unsolved. According to Olsen (2013), “as 2012 ended, no major border newspaper had been left untouched on the Mexican side by killings, threats, or kidnappings” including several instances of their buildings being bombed (p.245). Because of these occurrences, some Mexican media outlets throughout the country have even decided to cease all crime reporting, in order to protect the lives of their journalists (Ibid.). Dozens of other journalists have since left Mexico, fleeing for their lives and seeking protection in the U.S., Canada, and elsewhere.

The Mexican government clearly fails to provide sufficient protection for its population. Some portray President Calderón as a “heroic but tragic figure...who courageously challenged Mexico’s drug cartels” (Molloy, 2013). High rates of violence are attributed to mismanagement, the relative strength of the cartels, warring between the different factions, and the difficult nature of the “War on Drugs.” According to some, the “Mexican government is arguably unable to protect individuals from drug-related violence by drug-trafficking organizations” (Buchanan, 2010, p.42). For example, the U.S. Department of Defense estimated in 2009 that Mexican cartels employed approximately “100,000 foot soldiers,” a figure “on a par with Mexico’s army of about 130,000” (Carter, 2009). As part of Plan Merida, the U.S. government has supplied millions of dollars in military equipment and training to the Mexican government to strengthen their ability to fight the “War on Drugs” (Carpenter, 2013; Molloy, 2013).

However, many scholars have determined that the Mexican government is integrally involved with the violence occurring in the country, with widespread instances of corruption affecting every level of government (Blake, 2012; Buchanan, 2010; Harville, 2012; Lyst, 2013; Molloy, 2013). According to one estimate, drug trafficking organizations “wield more influence behind the scene than the authorities” in 8% of Mexican counties (Luhnow & Cordoba, 2009). Corrupt governmental officials are both complicit and active participants in criminal operations, including drug-trafficking, extortions, kidnappings, and murders; such corruption is so widespread that, many times, persecuted individuals do not feel safe reporting instances of crime to the authorities (Buchanan, 2010). Municipal police officers are highly corruptible, due to both low police salaries and fear of reprisal for non-compliance with criminal demands; it has been argued by some that the “nature of local police officers has converted many municipal police forces into little more than armed wings of the particular drug trafficking organization controlling smuggling

in the area” (Harville, 2012, p.5). Corruption similarly plagues the armed forces and the federal police force, with arrests for collusion with organized crime entities commonplace (Ibid.; Molloy & Bowden, 2011). Private international organizations have reported widespread human rights violations perpetrated by members of the Mexican police and military including “arbitrary detentions, torture, enforced disappearances and extrajudicial killings” (Amnesty International, 2013; Human Rights Watch, 2011). Likewise, the U.S. Department of State *Country Reports on Human Rights Practices for 2012: Mexico* concurs, identifying frequent instances of “human rights-related problems...widespread impunity and corruption...in the security forces, and in the judicial sector” (p.1).

Contemporary Mexican Refugees

While a number of journalists have examined the case of contemporary Mexican refugees, (Casey, 2011; Martinez, Alvarado, & Chavez, 2011; Giovine, 2011; Aguilar, 2011b; Camargo, 2011; Green Sterling, 2011; del Bosque, 2012a; Katel, 2012; Bowden & Molloy, 2012; Spagat & Stevenson, 2013; Hastings, 2013; Matalone, 2013; Dinan, 2013; Cave, 2013; Truax, 2013), there have been fewer studies of this issue published in academic journals or scholarly books. This is understandable considering that the current period of Mexican *hyperviolence*—and subsequent refugee emigration flows—only began in 2006 and did not reach peak levels until 2010; given the typical time-lag of academic research and publishing, it makes sense that only a limited number of scholarly articles have been published on this topic. However, within the past two years (2012-2013), the body of literature has been growing at an increasingly-fast pace, a trend that can be expected to continue given the popularity of the topic among researchers.

Several of the scholarly articles that have been published concerning modern Mexican refugees can be found in Law Journals and University Law Reviews. In one of the earliest publications available on this topic, Buchanan (2010) summarizes international and U.S. asylum law and then provides a detailed legal analysis of the “potential viability of claims for refugee status brought by Mexican asylum seekers fleeing drug-related violence” (p.28). Ultimately, Buchanan (2010) identifies several “possibly insurmountable obstacle[s]” facing these claimants, though she is more optimistic in relation to specific Mexican asylum seekers such as “journalists and police officers” since they can be classified within the social group category of asylum law (p.59). Similarly, Garcia (2011) puts forth a strong argument for why former Mexican police officers who refused to cooperate with cartel demands should be considered a particular social group for the purposes of political asylum. Likewise, Mann (2012) provides a detailed legal argument in favor of persecuted Mexican journalists receiving political asylum in the U.S. as members of a particular social group. To illustrate her argument, Mann (2012) relies heavily on the case of Jorge Luis Aguirre, the publisher of the online news site *LaPolaka.com*, who, in September 2010, “became the first known journalist from Mexico to receive asylum in the United States” (p.150). Corona (2010-2011) concurs with these arguments, once again contending that there is the need for wider legal interpretations of the social group classification.

Balderini-Poterman (2011) offers a similar assessment in an immigration briefing regarding Mexican asylum seekers, discussing specifically the relevant case law surrounding Mexican asylum claims based on political opinion, family members of slain activists as a social group category, and the social group of “Americanized” returning migrants who are targeted in Mexico for kidnapping and extortion due to their supposed ties to wealthy relatives and friends in the U.S. The author seems somewhat pessimistic about the possibility of asylum grants for this

latter group, especially considering a 2010 Ninth Circuit Court ruling addressing “Mexican aliens returning home from the United States and held that it did not constitute a particular social group” due to it having been too broadly defined (p. 7). Balderini-Poterman (2001) seems more optimistic about Mexicans fleeing violence in their communities receiving protection in the U.S. under the Convention against Torture (CAT) and Withholding of Removal.

Unlike the scholars discussed above, Blake (2012) branches out from the social group category, instead extolling the “often overlooked” political opinion ground for asylum (p.36). Blake (2012) argues that refusal to join a gang or cooperate with drug cartel activities constitutes political opinion due to government corruption/complicity and should therefore be seen as grounds for asylum. Furthermore, while Blake (2012) recognizes that these arguments have previously been struck down by both the eighth and ninth circuit courts, she contends that legal representatives should continue to make these claims on behalf of their clients in the hopes that they may one day prove successful. Blake (2012) also argues in favor of a “humanitarian” and “human rights” based approach to U.S. asylum adjudication that more fairly adheres to international refugee law while capturing the original altruistic spirit in which these international agreements were drafted (p.41-42).

Harville (2012) provides the most detailed legal analysis of Mexican asylum adjudication, once again discussing the relative merits of both the “particular social group” and “political affiliation” grounds for asylum. Harville (2012) argues that the former should apply to several classes of professionals while the latter should work for “whistleblowers” who have spoken up against government corruption (p.9). The author then provides a lengthy analysis of another potential avenue for immigration relief by Mexican refugees, protection under the Convention against Torture (Harville, 2012). Harville (2012) also discusses why government attorneys are

incorrect if they try and make the claim that members of some professions—such as police officers or journalists—should be barred from asylum because they knew the potential risks of their profession when they chose to enter that field. He also provides several legal arguments against internal relocation (Harville, 2012). Finally, Harville (2012) contends that U.S. officials are not meeting their *refoulement* obligations under international law because they are unjustly denying asylum claims of Mexican nationals due to an irrational fear that such action will spark a “‘flood’ of Mexican refugees at our ports of entry” (p.18).

In addition to the articles published within the field of law, there have been several pieces related to modern Mexican refugees that have been published in the social sciences during the past few years (including Morales et al., 2013 and Cardenas, 2013, discussed above). Rexton Kan (2011) first wrote about this population in October of 2011, accurately labeling these migrants “*narco-refugees*” while simultaneously adopting a menacing tone by calling them a “looming challenge for U.S. national security.” Rexton Kan (2011) advocates “greater understanding and vigilance at all levels of U.S. government” in response to the threat that “allowing Mexicans to claim asylum could potentially open a floodgate of migrants to the United States” (p.vi). Likewise, Rexton Kan (2011) strongly cautions against the “spillover effects of cartel violence” despite offering only minimal evidence to back up his claim (p.8). All in all, Rexton Kan (2011) offers a good, broad analysis of cartel operations in Mexico and the impetus behind refugee migration, despite adopting an alarmist tone that is overly-paranoid concerning the prospect of Mexican violence “seep[ing]” into the United States (p.17).

In the introductory chapter of *Social Justice in the U.S.-Mexico Border Region*, Lusk, Staudt, and Moya (2012a) mention the plight of modern Mexican refugees seeking asylum in the U.S., referring specifically to the high-profile cases of exiled journalist Emilio Gutierrez and

human rights activist Gustavo de la Rosa Hickerson (p.18). The three scholars likewise address the topic again in the volume's concluding chapter when discussing social-justice oriented policy change recommendations (Lusk, Staudt, & Moya 2012b). Finally, a few other chapters in this compilation also discuss the huge influx of Mexican migrants fleeing violence in their home communities, including the chapters penned by Payan (2012) and Staudt (2012).

During that same year, Lusk and Villalobos (2012) also published an article in the *Journal of Borderlands Studies* that consists of the replication and analysis of a lengthy, verbatim *testimonio* [testimony] of Eva, a Mexican refugee living in El Paso. The article excels in its ability to enable the reader to hear Eva's voice directly as she tells her story in a manner that is both poignant and moving. The authors pull out five central themes from her testimony: "Life in the Shadows, Deportation Panic, Suffering, Human Rights, and Hope vs. Despair" (Lusk & Villalobos 2012, p.23). In their conclusion, Lusk and Villalobos (2012) take a hardline stance towards Mexico's ability to protect its citizens, stating:

Now, in the context of the US-Mexico Border, she [Eva] is articulating the struggle of a new type of refugee—one that is not escaping religious, political, or ethnic persecutions (and thus not eligible for asylum status), but one who is equally in danger of persecution and death by virtue of living in a failed state (p.24).

Though some make take exception with the notion of Mexico as a "failed state" (Garza, 2009; Krauze, 2009; Morton, 2012), Lusk and Villalobos (2012) do succeed in bringing to life a prime example of a contemporary Mexican refugee. Lusk, McCallister, and Villalobos (2013) later published additional, complementary research offering a qualitative analysis of in-depth interviews conducted with two dozen other contemporary Mexican refugees. Once again, they found the same common themes amongst their interviewees' responses as were attributed to Eva's testimony in their earlier publication. Additionally, the authors reported that all of their subjects had experienced Post Traumatic Stress Disorder and moderate to severe clinical depression.

Calderón Chelius and Gonzalez Cornejo (2012) also highlight the stories of several contemporary Mexican exiles living in El Paso, Texas, many of whom they met at an unnamed migrant shelter located near the international border. Their chapter is part of a larger compilation focusing on different aspects of contemporary Mexican migration. The authors place their focus primarily on the phenomenon of violence-driven migration and the role of the Mexican state in creating these contemporary refugees. They also touch on the emotional pain associated with living in fear and in exile, along with the parallel issue of internally displaced persons living within Mexico. Finally, Calderón Chelius and Gonzalez Cornejo discuss the process of seeking political asylum in the U.S. and the difficulties associated with gaining this coveted status.

Similarly, Lyst (2013) also investigates the experiences of modern Mexican refugees; however, he focuses less on their personal stories of trauma in Mexico and instead spotlights the various ways in which their human rights were violated when seeking asylum in the U.S. In the same manner of legal scholars discussed earlier, Lyst (2013) begins by summarizing the political/legal history and development of the modern U.S. asylum bureaucracy. He also provides statistical information illustrating low asylum grant rates for Mexican applicants, especially in comparison to asylum seekers coming from Colombia or China. Lyst (2013) then provides insights gathered while working with and interviewing a portion of the 154 Mexican asylum-seeking clients who were represented by the law offices of Carlos Spector from January 2008 to June 2012. He explains that the exiles he interviewed “told the same story over and over again;” regardless of their socioeconomic background, respondents reported that “militarization had intensified the violence and the severe violations of human rights among the population” (Lyst, 2013, p.95, translation mine). Upon arriving in the U.S., these refugees face the threat of prison-like detention, separation from their families, monitoring via ankle-bracelet, long court back-logs, and meager

economic opportunities despite educational credentials. Lyst (2013) ends with a summary of the various experiences of two high-profile Mexican asylum seeking families: the Reyes-Salazar family and the Escobedo family.

Estévez (2012; 2013) also addresses militarization and human rights in Mexico, offering a highly theoretical analysis of the hyperviolence and modern Mexican asylum seekers. In her first publication on the subject, Estévez (2012) uses theorists Agamben and Foucault to analyze Mexican asylum seekers in North America, specifically addressing the political symbolism surrounding these claims. Later, inspired by the Foucauldian notion of “biopolitics,” and its opposite, “necropolitics,” Estévez (2013) argues that organized crime and the Mexican government are so deeply entwined that they have formed a sort of political hybrid in which one is indistinguishable from the other (p.7). Estévez (2013) goes on to explain how this hybrid structure works against the interests of exiled Mexican asylum seekers who are bound by mainstream human rights and legal discourses that only allow for state-centric view of “*true*” persecution (p.12). Therefore, Mexican asylum seekers are at a severe disadvantage in the eyes of the law since it is often difficult to effectively prove the Mexican government’s involvement in or acquiescence to their persecution, a problem that is further compounded by Mexican federalism.

Like Lyst (2013) and Estévez (2013), Querales Mendoza (2013) offers a similar analysis of Mexican exile experiences in El Paso, Texas from 2008 to 2012. Querales Mendoza (2013) bases her analysis off extensive filed work conducted in the fall of 2012 and detailed interviews with several high-profile asylum seekers including Juan Fraye Escobedo, Saul Reyes Salazar, Jorge Luis Reyes Salazar, Alfredo Holguin, and Emilio Gutierrez. Her work attempts to bring to light the various stages of the Mexican exile experience, from violence experienced in Ciudad Juárez to crossing the U.S.-Mexico border to establishing oneself anew in the U.S.

Finally, a number of unpublished dissertations, theses, and articles waiting on review have also been written on the topic of the mental health of recent Mexican refugees. For example, Taylor's (2010) psychology dissertation entitled: *The Impact of Cartel Related Violence on Ongoing Traumatic Stress and Self-Medication in Young Adults Living along the U.S./México Border*. In his research, Taylor (2010) found that neither amount of time spent in Ciudad Juárez nor citizenship status positively correlated to rates of "trauma stress," indicating that migration alone to the relative safety of the U.S. does not automatically lead to improved mental health (p.68). Furthermore, Taylor (2010) also argues that this finding may be the result of "proxy stress" experienced by U.S.-residing respondents who are still worried about their loved ones who remain in Ciudad Juárez (Ibid). McCallister (2012) similarly investigated mental health among Mexican refugees in her Health Sciences dissertation. Using the theoretical framework of Risk and Resilience, McCallister (2012) concluded that her subjects "exhibited an incredible resilience" despite having experienced significant violence that preempted their decisions to migrate (p.1). Finally, O'Connor (2013) wrote an unpublished departmental paper for the University of Texas at El Paso's Department of Nursing based on mental health surveys filled out by 240 "border university students" and accompanying free-form narratives. O'Connor (2013) concludes that while the former measurement revealed "elevated symptomatology for post-traumatic stress, depression and anxiety," the latter indicate "a slightly different story, one of resilience" (Abstract).

Chapter 3: Methodology

Participant Observation

I have been heavily involved with the Mexican immigrant community of El Paso during the past several years. I moved to El Paso from Colorado in August 2009 to begin work as a full-time, live-in volunteer at Annunciation House, a migrant house of hospitality—I continued working at this organization full-time until June 2012, and have continued as a part-time volunteer ever since. Founded in 1978, Annunciation House (and its sister shelters) have provided housing and related services to over 100,000 migrants from all over the world. Annunciation House has always sought to direct its limited resources to those migrants who are most in need of assistance, meaning that most guests have been unauthorized immigrants and asylum seekers. Since the period of hyperviolence began in Ciudad Juárez and the surrounding areas, Annunciation House has given priority to Mexican migrants fleeing violence in their home communities. In the past few years, Annunciation House has provided hospitality to hundreds of individuals and family members who have fled to El Paso in fear for their lives, many of whom have decided to seek political asylum from the United States. Others—while still refugees for all intents and purposes—have chosen to seek new lives for themselves outside of the formal political asylum bureaucracy. These guests have included well-known human rights’ activists, survivors of high-profile massacres, former Ciudad Juárez police officers, small-business owners, and innumerable people who were simply caught at the wrong place at the wrong time—all, however, have had their lives irrevocably changed by the violence plaguing their city.

My time with Annunciation House enabled me to gain a unique understanding of the common issues facing violence-driven Mexican migrants, including post-traumatic stress, adjusting to a new cultural reality, and struggling to provide for oneself and one’s family. I worked

with several guests on their asylum applications and I am well-versed on immigration law and the various complexities associated with achieving this legal status. During the summer of 2013, I also volunteered as a legal intern at Las Americas Immigrant Advocacy Center, a legal aid organization for low-income individuals in immigration proceedings. In January 2014 I was hired by Las Americas as the Family Immigration Program Coordinator and have since been granted Full Accreditation in front of the Board of Immigration Appeals, meaning that I am accredited to practice immigration law in front of U.S. Citizenship and Immigration Services and the Executive Office of Immigration Review. These experiences have granted me even greater insight into the legal realities faced by unauthorized immigrants as well as those seeking political asylum.

This paper, therefore, has been influenced by my experiences working directly with my research population, migrants to El Paso who left after experiencing or witnessing violence in their home communities in Mexico. Though I rely most heavily on published materials and formal interviews, my research includes recollections of lived experiences known as participant observation. These observations are based on hundreds of hours spent providing case management, assisting with asylum applications, translating documents, socializing with guests, offering condolences, playing with children, attending press conferences, and organizing vigils, protests and other consciousness-raising events. Whenever I recount personal communications, it is clearly marked as such and identifying details have been changed in order to protect the privacy of my informants, unless they themselves have sought to widely publicize their stories. Furthermore, permission to share my observations has been obtained from both Annunciation House and Las Americas Immigrant Advocacy Center.

Primary Sources

Along with participant observations, I employ a wide variety of primary sources for this paper. For example, I utilize various government publications from the U.S. Department of State and the Department of Justice to clarify U.S. asylum policies and procedures. I likewise gathered extensive data from these agencies regarding by-country rates of asylum applications, withdrawals, approvals, and denials. While most of these data are available to the public online, some were obtained via a Freedom of Information Act request. Throughout the paper I also cite various conventions, agreements, laws, and court decisions. Finally, I also make use of several primary texts that pertain to activist Mexican asylum seekers in the United States. This includes copies of press releases, speech transcripts, and fliers given out at protests and other events.

In addition to all of these primary sources, I make extensive use of newspaper sources from both the United States and Mexico, having found most of these records through online databases and list-serves such as www.newspaperarchives.com, *Hemeroteca de Chihuahua* [Archive of the State of Chihuahua], Google News Archives, and the Frontera List. The use of these sources adds richness to the research, especially considering that so little has been published in academic journals on this topic; periodicals, however, have frequently featured stories about the lives and struggles of Mexicans driven by violence to migrate. Several journalists have written well-researched investigative pieces on this topic and their articles provide ample data for this paper, especially in regards to individual Mexican refugee stories.

Interviews and Personal Communication

Throughout this paper, I utilize personal interviews conducted by myself and by colleagues who agreed to share their interview transcripts. Sharing of quantitative data is standard in the social

sciences, and such collaboration can also be reasonably employed within a qualitative framework. While notable drawbacks do exist, such as the inability to ask follow-up or clarifying questions when not directly involved in the interview process, there are also some benefits. For one, it allows for the possibility of greater knowledge-gathering since researchers will naturally vary as to what follow-up questions they see as important. In this manner, one interviewer might ask a question that would have never entered another researcher's mind, thereby eliciting a wider breadth of participant responses. Furthermore, data sharing, especially across disciplines, ensures that interview participants' time is well utilized by ultimately contributing to multiple scholarly investigations. Finally, this process saves time and resources that can then be invested in other parts of the research, including in the gathering of additional interviews.

Pseudonyms (first name only) were used for all case studies in this thesis that are based on interview data, with the exception of María Salazar, who requested that I use her complete name. One set of case studies comes from a focus-group of four high school sophomores (Julia, Layla, Octavio, & Eli) conducted by an undergraduate sociology student (Julia Sosa) under the supervision of Ernesto Castañeda. Ms. Sosa was enrolled in Dr. Castañeda's undergraduate research methods course in the spring of 2012 and conducted the focus group as part of her coursework. The group consisted of her younger brother and three of his friends. The students were compensated with pizza during the interview process.

An additional case study (María) is based on a personal interview conducted by the author in the fall of 2012. The participant was found by word of mouth; the interviewee is a friend of one of the author's colleagues. The interview was conducted in Spanish in a private residence after the participant was notified verbally about voluntary consent and confidentiality. The interview took approximately one hour, and the participant received a thank you letter and a \$15 gift certificate

to a local grocery store as compensation. The audio of the interview was recorded and was later loosely transcribed and translated into English.

Gabriel's story is based on several interviews with him during the summer of 2013. The other two case studies—Rosa and María Salazar—were conducted in the spring of 2014. Snowball sampling techniques were used to recruit participants. Potential respondents were drawn from existing relationships and references from friends, community members, and staff members of local social service agencies. Participants were also asked to recommend other individuals to interview. Participation was strictly voluntary and there were no negative consequences or refusal of services to those who declined to participate. A total of five individuals declined to be interviewed after having previously agreed to participate; none gave any explanation for their decisions.

Informed consent was obtained prior to the beginnings of the interviews with Rosa and María Salazar (Appendix C). The interviewees were advised that they could quit the study at any time, refuse to answer any questions, or request that certain data not be published. The participants were able to choose where they wanted to be interviewed in order to ensure maximum participant comfort and confidentiality; this include offers of my campus office, Las Americas Immigrant Advocacy Center, participants' houses, or public venues such as coffee shops or restaurants. Care was taken to ensure that participants had complete decision-making power over interview location. Rosa chose to be interviewed in her home while María Salazar chose to be interviewed at her place of work.

I conducted oral, semi-structured interviews with participants using an interview guide that consisted of several open-ended questions. Follow-up questions were also asked. Participants were asked at the end of their interviews if there was any additional information that they wanted to

share. Interviews were conducted in Spanish according to participant preference. Both interviews were digitally audiotaped after permission was given explicitly. Participants' real names were not used during the audiotaped interviews. The interviews were transcribed verbatim, translated into English, coded and analyzed for common themes. Rosa was given pseudonyms in all research notes and transcriptions

Research for this paper was also gathered through various semi-structured interviews conducted with professionals who work with members of my target community, including attorneys and social service providers. I conducted formal interviews with Ruben Garcia, Executive Director of Annunciation House, and immigration attorney Carlos Spector in the spring of 2013. I conducted several informal interviews with other legal providers during the spring of 2014; these are cited as personal communication in the body of the thesis.

Finally, I have formed long-term personal relationships with several of the high-profile asylum seekers whose cases are profiled in Chapter 6. However, instead of conducting additional interviews with these individuals, I relied primarily on existing publications. This was based on the desire to reduce the burden on these asylum seekers who are frequently asked to share their stories. When necessary, I contacted them for follow-up information and cited it as personal communication in the text.

Chapter 4: Refugee and Asylum Overview

“When we think of borders as barriers to immigration, we picture the imaginary lines separating the United States from Canada and Mexico. Perhaps we think of physical signs such as fences or border patrol checkpoints. But, there are other borders that have a much greater impact in determining who we accept and who we keep out. Congress, by enacting substantive immigration law, defines our selective admission system. These laws erect legal borders that reflect the policy choices Congress has made about who may enter to work or to join family in the United States. But beyond this initial border, the agencies that implement the immigration laws have erected powerful process borders. These process borders, fostered by congressional neglect and strengthened by a lack of coordination among the agencies, distort substantive immigration policy. Far too often, the bureaucratic process borders control who immigrates”

--Lenni B. Benson, “Breaking Bureaucratic Borders: A Necessary Step toward Immigration Law Reform, 2002, 203.

Historical Creation of the Contemporary Refugee and Asylum system

The United States has a long history of providing (limited) refuge to immigrants fleeing violence and persecution in their countries of origin; in fact, one could argue that the past and current prosperity of the United States has been directly related to these immigrant flows. Modern political/legal notions of ‘refugee’ and ‘asylum,’ stem directly from the 1950 creation of the United Nations High Commissioner for Refugees (UNHCR) and the 1951 Convention Relating to the Status of Refugees (the Convention) (Mann, 2012). Originally intended to provide for the resettlement of individuals displaced during World War II, the Convention defined “refugee” and established the principle of *non-refoulement* in which member states were prohibited from returning migrants to countries in which their lives would be threatened on the basis of “race, religion, nationality, membership of a particular social group, or political opinion” (Ibid., p.156).

While refugee status was originally limited to people displaced prior to January 1st, 1951, the 1967 Protocol Relating to the Status of Refugees (the Protocol) expanded the definition to all displaced persons with a “well-founded fear of being persecuted” based on the previously-established protected classes (Helton, 1983, p.246). While signatories to the both the Convention

and the Protocol, refugee and asylum policy in the United States, especially prior to 1980, can be seen as ad-hoc and highly politicized— asylum during this period was primarily awarded to migrants fleeing communism. In the year 1980, Congress passed the Refugee Act, attempting to bring greater uniformity and neutrality to the US asylum process (Helton, 1983).

While beneficial in some ways, the Refugee Act can also be seen as the starting point of a highly-organized and strictly-regulated asylum bureaucracy within the United States. During the 1980s, applicants from communist countries continued to be favored over applicants from “friendly” nations, including migrants fleeing civil wars in Central America (Evans & Kohrt, 2004, p.8). This culminated in the 1991 American Baptists Churches (ABC) Settlement Agreement in which claims of discrimination in asylum policy were upheld and applicants who had been denied during this time period were able to reapply (Ibid., p.9). These re-filed applications, coupled with others, overwhelmed the existing Asylum Corps which consisted of “82 specially trained personnel in eight national offices,” leading to a system that was “under-funded and understaffed” (Ibid., p.9). A Presidential mandate was issued in 1993 aiming at reducing the back-log of cases and curbing the filing of frivolous asylum claims—per this mandate, asylum applicants were not allowed to receive employment authorization until 180 days after having filed their asylum application (Ibid., p.10).

The bureaucratic asylum process was further articulated as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). This law included a number of key reforms to the asylum application process, including the formal codification of the previously-established restrictions barring asylum applicants from applying for work authorization until 150 days after submitting their application (plus 30 days for the application to be approved or denied by the government) (Kerwin, 2012, p.24). IIRIRA also established the one-year asylum filing

deadline, which went into effect on April 16th, 1998 (Ibid., p.22-23). The one year filing deadline means just that—barring “changed” or “extraordinary circumstances,” immigrants must file for asylum within one year of entering the country (whether they entered with or without proper legal authorization) (Ibid.). Researchers have found that the one year filing deadline has had a significant negative effect on many refugees who otherwise should have been granted political asylum had they met timely filing requirements (Schrag, Schoenholtz, Ramji-Nogales, & Dombach, 2010). According to Kerwin (2012) 71% of affirmative Mexican asylum applicants from FY2008 to FY2010 did not meet the timely filing deadline, resulting in 65% of all affirmative Mexican applicants having their claims denied for this reason.

Finally, IIRIRA also led to the creation of “credible fear” interviews and “expedited removal” (Kerwin, 2012, p.24). Under these regulations, individuals who come to air and land ports of entry without valid immigration documents are assessed for “legitimate” fear of returning to their home country (Schoenholtz, 2005, p.325).¹ If the immigration officer who receives them does not consider their fear to be legitimate, they are immediately removed (i.e., deported) from the country under the expedited removal process. However, if the immigration officer believes their fear to be “legitimate”—or the migrant formally requests political asylum—he or she is placed in mandatory administrative detention while awaiting a formal “credible fear” interview with an asylum officer (Ibid., p.326). These interviews usually take place within about a month, are non-adversarial, and generally do not include attorneys, though attorneys are permitted (at the applicant’s expense) (Ibid.). Immigrants who have been deported previously are subjected to “reasonable fear” interviews instead of “credible fear” interviews (Human Rights Watch, 2013).

¹ Expedited removal was expanded in November 2002 to include sea arrivals and in 2004 to include immigrants caught by immigration officials (mainly the Border Patrol) within “one hundred miles of the land borders between ports of entry” (Schoenholtz, 2005, p.326).

Reasonable fear interviews have a high standard of proof and also have a longer waiting time (Ibid.). Once the individual is determined to have reasonable or credible fear, he or she is placed in formal removal proceedings and is able to request political asylum from an asylum judge (Kerwin, 2012, p.19).

Following IIRIRA, the most recent federal legislation to make substantial changes to the political asylum process was the Real ID Act of 2005. Under this act, asylum applicants have to “show that the ground on which they are seeking asylum [race, religion, nationality, social group membership, or political opinion] is ‘at least one central reason’” for their persecution (Bohmer & Shuman, 2008, p.77). While not entirely different than previous requirements, this law creates a “heightened burden of proof” for applicants because they must establish the motivations behind their persecutor(s)’ actions, something that is difficult to achieve (Kerwin, 2012, p.26). The act also requires applicants provide corroboration for their testimony, unless “they do not have or cannot reasonably obtain such evidence” (Ibid.). Finally, the act codifies preexisting norms regarding the adjudicator’s ability to make assessments based on the alleged “credibility” of the applicant, focusing on factors including “demeanor, candor, or responsiveness” (Bohmer & Shuman, 2008, p.77).

In addition to formal laws concerning the asylum process, there are vast non-legislative policies and regulations that have been established by case law and Board of Immigration Appeals (BIA) directives. While too numerous to explain at length, some of the most important BIA directives pertain to the established definition of “membership in a particular social group” (Kerwin, 2012, p.26). Since 1985, the BIA has determined that members of a social group “share a common, immutable characteristic” that they “either cannot change or should not be required to change because it is fundamental to their individual identities or consciousness” (Ibid.). While

“immutability” generally refers to a characteristic that is unchangeable, the latter part of the definition (“fundamental”) also allows for identities that one should not be expected to change, such as sexual orientation (Mann, 2012, p.165). In 2007, the BIA further limited the social group definition by adding that members must have a certain degree of “social visibility,” once again putting making asylum cases more difficult to win “since persecuted groups often seek to maintain a low profile” (Kerwin, 2012, p.27).

Contemporary U.S. Asylum Bureaucracy

The Real ID Act, the IIRIRA of 1996, their legal predecessors, and various non-legislative regulations stemming from court decisions and BIA directives have largely determined the structural framework of the modern U.S. asylum bureaucracy. Today, there are two paths through which immigrants can apply for political asylum: affirmatively and defensively. The affirmative process begins when an individual already present in the United States “seeks asylum on her own initiative and voluntarily identifies herself to the Department of Homeland Security (DHS)” (Ramji-Nogales et. al., 2009, p.11). It does not matter if the individual entered the United States without legal authorization or if he or she entered with a valid tourist/student/work visa but subsequently allowed the visa to lapse—as long as an immigrant is not currently in deportation proceedings, he or she is permitted to file an affirmative asylum application (Ibid.). Affirmative applicants are assigned an interview with an asylum officer at one of eight regional asylum offices (Ibid., p.12). These interviews are considered “non-adversarial” during which the asylum officer plays an inquisitive role, seeking to determine if the applicant “meets the statutory definition of a

refugee” (Ibid., p.12-13). The asylum officer can then either grant asylum or refer the applicant to immigration court for removal proceedings² (Ibid.).

Once referred to the immigration court for removal, affirmative applicants become “respondents” and have another opportunity to seek asylum, this time from an immigration judge (Ramji-Nogales et al., 2009, p. 13). At this point, the asylum application process becomes identical for “respondents” and “defendants,” the latter group made up of individuals who were apprehended by DHS prior to filing an asylum claim and are therefore applying “defensively” in response to their pending removal charges (Ibid., p.14). There are three main types of defensive asylum applicants: individuals without proper immigration status who were caught by immigration officials in the country’s interior; individuals who were apprehended by immigration officials while attempting to enter the U.S. illegally or with false documents; and individuals who voluntarily presented themselves as asylum seekers at a U.S. port of entry and passed a credible or reasonable fear interview. Unlike affirmative asylum interviews conducted by asylum officers, immigration court hearings are “adversarial proceedings” in which a DHS attorney is responsible for arguing that the applicant should not be granted political asylum (Ibid.). Respondents and defendants in these proceedings are allowed personally-financed legal representation, but they are not provided with representation at the government’s expense (Ibid.). If denied asylum, these applicants are usually ordered deported, unless they are granted other, less common, forms of immigration relief, such as Withholding of Removal or the Convention against Torture³ (Ibid.).

² Unless the affirmative applicant applied for asylum while in possession of another valid form of immigration status, in which case their asylum claim would simply be denied. 93% of affirmative applicants, however, are out-of-status when they submit their affirmative asylum applications (Ramij-Nogales et al., 2009, p.17).

³ Both of these forms of relief are less frequently granted than asylum and relate to U.S. obligations under international law—applicants must meet a higher burden of proof than is required for asylum, demonstrating that they will “more likely than not” face persecution or torture if returned to their country of origin (Kerwin, 2012, p.4). These forms of relief are available to applicants who would otherwise be barred from asylum, including those who missed the one-year filing deadline or who were previously “resettled” in a third country (Ibid). CAT, in particular,

Asylum applicants (and the government) have the right to appeal the decisions of immigration judges to the Board of Immigration Appeals (BIA), which consists of “eleven to fifteen members appointed by the attorney general of the United States” (Ramji-Nogales et al., 2009, p.14). According to Schoenholtz (2005), the BIA is “single most important decision-maker in the immigration system” because it “reviews cases nationwide and sets precedents that Immigration Judges and Asylum Officers must follow” (p.353). The BIA is able to do the following: uphold a judge’s denial of asylum, “remand” the case back to immigration court to be reviewed again in relationship to a specific procedural or legal mistake, or grant asylum (Ramji-Nogales et al., 2009, p.65).

Following a negative BIA decision, the asylum applicant has the opportunity to appeal once again, this time to the U.S. Court of Appeals. The federal appeals court is able to remand (send) cases back to immigration court if they feel as though the BIA “rendered a decision contrary to the law or abused its discretion” (Ramji-Nogales et al., 2009, p.14). The courts also very rarely grant asylum outright; however, they have been directed by Congress to “show extreme deference to the BIA,” meaning that such appeals are generally unsuccessful (Ibid., p.61). Decisions made by the Court of Appeals do function in creating precedential case-law, but only within the limited scope of that Court’s jurisdiction (Schoenholtz, 2005, p.353). Finally, asylum applicants are also allowed to appeal their cases to the U.S. Supreme Court, but these appeals are almost never accepted by the Court (Ramji-Nogales et al., 2009, p.15).

There are a number of benefits available to applicants who are successfully granted asylum, whether by an asylum officer, an immigration judge, or through an appeal process. Perhaps most

is potentially available to almost anyone, including applicants who have “persecuted others, committed a ‘particularly serious crime’ or a serious non-political crime before arriving in the US, or who represent a security risk” (Ibid.). Both statuses can be revoked pending changes in country conditions and neither provide a path to legal residency or citizenship (Ibid.).

importantly, individuals who receive asylum status are able to apply for derivative asylum status on behalf of their immediate family members (spouse and children) who are living both within and outside the country (Ramji-Nogales et al., 2009, p.14). They are also able to apply for legal permanent residency status (green card) after one year, and can then apply for US citizenship after five years (Ibid.). Previously, the 1996 IIRIRA legislation capped the number of asylum applicants who could adjust their status to 10,000 annually, meaning that the wait time for receiving legal residency was approximately 15 years (Evans & Kohrt, 2004, p.11). However, this limit was removed in May 2005; an unlimited number of asylees can receive legal permanent residency each year (Immigration Equality, 2013). Asylees are also entitled to a number of other benefits including financial assistance and limited access to public assistance programs such as TANF, food stamps, and Medicaid (Ibid.).

Problems with the U.S. Asylum Bureaucracy

Applying for political asylum is a highly regulated, formalized, and bureaucratic process; it is also overly-complex, marred with inequalities, and far from efficient (Morales et. al., 2013). Theoretically, decisions within the asylum bureaucracy are wholly determined on the basis of formulaic rules and regulations employed by dispassionate, impartial bureaucrats. However, the U.S. asylum system is rife with contradictory regulations and numerous opportunities for bias to influence immigration officials' decision-making. Many of the ways in which the U.S. asylum bureaucracy fails to treat applicants fairly revolve around the vast amount of discretion granted to immigration officials.

The expedited removal system one portion of the asylum bureaucracy characterized by unequal and unfair implementation of rules and regulations. First, policies and procedures

governing expedited removal are somewhat nebulous and at times contradictory (Pistone & Hoeffner, 2006). Furthermore, the United States Commission of International Religious Freedom (USCIRF) has found that the policies governing expedited removal are frequently violated or ignored by immigration officials going about their daily routines, even when they knew they were being monitored (Ibid., p.194). The following are some of the examples of violations found by USCIRF:

- *DHS regulations require immigration inspectors to follow a standard script informing each alien that (s)he may ask for protection if (s)he has a fear of returning home. In approximately half of inspections observed, inspectors failed to inform the alien of the information in that part of the script. Aliens who did receive this information were seven times more likely to be referred for a credible fear determination than those who were not (Pistone & Hoeffner, 2006, p.178).*
- *One in six aliens who expressed a fear of return during the Secondary Inspection interview [used to determine expedited removal or referral for a credible fear interview] were placed in Expedited Removal or allowed to withdraw their application for admission (Ibid., p.179).*
- *Distressingly, USCIRF's researchers witnessed several persons withdraw after expressing fear, with the withdrawals seemingly as a result of improper [and prohibited] encouragement by inspectors (Ibid., p.180).*

Based off of the results found by USCIRF, Pistone & Hoeffner (2006) statistically extrapolated that an estimated 10,300 individuals each year are placed in expedited removal when, legally, they should have instead been referred for a credible fear interview with an asylum officer (p.196).

Another way in which asylum seekers are treated unfairly by immigration officials is by way of prosecution for the federal crimes of illegal entry (“the misdemeanor of entering the country without authorization) and illegal reentry (the felony of reentering the country after deportation) (Human Rights Watch, 2013, p. 2). These two charges make up the bulk of all federal prosecutions annually, having increased exponentially since the early 2000s (Ibid.). The maximum sentence for the misdemeanor is 6 months while the maximum sentence for reentry is between 5 and 20 years

depending on prior convictions (Ibid.). Penalizing asylum seekers for illegal entry is explicitly prohibited in Article 31(1) of the 1951 Refugee Convention, of which the U.S. is a signatory; however, the nonprofit organization Human Rights Watch has found “that prosecutions for illegal entry or reentry may include a number of defendants with a colorable claim to asylum” (Ibid., p. 28). The organization goes on to state the following (Ibid.):

The criminal prosecution of individuals fleeing violence or persecution at home is problematic for at least two reasons. First, the prosecutions impede the asylum process, which is intended to assist the most vulnerable migrants. Criminal prosecution and incarceration can delay asylum applications, exacerbate trauma or psychological problems, and potentially discourage people from pressing their asylum claims at all. Thus, illegal entry and reentry prosecutions can be at cross purposes with another goal of US immigration law the recognition and protection of genuine refugees.

Criminal prosecutions of asylum seekers can also be seen as a punitive tactic aimed at discouraging other arriving immigrants against seeking political asylum (Ibid.).

Detention policies and practices for asylum seekers are also characterized by inequities, inefficiencies, and excessive discretionary decision-making powers possessed by immigration officials. For example, IIRIRA mandates that “arriving alien” asylum seekers (those who presented themselves to immigration officials at a port of entry seeking asylum) be detained while awaiting their credible fear interview (though, in practice, some arriving aliens are released with humanitarian parole prior to their interviews) (Schoenholtz, 2005, p.325). Government regulations mandate that both credible and reasonable fear interviews be conducted within 10 days of arrival to the U.S. (Linthicum, 2014a). However, the wait time for a credible fear interview is usually about a month (Schoenholtz, 2005). Reasonable fear interviews, on the other hand, currently have an average wait time of 111 days, during which most asylum seekers are kept in immigration detention (Linthicum, 2014a). In April 2014, the American Civil Liberties Union and the National Immigrant Justice Center filed a lawsuit in the U.S. District Court in San Francisco alleging “the

government violated the law in thousands of cases, with individuals waiting in detention for many months for a ruling on their case and in some instances more than a year” (Ibid.).

According to Schoenholtz (2005), virtually all asylum seekers pass the credible fear interview—in FY 2000, 98% of those interviewed met credible fear requirements, while this figure rose to 99% for FY 2001, FY 2002, and FY 2003 (p.334-335). That being said, more recent figures indicate that only 85% passed their credible fear interviews in FY2013, which is a significant change from ten years ago (Preston, 2014). Furthermore, the U.S. Department of Homeland Security released an internal memo on February 28, 2014 instructing asylum officers to only approve credible fear claims if the applicant can “demonstrate a substantial and realistic possibility of succeeding in court” (Caldwell, 2014). This memo was leaked to the press in April 2014 by the National Immigrant Youth Alliance (NIYA) and sparked outrage among immigrant advocacy organizations and attorneys (Ibid.). A spokesperson for NIYA said that the memo was in “‘retaliation’ for the group’s advocacy efforts” while prominent El Paso immigration attorney Carlos Spector said that the memo’s message to asylum offices is, “you are now empowered to send people back” (as quoted in Caldwell, 2014).⁴ The managing attorney for another advocacy organization, the Immigrants’ Rights Project, told reports that the memo is “‘a signal to asylum officers to be very wary about finding credible fear’” (as quoted in Linthicum, 2014b).

Upon successfully passing their credible or reasonable fear interviews, defensive asylum applicants can then, in theory, be released from detention while awaiting their court dates, especially since a 2009 decision by the Obama administration to cease mandatory detention of

⁴ NIYA is most well-known for their civil disobedience campaigns (“Dream 9” etc.) in which Mexican activists who used to live in the U.S. (some of whom were deported and some of whom left the U.S. voluntarily) arrive, *en masse*, to U.S.-Mexico ports-of-entry and demand readmittance to the U.S., generally under the umbrella of “credible fear” (Williams, 2013) It is worth nothing that their tactics have earned criticism from some immigration advocates who worry that the demonstrations perhaps trivialize the severity of fear-based claims made by “authentic” Mexican asylum seekers (see Williams, 2013; Dzubow, 2013; Schmidt, 2014; Dibble, 2014).

asylum seekers (Bohmer & Shuman, 2008, p.75; Hernandez, 2009a).⁵ However, decisions to release or detain “arriving alien” asylum seekers are “entirely within the jurisdiction of the Department of Homeland Security,” vary greatly depending on geographic location, and cannot be appealed to a judge—they are discretionary decisions made on a case-by-case basis by individual immigration officers (Ibid.). Therefore, whether or not an “arriving alien” asylum seeker remains detained while they await a legal decision on their case becomes largely a matter of fate—to what extent does their randomly-assigned deportation officer sympathize with their case? Defensive asylum seekers who are not classified as arriving aliens are permitted to request bond hearings from immigration judges (Gottlieb, 2014).

The ability to be released from detention is important because immigration courts are incredibly backed-up; for example, as of February 2014, there were 363,239 immigration court cases pending nationally, with an average waiting time for an initial court hearing of 577 days (Transactional Records Access Clearinghouse [TRAC], 2014a; TRAC, 2014b). While court proceedings are sped-up substantially for detained respondents, many detained asylum seekers wait months or even year until their legal cases conclude (Hernandez, 2009a). This can be emotionally-devastating for detained asylum seekers, even though immigration detention centers are classified as short-term administrative holding centers that are *not* meant to be punitive. However, these facilities are very prison-like, complete with color-coded jumpsuits, armed guards, strict rules, and heavily restricted freedom of movement (Lyst, 2013). Furthermore, since these facilities are classified as “short-term,” detainees have no access to the types educational or

⁵If released, these individuals are permitted varying degrees of liberty under “alternative monitoring protocols” ranging from GPS-enabled ankle bracelets to weekly/monthly/semi-annually check-ins with aptly-named “deportation officers” (Gottlieb, 2014). Depending on their particular circumstances, these individuals are generally permitted to apply (and reapply) for employment authorization on an annual basis (though the application must be completed in English, merits legal assistance, and includes a \$380 filing fee) (Lyst, 2013).

recreational amenities provided to long-term federal prisoners. Conditions in detention centers are so bad that many scholars and activists believe that detention of asylum seekers is used as a tool by the U.S. government to deter others from seeking asylum in the future, despite such a practice being in direct violation of United Nations guidelines (Evans & Kohrt, 2004, p.12; Kerwin, 2012, p.19, n.101).

Another source of inequity within the U.S. asylum bureaucracy is the lack of mandatory legal representation for asylum seekers. Immigrants seeking asylum are permitted to employ legal counsel in both affirmative and defensive hearings. However, since immigration court is considered a civil proceeding, asylum applicants, including unaccompanied minors, are not provided with legal representation if they cannot afford to acquire such representation themselves (Schoenholtz, 2005, p.351). Therefore, many asylum applicants file their applications and proceed with their cases without legal representation—these *pro se* applicants comprise approximately one-third of all asylum seekers in immigration court (Ramji-Nogales et al., 2009, p.33). However, statistical analysis of asylum adjudications undertaken by Ramji-Nogales et al. (2009) found that “whether an asylum seeker is represented in court is the single most important factor affecting the outcome of her case” (Ibid., p.45). The asylum grant rate for applicants with legal representation from January 2000 to August 2004 was 45.6%, “almost three times as high as the 16.3% grant rate for those without legal counsel” (Ibid.).

These statistics can be attributed to a number of different factors. First, immigration attorneys have limited time and resources, and are cognizant of the extent to which their asylum grant rates affect their professional reputations; therefore, attorneys tend to only select cases in which they feel relatively confident about the possibility of a positive outcome (CITE). This means that asylum applicants with legal representation tend to have stronger cases from the outset.

However, there are many more factors contributing to these discrepancies. For one, immigration attorneys are clearly better versed on the complexities and nuances of immigration law than the average asylum seeker. Furthermore, judges are likely somewhat biased towards clients with representation since it allows court to proceed more smoothly and because immigration attorneys have facility with the relevant legalese. This is especially true considering that immigration judges themselves are lawyers. Finally, asylum cases rely heavily on textual documentation of persecution and written affidavits by applicants, corroborating witnesses, and scholarly experts (Bohmer & Schuman, 2008, p.116; p.125). Clients who are financially able to secure private counsel are also more likely to have the social and economic capital necessary for securing expert witnesses and supporting documentation from their countries of origin. For all of these reasons, represented and unrepresented asylum-applicants are clearly not being treated equally within the asylum bureaucracy; instead, the financial privilege necessary to hire legal counsel makes a significant impact on an applicant's ability to win his or her asylum claim.

Disparities in Asylum Adjudication

One of the most frustrating features of the U.S. asylum bureaucracy is the lack of uniformity regarding both affirmative and defensive asylum adjudications. Ramji-Nogales et al. (2009) found significant asylum adjudication disparities at all levels of the asylum bureaucracy— independent findings that closely resemble an official, governmental analysis undertaken by the Government Accountability Office in 2008 (GAO). This is despite the fact that steps are taken to ensure that immigration officials and judges are equally prepared to fairly adjudicate claims. For example, new asylum officers complete an “intensive five-week basic training course that includes testing,” which is bolstered by weekly four-hour training sessions on “new legal issues, country

conditions, procedures, and other relevant matters” (Ramji-Nogales et al., 2009, p.17). Next, in order to check for consistency, all decisions are reviewed by “supervisory asylum officers” while selected decisions are also reviewed by quality-assurance officers in charge of notifying the “regional office director on possible inconsistencies in the application of the law and to identify training needs” (Ibid.). Finally, the Asylum Office headquarters employs additional quality-assurance staff charged with supporting regional offices, especially in relationship to cases “involving novel or complex legal issues” and the “implementation of new laws” (Ibid.).

However, despite all of these professional measures aimed at ensuring consistency among asylum officers, large discrepancies in asylum grant rates exist, both within and between regional asylum offices. Ramji-Nogales et al. (2009) statistically analyzed the asylum decisions of 527 officers in 8 regional offices who had each decided at least fifty cases from “Asylee Producing Countries” (APCs)⁶ from 1999 to 2005. While they found some regional offices had a great deal of internal consistency in terms of asylum decisions, others were more inconsistent—for example, they identified one regional office in which more than half of the asylum officers’ individual grant rates differed by more than 50% from the office’s mean total grant rate for applicants from APCs (Ramji-Nogales et al., 2009, p.22). Between offices, mean asylum grant rates for applicants from APCs varied significantly between 26% and 62%; however, the authors note that this discrepancy can perhaps be partially attributed to differences regarding which APCs are most frequently represented in each region (Ibid.). Therefore, Ramji-Nogales et al. (2009) decided to perform analyses with applicants from a single country in order to overcome this potential explanation for inconsistency among asylum offices. These results were even more shocking: asylum grant rates

⁶ “The countries on this list had at least five hundred asylum claims before the asylum offices or immigration courts in FY 2004, and a national grant rate of at least 30% before either the Asylum Office or the immigration court...Fifteen countries met these criteria: Albania, Armenia, Cameroon, China, Colombia, Ethiopia, Guinea, Haiti, India, Liberia, Mauritania, Pakistan, Russia, Togo, and Venezuela” (Ramji-Nogales et al., 2009, p.18).

among individual asylum officers for Chinese applicants ranged from a low of 0% all the way up to 90% (Ibid.). Regional asylum office total average grant rates for Chinese applicants ranged similarly from 15% to 72%, depending on the office (Ramji-Nogales et al., 2009, p.26-27).

All in all, these findings illustrate that despite the various bureaucratic measures undertaken to ensure consistency in decision-making among asylum officers, the system is, in fact, characterized by a high degree of inconsistency and inequality. Whether or not an individual asylum applicant is successful in the affirmative process is at least partially determined by chance, not by evenly-implemented bureaucratic regulations. The likelihood of being affirmatively granted asylum is strongly related to the whims of individual asylum officers whose grant-rates vary significantly both within and among regional asylum offices. Furthermore, the substantial power held by asylum officers “places immigrants at a disadvantage in attempting to pass through the immigration labyrinth. Applicants must balance carefully between advocating for their rights and not irritating the officer who has the power to deny the application” (Cruz, 2005, p.816).

The disparities that exist in the grant rates among asylum officers are mirrored in the other branch of asylum adjudication, immigration court proceedings. There are a total of 53 immigration courts in 24 states; some courts handle only detained cases, while other courts serve those who are not being held in immigration detention (Ramji-Nogales et al., 2009, p. 33). Immigration judges are appointed, not elected; however, this does not mean that personal/political bias does not affect decision-making among immigration judges. After analyzing 78,459 asylum court decisions involving applicants from APCs during the period from January 2000 through August 2004, Ramji-Nogales et al. (2009) found a significant number of discrepancies among judges’ asylum grant rates both within and across regional courts (p.34). For example, average asylum grant rates for all APCs combined is only 12% in the Atlanta Immigration Court compared to 54% in the San

Francisco Immigration Court and 40% nationwide (Ibid., p.37). A Chinese asylum seeker whose case is held in the Atlanta court faces a mere 7% chance of being granted asylum, while his or her chance of approval jumps to 76% if held in the Orlando court instead (47% approval rate nationwide) (Ibid., p.35).

Asylum grant rates also vary significantly within regional courts, depending on the judge assigned to the case. For example, in the New York Immigration Court, one judge granted asylum to only 6% of all APC cases they heard while another judge in that *same* court granted asylum to a staggering 91% of all APC cases (Ibid., p.39). In Los Angeles, the high/low average grant rate between judges for APC cases was 10%/83%; in Miami it was 3%/75% (Ibid., p.41). Even the judge's gender makes a significant impact on whether or not an asylum seeker wins his or her claim—"an asylum applicant assigned by chance to a female judge...had a 44% better chance of prevailing than an applicant assigned to a male judge" (Ibid., p.47). Immigration judges sometimes even admit to the practice of hearing asylum claims as becoming a matter of "routine" due to the large number of cases on the docket each year (Yarbrough, 2013, p.xx). Once again, likelihood of winning asylum is clearly impacted by the luck of the draw, not just by the merits of an individual's asylum claim.

As described previously, once an immigration judge rules on an individual's case, s/he (or the government) is allowed to appeal that decision to the Board of Immigration Appeals (BIA). What is particularly interesting about the BIA is the fact that was "created by a directive of the attorney general, rather than by statute, and its members serve at the pleasure of the attorney general, exercising his delegated authority" (Ibid.). The attorney general has unlimited power to appoint and remove Board members and to overturn their appellate decisions (Schoenholtz, 2005, p.353). The Board, and its decisions, therefore, can be seen as highly politicized and biased, once

again betraying the impartial, apolitical requirements of an ideal bureaucratic system. For example, in 2002, Attorney General John Ashcroft embarked on a controversial structural reform and downsizing of the BIA, in which 5 of the 6 board members appointed under the Clinton administration were removed (the final member resigned after realizing that she, too, was likely to be removed) (Ramji-Nogales et al., 2009, p.63).

Though billed as apolitical administrative restructuring, several legal scholars and activists believe that the changes were politically motivated and had politicized implications—grant and remand rates decreased significantly following the creation of more conservative Board (Ibid.). Asylum grant and remand rates overall fell from 37% in FY 2001 (the year before the reforms took place) to only 11% in FY 2005 (Ibid., p.69). Likewise, asylum grant and remand rates for applicants from APCs fell from 35% in FY 2001 to 14% in FY 2005 (Ibid., p.70). At yet another step of the asylum process, the likelihood of winning asylum is dictated by chance, this time related to the political party that happens to be in power when an applicant’s case finally makes it in front of the Board of Immigration Appeals.

Bias against Mexican Asylum Applicants

In addition to all the issues described above, asylum seekers from Mexico face an added challenge within the asylum bureaucracy: being from Mexico. From the passage of the Refugee Act of 1980 to FY2006, fewer than 1,000 Mexican nationals were likely granted political asylum in the U.S. (Albarran de Alba, 1992; Plascencia, 2000; DOJ, 2008; INS, 2002, 2003; DHS, 2003, 2004, 2012). Simply put, “bias permeates the US asylum system. Persons from Mexico...are at a particular risk of having genuine persecution cases denied as a result of this bias” (Evans & Kohrt, 2004, p.19). Even though each case should be judged equally and impartially *regardless*

of country of origin, this simply is not the case. Mexicans applicants consistently face exceptionally low asylum grant rates, despite well-documented and widespread human rights abuses (Plascencia, 2000).

Finding accurate statistics regarding political asylum applications in the U.S. is exceedingly difficult. While the Department of Homeland Security (DHS) and the Department of Justice Executive Office for Immigration Review (EOIR) both publish asylum-related statistics online annually, a careful review of the various publications exposes significant statistical disparities from one year to the next (DOJ, 2012, 2013, 2014b). This problem is most striking in relation to the *FY 2013 Statistical Yearbook* published by EOIR in April 2014. The document begins with a letter from EOIR Director Juan P. Osuna (DOJ, 2014b):

...In October 2012, the Department of Justice, Office of the Inspector General released a report consistent with EOIR's plans for an overhaul of our statistical methodology. Overall, we determined that we needed to expand the way in which we evaluate our workload so that the public could more easily receive comprehensible answers to their statistics questions. As such, we have developed a new methodology, which will be used for all future external statistical reports, and on which this Fiscal Year 2013 Statistics Yearbook is based. In the Fiscal Year 2013 report, you will notice several changes. We have rearranged some of the tabs to create a better flow of information, and the Table of Contents reflects those changes. For those of you who are familiar with our Yearbook, the numbers you see in some of the tabs will look different than what you may be used to seeing. For example, in an effort to clarify the agency's workload, EOIR has changed the methodology for counting matters received and matters completed, which will affect the appearance of those numbers in the Statistics Yearbook.

Upon review of the newly-released data, it becomes clear that data concerning political asylum applications and grants had changed significantly in comparison to previous editions of the *Yearbook*. In some instances, the reported figures only changed marginally: for example, total asylum applications received by immigration courts FY2012 (44,170 applications according to the *2012 Yearbook* versus 44,296 applications according to the *2013 Yearbook*). However, in other instances, the figures changed substantially: total asylum applications received by immigration

courts FY2009 (47,508 applications according to the *2012 Yearbook* versus 30,112 applications according to the *2013 Yearbook*). Therefore, I have chosen to only include the most recently released asylum data in order to ensure that longitudinal analyzes are valid. Unfortunately, this means that immigration court asylum data is only available from FY2009-FY2013.

During the period from FY2009 to FY2013, immigration courts received a total of 186,556 asylum applications from respondents of all nationalities (DOJ, 2014a; Table 1). Immigration judges decided a total of 92,915 asylum cases “on the merits,” meaning that the asylum application was followed through to the end and was either granted or denied (Ibid.). Of that figure, asylum was granted in 48,099 cases, representing overall average grant rate of 52% (Ibid.). For FY2013, the top ten nationalities granted asylum by immigration courts were China, Ethiopia, Nepal, India, Egypt, the Soviet Union, Eritrea, Russia, El Salvador, and, for the first time ever, Mexico (DOJ, 2013; Table 2).

Despite breaking into the top ten, however, grants of political asylum in Mexican cases represented only 1.56% of the total, while successful Chinese cases accounted for a massive 45.63% of total grants (Ibid.). On average, Mexican applicants only had a 9% chance of being granted political asylum by an immigration judge during this time period, while Chinese applicants were successful over 74% of the time (DOJ, 2014a; Table 3 and Table 4).⁷ On average, Colombians were granted asylum by immigration judges more than 40% of the time (Ibid.; Table 5).

⁷ Note that journalists frequently state that Mexicans only have a 1% to 2% chances of being granted political asylum (e.g., Cave, 2013b). However, this figure—created by dividing total number of grants by total number of applications filed in a given year-- is incorrect. Asylum applications take several years to be decided by the courts meaning that the number of applications filed in a year is different than the number of cases decided in a year. Furthermore, approximately 20% of all asylum applications are “abandoned” or “withdrawn” each year by respondents who decide against continuing with their applications for a variety of reasons (DOJ, 2014a). This includes changing country conditions, the availability of other forms of relief from deportation such as family petitions, pessimism toward possible court outcomes, and general absenteeism.

Table 1

Immigration Court Asylum Statistics FY2009-FY2013: All Countries Combined

	Cases Received	Cases Granted	Cases Denied	Total Cases Decided on the Merits	Grant Rate (Grants/Total Cases Decided on the Merits)
FY2009	30,112	8,800	9,876	18,676	47%
FY2010	32,810	8,518	8,335	16,853	51%
FY2011	42,664	10,137	9,280	19,417	52%
FY2012	44,296	10,711	8,502	19,213	56%
FY2013	36,674	9,933	8,823	18,756	53%
TOTAL	186,556	48,099	44,816	92,915	52%

Note: Adapted from Department of Justice (DOJ), Executive Office of Immigration Review (EOIR). (2014b, April). *FY 2013 Statistical Yearbook*. Retrieved April 25, 2014 from <http://www.justice.gov/eoir/statpub/fy13syb.pdf>

Table 2

Top Ten Nationalities Granted Asylum by Immigration Courts FY2009-FY2013

Rank	FY2009	FY2010	FY2011	FY2012	FY2013 Rank	FY2013 Number of Grants	FY2013 % of Total Grants
1	China	China	China	China	China	4,532	45.63%
2	Ethiopia	Ethiopia	Eritrea	Ethiopia	Ethiopia	399	4.02%
3	Haiti	Nepal	Ethiopia	Nepal	Nepal	381	3.84%
4	Iraq	India	Nepal	Eritrea	India	322	3.24%
5	Colombia	Egypt	Egypt	Egypt	Egypt	305	3.07%
6	India	Somalia	Soviet Union	Soviet Union	Soviet Union	252	2.54%
7	Eritrea	Colombia	India	India	Eritrea	240	2.42%
8	Albania	Eritrea	Somalia	Guatemala	Russia	187	1.88%
9	Guinea	Soviet Union	Colombia	El Salvador	El Salvador	181	1.82%
10	Nepal	Armenia	Russia	Pakistan	Mexico	155	1.56%

Note: There is no explanation of the use of the “Soviet Union” as a country. Adapted from Department of Justice (DOJ), Executive Office of Immigration Review (EOIR). (2014b, April). *FY 2013 Statistical Yearbook*. Retrieved April 25, 2014 from <http://www.justice.gov/eoir/statpub/fy13syb.pdf>

Table 3

Immigration Court Asylum Statistics FY2009-FY2013: Mexico

	Cases Received	Cases Granted	Cases Denied	Total Cases Decided on the Merits	Grant Rate (Grants/Total Cases Decided on the Merits)
FY2009	2,490	56	336	392	14%
FY2010	3,996	38	477	515	7%
FY2011	7,425	92	1,010	1,102	8%
FY2012	10,542	113	1,306	1,419	8%
FY2013	8,569	155	1,566	1,721	9%
TOTAL	33,022	454	4,695	5,149	9%

Note: Adapted from Department of Justice Executive Office for Immigration Review (DOJ, 2014a)

Table 4

Immigration Court Asylum Statistics FY2009-FY2013: China

	Cases Received	Cases Granted	Cases Denied	Total Cases Decided on the Merits	Grant Rate (Grants/Total Cases Decided on the Merits)
FY2009	8,117	3,085	1,448	4,533	68%
FY2010	9,534	3,419	1,366	4,785	71%
FY2011	10,385	4,299	1,593	5,892	73%
FY2012	9,457	5,015	1,421	6,436	78%
FY2013	5,568	4,532	1,229	5,761	79%
TOTAL	43,061	20,350	7,057	27,407	74%

Note: Adapted from Department of Justice Executive Office for Immigration Review (DOJ, 2014a)

Table 5

Immigration Court Asylum Statistics FY2009-FY2013: Colombia

	Cases Received	Cases Granted	Cases Denied	Total Cases Decided on the Merits	Grant Rate (Grants/Total Cases Decided on the Merits)
FY2009	544	294	434	728	40%
FY2010	502	187	327	514	36%
FY2011	496	175	185	360	49%
FY2012	426	98	129	227	43%
FY2013	291	72	118	190	38%
TOTAL	2,259	826	1,193	2,019	41%

Note: Adapted from Department of Justice Executive Office for Immigration Review (DOJ, 2014a)

Affirmative grants of political asylum exhibited similar trends, though DHS only releases data regarding total number of asylum grants, without also providing information about applications or denials (DHS, 2013). During FY2009-FY2012, a total of 839 Mexicans were granted asylum affirmatively, making up only 1.55% of all affirmative asylum recipients (Ibid.; Table 6). Chinese nationals, however, were much more successful, claiming more than one-fourth of all affirmative asylum grants (14,256 out of 53,978; Ibid.).

Table 6
Individuals Granted Asylum Affirmatively FY2009-FY2012

	China	% OF TOTAL GRANTS	Mexico	% OF TOTAL GRANTS	TOTAL GRANTS ALL COUNTRIES
FY2009	2,713	22.75%	190	1.59%	11,925
FY2010	2,890	25.85%	136	1.22%	11,178
FY2011	3,885	29.06%	176	1.32%	13,369
FY2012	4,768	27.24%	337	1.93%	17,506
TOTALS	14,256	26.41%	839	1.55%	53,978

Note: Adapted from U.S. Department of Homeland Security [DHS]. (2013, January). *Refugees and Asylees: 2012*. Retrieved April 25, 2014, from <https://www.dhs.gov/publication/refugees-and-asylees-2012>

Possible explanations for low Mexican asylum grant rates

As demonstrated above, Mexican asylum applicants consistently face exceptionally low grant rates despite Mexico being ranked by Amnesty International as having the same levels of political terror as the top-five asylee-producing countries in the U.S (Gibney et al., 2011).⁸ There are a number of alternate explanations for why Mexican applicants do not receive asylum at the same (or even similar) rate as applicants coming from other nations, despite the high levels of

⁸ The Political Terror Scale website lists political terror rankings given to countries by both Amnesty International and the U.S. State Department. Amnesty ranks Mexico as high as possible with a “5”—“*Terror has expanded to the whole population. The leaders of these societies place no limits on the means or thoroughness with which they pursue personal or ideological goals.*” The US State Department is much more generous, ranking Mexico a “3”—“*There is extensive political imprisonment, or a recent history of such imprisonment. Execution or other political murders and brutality may be common. Unlimited detention, with or without a trial, for political views is accepted.*”

violence and political terror occurring in Mexico today. First, immigration officials frequently argue that high rates of Mexican asylum applications (especially during years in which these numbers spike) can be attributed almost entirely on frivolous claims. The following is taken from a 2005 email from an official at the USCIS Asylum Office (formerly the INS):

Evidence strongly suggests that most Mexican asylum applicants have been using the USCIS asylum program as a conduit to enter into removal proceedings. Once in removal proceedings, these individuals typically withdraw their respective asylum applications and file applications for another benefit (cancellation of removal), which can only be filed in removal proceedings. Upon filing for cancellation of removal, they become eligible to receive employment authorization...” (Schoenholtz, 2005, p.338, no.62).

This explanation is also offered as a possibility by Plascencia (2000), who quotes INS officials as having said that ““about 5 percent of all cases”” actually have merit and are deserving of being seen by asylum officers prior to being forwarded on to immigration judges. Plascencia (2000) also describes the high-profile arrests in both 1994 and 1997 of several “financially-motivated individuals” who had been caught charging immigrants between \$100-\$1,000 to file paperwork for work authorization that were actually fraudulent asylum claims (p.75).

Arguments about the high frequency of frivolous Mexican asylum claims continue to persist among some immigration officials and politicians (Rexton Kan, 2011). Take, for example, the ways in which Mexican asylum seekers were referenced in several newspaper articles published in the fall of 2013:

A sudden influx of illegal immigrants from Mexico requesting asylum is overwhelming immigration agents in San Diego, forcing agencies to rent hotel rooms for some unauthorized families and release others to cities around the U.S... The surge has raised suspicions about what is driving the influx, amid claims that illegal immigrants have learned they can attempt to get asylum by using a few key words -- namely, by claiming they have a "credible fear" of drug cartels....Asylum claims from Mexico are highly unusual and critics say this is an orchestrated sham – it's not about getting asylum, they say, but about overwhelming the system and getting a free pass into the U.S. and a court date for which no one will show up (La Jeunesse, 2013)

"Frankly, I don't think the House should pass any bill until the administration shows its willingness to confront and fix this problem," said Sen. Jeff Sessions, R-Ala., a vocal opponent of the current legislation pending in Congress. "This is a direct threat to the orderly administration of our immigration law," Sessions added, predicting that even the perception of easy entry into the U.S. by claiming asylum could create havoc on the border as thousands more try the same tactic (Skoloff, 2013)

Mexican drug cartel members are abusing the U.S. asylum system to bypass regular immigration checks and get into the country, where some are setting up smuggling operations and others engage in the same violent feuds that caused them to flee Mexico in the first place (Dinan, 2013).

Shortly following this rash of alarmist articles, Republican Representative Robert Goodlatte—Chairman of the House Judiciary Committee—penned a letter to Homeland Security Secretary Janet Napolitano expressing concern “that credible fear claims are being exploited by illegal immigrants in order to enter and remain in the United States” (Goodlatte, 2013). Representative Goodlatte went on to say in an interview with the conservative think-tank Center for Immigration Studies that rising Mexican asylum applications are due to unscrupulous individuals taking advantage of the “virtual rubberstamping of applications” (as quoted in Cadman, 2014). Exaggerated fears about Mexican asylum applicants gaming the system exploded even further in early 2014 following the leak of a classified draft report from 2009 allegedly stating that “at least 70 percent of asylum applications showed signs of fraud...[and that] many of those cases had been approved anyway (Dinan, 2014).

In direct contrast to the frivolous claims explanation for low political asylum grant rates among Mexican applicants stands the argument that Mexicans are unfairly denied political asylum due to adjudication biases. One possibility, put forth by Matthew Gibney (2003) and furthered by Evans & Kohrt (2004), is that the U.S. is reluctant to grant Mexicans asylum “out of fear of economic burden” (p.18). This fear is compounded by general anti-Latino/a sentiment, the geographic proximity of Mexico, and worries that granting asylum to Mexican nationals would

open the symbolic floodgates of legalized Mexican immigration to the U.S (Morales et. al. 2013; Mann, 2012). These preoccupations are similarly parroted in journalistic analyses of Mexican political asylum:

"Clearly, if we start granting asylum to Mexicans, it could start a real flood of applicants, even from people with no plausible case," said Mark Krikorian, executive director of the nonpartisan Center for Immigration Studies in Washington, which seeks tighter enforcement of immigration laws (Becker, 2009a).

George Grayson, a professor of government at the College of William and Mary in Virginia and an expert on U.S.-Mexico relations, said that if immigration judges began to grant asylum liberally to people fleeing the cartels, "We'd have literally tens of thousands of police officers coming to the United States, not to mention some mayors, too" (Becker, 2009c).

Granting asylum to Mexicans fleeing drug violence also could spur a massive wave of applicants, he [Stephen Yale-Loehr, a Cornell University law professor and asylum expert] said. "The other political reality is we don't want to encourage more immigration from Mexico. We already have a lot of illegal immigration from Mexico, and if Mexicans see that other Mexicans are winning asylum in the U.S. based on this fear of persecution by the drug cartels, that would just encourage more people to try to come to the U.S. and apply for asylum," Yale-Loehr said (Gonzalez, 2010).

"The overt policy of the U.S. government is to discourage Mexican asylum applicants," said Spector, the immigration lawyer who is representing Gutierrez. "The judges here have a learning curve because they don't believe what they're hearing. They say, 'How can this be, this nightmare you're presenting?' And then there's the fear that the floodgates will open, as with the immigration debate" (Hayward, 2010).

Immigration activists and scholars also suspect that low asylum grant rates for Mexican nationals reflect U.S. government worries that granting asylum on a large scale would negatively affect foreign relations ties between the U.S. and Mexico (Plascencia, 2000, p.75). Since political asylum is granted on the basis of persecution by the government or by groups that the government cannot control, widespread granting of asylum for Mexican nationals could raise issues concerning the ethics of the U.S. government providing millions of dollars of aid to the Mexican military while at the same time granting political asylum to refugees fleeing the human rights abuses of that very same military organization. Long-time immigration rights activist Ruben Garcia and prominent

immigration attorney Carlos Spector both believe that low grant rates for Mexican asylum seekers are due to political bias on behalf of the U.S. government (personal communication, April 26, 2013; personal communication, April 26, 2013). Once again, these sentiments are frequently published in journalistic accounts of Mexican asylum seekers:

Retired immigration Judge Bruce Einhorn, who helped draft the Refugee Act of 1980, which governs modern asylum cases, explained that although the law prohibits the federal government from politically interfering with asylum decisions, he doesn't exclude the existence of diplomatic pressure among U.S. judges. "There is a real sense in the executive branch of our government that the relationship needs to be as smooth as possible and as a result if you read the State Department's human rights reports on Mexico, which are part of the evidence that are used by asylum adjudicators, you'll find that it's a very delicately frayed description of democracy in Mexico," said Einhorn. "The problems that affect human rights in Mexico are handled gingerly" (Camargo, 2011).

"The U.S. government is reluctant to grant political asylum to Mexican applicants because doing so means recognizing that aid from Washington is financing military abuses against the Mexican civilian population," said Carlos Spector, an immigration attorney in El Paso, Texas (Camargo, 2011).

For one, they say, U.S. immigration attorneys are far more aggressive battling asylum claims involving Mexicans than other nationalities. "The government will put two attorneys on a case with a Mexican and just one for anybody else," says Spector. "And they appoint much more seasoned attorneys. There seems to be a real emphasis on them that, 'You don't lose these cases... There is an institutionalized policy of discouraging Mexican applicants by prolonged detention and serious resistance by government attorneys in immigration court," says Spector. "They don't deal with these cases like any others. They are trying to keep their finger in the border dike for as long as they can, and they want to send a message that if you go to the U.S. for asylum, you're going to get fucked. You are going to be detained and then denied. And it is clearly having an effect." (Vogel, 2010).

There are likely many factors that contribute to low political asylum grant rates for Mexican nationals seeking protection in the U.S. It would be unreasonable to ignore the very real problem of frivolous applications just as it would be foolish to refuse to acknowledge the prominent role geopolitics and diplomacy play in determining to what extent the U.S. is willing or able to open its arms to foreign refugees.

Chapter 5: Mexican Refugees and Asylum Seekers Prior to 2006

In this chapter, I provide an overview of Mexican asylum seekers to the U.S. during the period from 1980 (formalization of the political asylum process through the Refugee Act) to 2006 (election of President Felipe Calderón and his declaration of a “War on Drugs”). First, I briefly discuss the history of Mexicans seeking refuge from violence in the U.S. prior to 1980. Next, I provide case study examples of asylum seekers from each decade: the 1980s, the 1990s, and the early 2000s. Ultimately, I argue that throughout history, political bias has caused Mexican asylum seekers to be treated unfairly by the U.S. government despite moral and legal *nonrefoulement* obligations to protect asylum-seeking migrants from persecution, torture, and death in their countries of origin.

Mexicans Seeking Refuge in the U.S. before 1980

Understanding the history of modern Mexican asylum seekers in the United States requires recognizing that large numbers of people have fled persecution by migrating within and through the US-Mexico borderlands for centuries; in no way should this be seen as a modern phenomenon. Migration is a common response to danger and imposed political boundaries serve only minor deterrence when seeking safety for oneself and one’s family. More recently, the historical porosity of the US-Mexico border and the transnational character of the borderlands have meant that the U.S. has routinely been a destination for Mexican nationals fleeing violence and persecution, most notably during the period of the Mexican Revolution from roughly 1910-1929 (Aguilar Camín & Meyer, 1993). For example, in El Paso, Texas, a historical marker was erected at Fort Bliss to commemorate the location where 6,000 Mexicans fleeing Pancho Villa’s troops were housed for several months in 1914 (Hernandez, 2009b). Famous Mexican revolutionaries and dissidents who

were exiled (at least for a period of time) to the U.S. during the early 20th century include the Flores Magón brothers (1906-1907), Francisco Madero (1909), Pascual Orozco (1913), Francisco Villa (1912), Adolfo de la Huerta (1927), and Elías Calles (1934) (Albarrán de Alba, 1992). Later, political repression of leftists during the Dias Ordaz (1964-1970) and Echeverría (1970-1976) regimes, including the Tlatelolco massacre of student and civilian protestors in Mexico City in 1968, led to significant influx of Mexican immigrants coming to the U.S. by way of self-imposed political exile (C. Spector, personal communication, April 26, 2013; Albarrán de Alba, 1992).

However, prior to the increase of border enforcement efforts beginning in the 1990s, unauthorized migration into the U.S. was less difficult, and few *exiliados* chose to apply for formal asylum protection (Ibid.). According to prominent immigration attorney Carlos Spector, most Mexicans at this time did not know that political asylum was even an option to them; they believed it was only “available to people involved in civil strife” (Negron, 2010). Since it was difficult to win a political asylum claim, it was easier “to just come and stay with your cousins” (C. Spector, quoted in Hennessy-Fiske, 2012). Instead, these individuals relied on informal familial and social networks to make lives for themselves in the U.S. the same way as any other Mexican immigrant, many eventually gaining legal residency and citizenship by way of marriage, family petitions, and, later, the 1986 amnesty⁹ (C. Spector, personal communication, April 26, 2013; Albarrán de Alba, 1992). Furthermore, Spector believes that there was also an ideological impetus against these leftist exiles choosing to file for political asylum from the U.S.: “the left would be damned if they were going to ask Uncle Sam for help” (Negron, 2010).

⁹ The Immigration Reform and Control Act of 1986 enabled some unauthorized immigrants to become legal permanent residents if they could prove they had resided continuously in the U.S. since January 1, 1982, paid a fine, and could demonstrate good moral character (Massey, Durand, & Malone, 2003).

While there are clearly some practical and ideological reasons why Mexican immigrants did not regularly request political asylum from the U.S. during the 1970s, there are a few isolated cases of Mexicans applying for asylum during this period. By far the most famous of all pre-1980 cases is that of young Mexican Socialist Hector Marroquín, who's fight to win political asylum was widely publicized and endorsed by a number of influential U.S. figures and organizations including Angela Davis, Noam Chomsky, Gloria Steinem, the League of United Latin American Citizens (LULAC), the National Lawyers' Guild, and the National Education Association (Hector Marroquín Defense Committee [HMDC], 1979).¹⁰ On January 17, 1974, Marroquín claimed that he, and three of his activist friends, were falsely accused of murdering a librarian at their university in Nuevo Leon, Monterrey (Rudquist, 1979). Labeled a "terrorist," Marroquín went into hiding and eventually crossed into the U.S. on April 9, 1974, fearing for his life (Ibid.). Shortly thereafter, Marroquín discovered that two of his friends, "who were also accused of the assassination of the librarian, were gunned down by police, supposedly for 'resisting arrest'"—the one other suspect was arrested and "disappeared" by officials (Ibid.).

However, Marroquín did not file for political asylum until several years later when he was arrested by the INS for carrying false identification documents in September of 1977 (Katsarelis, 1979).¹¹ While serving three and a half months of a six month sentence for this crime, Marroquín was notified by his attorney that he could file for political asylum as an attempt to fight deportation (Rudquist, 1979). Marroquín filed for asylum due to persecution by Mexican authorities on the

¹⁰ Note that Marroquín is included in this thesis because his case was not resolved until after 1980, even though he fled Mexico in the 1970s.

¹¹ Marroquín's delay in applying for asylum illustrates well the earlier argument that many potential asylum-seekers during this time preferred (and were able) to live without legal immigration authorization, at least until they were caught by immigration officials.

basis of “political opinion,” arguing at his deportation hearing that the Mexican police were trying to frame him for a crime he could not have committed:

Mexican police claim he was wounded in the shoulder in a gun-battle in Monterrey in June 1974—two months after he left Mexico...[and] that he participated in an armed robbery of a bakery in Monterrey Aug. 19, 1974, when he was in a hip-to-toe cast in a Houston hospital, recovering from injuries from an automobile accident (Appel, 1979).

Nevertheless, on April 11, 1979, immigration court judge James R. Smith denied Marroquín’s petition for political asylum (Appel, 1979).

Officially, Judge Smith argued that Marroquín had not adequately demonstrated that he would be persecuted by Mexican authorities were he to be deported; specifically, Smith referenced that none of Marroquín’s immediate family members had been persecuted, that he had safely returned to Mexico several times since his original arrival in the U.S., and that a 1978 Amnesty Law for political prisoners in Mexico had led to the release of several activists and would likewise protect Marroquín (Marroquin-Manriquez v. INS, 1983). Marroquín, however, embarked on a national speaking tour and was featured in several newspaper articles arguing that the immigration court’s decision had been politically motivated (Montemayor, 1979; “Mexican Alien,” 1983; Katsarelas, 1979). He was quoted as saying the following in an interview with *In These Times* magazine:

“So this is a political decision: whether or not they are going to cover up these violations of human rights. They are covering up, which means that support for this regime [Mexico] is more important than human rights or individuals. If I am eventually granted political asylum, it will be only because of the support of the American people” (Appel, 1979).

In another article, Marroquín is paraphrased as having said that the denial of his asylum petition was due to his socialist beliefs and the U.S. government wanting to “maintain good ties with Mexico” (“Mexican Alien,” 1983). Finally, in an unpublished pamphlet released by the Hector Marroquín Defense Committee (1979), the authors argued that the decision had also been racially

motivated, claiming that Judge Smith had stated in a press interview that “Marroquín’s case paralleled that of the average wetback.”

In March of 1982, (Montemayor, 1982) Marroquín lost his appeal in front of the Board of Immigration Appeals (BIA), who dismissed his claim on the basis that “he had not demonstrated a likelihood that he would be persecuted by the authorities” or that he would “not receive fair treatment” in a Mexican court for his pending criminal charges (Seipp, 2010). He then brought his case to the 3rd Circuit Court of Appeals who upheld the decisions of the BIA and the immigration court, stating that both entities had properly upheld their legal obligations in determining Marroquín’s claim (Marroquin-Manriquez v. INS, 1983). After losing this appeal, Marroquín attempted to appeal his case to the U.S. Supreme Court; however, in June, 1984, the Supreme Court officially refused to hear the case (Derus, 1984).

Despite losing all of his appeals, and maintaining a vocal activist presence, Marroquín was never physically deported from the U.S. This illustrates the ease with which some individuals fleeing persecution in Mexico were able to survive (and thrive) in the U.S. during this era, even without legal immigration documents. Eventually, in 1988, Marroquín was awarded legal permanent residency status after “an 11-year battle with the Immigration and Naturalization Service” (Mangaliman, 1988). Marroquín had applied for his green card on May 5th, 1987, the first day that unauthorized immigrants were able to do so via the 1986 immigration amnesty program (“Amnesty: Illegal Aliens,” 1987). During the entire period of his legal battle with immigration, “despite his precarious legal status” Marroquín continued “to protest what he call[ed] human rights violations in the United States for intervening in Central America’s civil wars” (Montemayor, 1982).

Selected Case Studies: 1980s

Rosendo Burciaga

On the evening of October 15th, 1987, Rosendo Burciaga was driving his pregnant wife to a gynecologist appointment in Monclova, Chihuahua when they were suddenly hit by another car from behind (Garza, 1991). According to Garza (1991), the following is what happened next:

When Burciaga got out to check out the back end of his car, several men grabbed him from behind, covered his eyes and mouth with medical tape and tied his hands behind him. He lost his glasses, his visa and his dental bridgework, he said. The men beat him about the stomach and face and threw him on the floor of their car. He said they told him: 'You are going to die but first we are going to rape you and rape your wife.' His wife had managed to escape by quickly locking the car doors and biting one of the assailants on the hand as he tried to reach through their open car window and grab their car keys. Burciaga said he was beaten with a baseball bat, fists and rifles, thrown in and out of the car trunk, then into a van, then back onto the pavement. 'After they broke my leg they moved my leg from side to side and the pain was excruciating. After they did this to my leg they put me in a car in the trunk and slammed the trunk on my back,' he wrote in the asylum application. Eventually, around midnight, they tossed him onto the street, naked, with his beard and head shaved, he said.

When Burciaga was finally released, he landed just yards away from a group of police officers who never left their cars to provide the battered man assistance (Conroy, 1988). Burciaga looks almost dead in a photograph of the scene; however, the image fails to “reveal that Burciaga’s head was split open, that his face was deeply cut, that ribs and an arm and both legs were fractured, and that muscles and bone were plainly visible through the wounds” (Ibid.). Burciaga’s friends eventually came to his assistance, cutting the ties that bound his hands and feet and covering his “swollen genitals with a cloth” (Ibid.). Burciaga spent two weeks in the hospital with a total of eight broken bones (Garza, 1991).

After recovering, Burciaga “fled his country on crutches,” eventually settling in Chicago with the help of family members who lived in the area (Conroy, 1988). Burciaga, a native of Monclova, was a long time politician and activist from the conservative opposition National

Action Party (*Partido Acción Nacional, PAN*); his kidnapping came just ten days prior to mayoral elections in which he was a candidate (Danini, 1991b). According to Burciaga, he had been “detained and interrogated countless times since 1964,” something that usually only “lasted a couple of hours and was done to keep [him] from political activity” (Garza, 1991). He had also previously spent a month in Laredo, Texas “after receiving threats following a heated election” but had eventually decided to return home and resume his political life (Danini, 1991b). This proved to be a mistake; Burciaga is certain that the men responsible for his brutal kidnapping and torture were working on behalf of the incumbent Institutional Revolutionary Party (*Partido Revolucionario Institucional, PRI*) in direct retaliation for his oppositional political activities (Conroy, 1988).

In November, 1991, Burciaga became the first Mexican national since 1987 to be granted political asylum affirmatively by the U.S. government (Danini, 1991b). Burciaga’s attorney, Pat Kuehn, told *Proceso* magazine that winning asylum “was almost a miracle; I am surprised” (Albarrán de Alba, 1992). In a statement made to the Chicago Tribune, Burciaga said that he interpreted his asylum grant to mean that

“the U.S. government now accepts that this is a reality in Mexico...I think that torture and repression is now an institutionalized practice at every level in Mexico, and if the government of the U.S. gave me asylum, it’s because they accept this” (Garza, 1991)

However, an Immigration and Naturalization Service (INS) public affairs officer quoted by Garz (1991) disagreed with Burciaga’s statement, saying instead that it was “unlikely” that many others would be granted political asylum because they are from Mexico, a “democratically elected country.” This official was proven to be correct: during FY1999, the INS granted asylum affirmatively to Mexican nationals in only 41 cases out of 2,251 Mexican asylum applications filed that year (INS, 2002a). Assuming hypothetically that all cases filed in FY 1999 were also

concluded during that same year, and that no claims were abandoned or withdrawn, this represents an asylum grant rate of only 1.8%.¹²

Ernesto Poblano

In January 1989, former mayor of Ojinaga, Chihuahua, Ernesto Poblano, walked across the bridge to El Paso, Texas without immigration papers and declared his intent to apply for political asylum (“Ex-Mayor Seeks,” 1991). Poblano, a member of the National Action Party (PAN), had been the first mayoral candidate to claim victory over a member from the ruling Institutional Revolutionary Party (PRI) when he was elected in 1974 (Gamboa, 1991). During his tenure in office, Poblano claims that he “was accused of causing too much trouble” after making allegations that local officials were working as drug traffickers (Ibid.). He then reluctantly agreed to step down from his position as mayor, accepting a PRI-backed tax collector position in Nuevo Casas Grandes, Chihuahua (Ibid.). However, despite not being officially listed on the ballot, Poblano was surprisingly elected mayor by the people of Nuevo Casas Grandes in 1980—according to him, this is when all of his trouble began (Ibid.). The incensed PRI leadership struck back decisively, filing formal charges against Poblano for drug trafficking and even going so far as threatening him with an invitation to the funeral of his still-alive father (Gamboa, 1991).

Eventually, once the threats became too much, Poblano decided to seek refuge in the United States. He became a client of local immigration attorney and long-time political activist Carlos Spector who said the following in a 1992 interview with the Mexican publication *Proceso*: “At the beginning I thought it was going to be very difficult, that we would have about a 10% chance to win; the first thing I did was try and discourage my client” (Albarrán de Alba, 1992).

¹² Such an assumption is likely inaccurate; however, it provides a reasonable estimate for illustrative purposes.

However, three years later, in January of 1992, Ernesto Poblano became one of the first Mexican nationals to win political asylum from an immigration judge in the United States (Danini, 1992).

While Poblano was one of the first Mexicans to *publicly* win a defensive political asylum claim, he was likely not the first *panista* to be granted asylum after having fled Mexico in the 1980s. For one thing, Rosendo Burciaga, whose story was told in the introduction, had also fled in the 1980s and was granted asylum affirmatively a few months before Poblano (Danini, 1991b). As discussed previously, at least 9 Mexicans were granted asylum affirmatively in 1987, along with 10 Mexican individuals who were granted asylum defensively in 1989 (Albarrán de Alba, 1992; Plascencia, 2000). Though there is little known about these asylees, it is reasonable to assume that many of them were also *panistas* or other political dissidents seeking refuge from PRI-sponsored persecution (Albarrán de Alba, 1992). Additionally, there were likely some asylum seekers hailing from the *Partido de la Revolucion Democratica* (PRD) considering that researchers have documented the politically-motivated killing of over 662 PRD members between 1988 and 2011 (Schatz, 2011).

Other Publicized Cases

Although it is impossible to find information regarding all of the hundreds of Mexicans who applied for asylum during the 1980s, the following represent some of the more well-publicized cases during this decade (all of which were eventually withdrawn or denied):

Jesus Blancornelas

In March of 1980, Jesus Blancornelas, a former editor of *ABC*, a daily paper in Tijuana, fled to San Diego after becoming aware that the Mexican government was planning to press

charges against him for the embezzlement of \$70,000 from the paper (Montemayor, 1980). Blancornelas vehemently denied these allegations, claiming that he was being persecuted by government officials in retaliation for having published negative articles about the governor of Baja California (including charges of nepotism and state-sponsored torture) (“Ousted Editor,” 1980). He filed a formal request for political asylum but withdrew this request “after he obtained an immigration visa that permitted him to stay in the United States without problems” (Montemayor, 1981).¹³ Eventually, after 529 days of exile, Blancornelas returned to his wife and family in Tijuana after the government dropped the charges against him due to a lack of evidence (Ibid.).

Panista Activists in Piedras Negras, Coahuila

Widespread political unrest broke out in Piedras Negras, Coahuila, following the December 2, 1985 municipal elections in which *panistas* claimed “outright fraud” by members of the PRI (Vazquez, 1985). On February 18, 1985, a political riot culminated in a “shootout between protestors and police” near the international bridge between Piedras Negras and Eagle Pass, Texas (United Press International [UPI], 1985). Approximately 400 protestors “barged across the narrow bridge” seeking protection; 90 were detained because they lacked proper immigration documentation (UPI, 1985). By February 2, all but 17 of the protestors had returned voluntarily to Mexico; the remaining detainees, including *panista* political activist Jose Gabriel Espinoza vowed publicly to seek political asylum in the U.S. because of threats to their lives (Debo Fairbank, 1985).

¹³ Note that the article provides no further information regarding the type of visa Blancornelas received; nor was I able to find this information from any other sources.

Unfortunately, I was unable to find any more information about Jose Gabriel Espinoza or his fellow *panistas*.

Gustavo Villareal

In August of 1986, Gustavo Villareal, *panista* mayor of the northern city of Hidalgo del Parral, crossed into El Paso, Texas and requested political asylum after having received death threats due to his political activities (Associated Press [AP], 1986a). Villareal crossed with two other PAN members: businessmen Jose Felix Bueno and Claudio Worley, the three becoming the first Mexican nationals to request political asylum in the El Paso area, according to INS district director Al Giugni (AP, 1986b). Fewer than 15 days later, Villareal and his compatriots withdrew their asylum requests and returned to Mexico (“Salvar la Vida,” 1986). Accused by government officials of applying for asylum as part of a political publicity stunt, Villareal stated that he fled for his life in earnest but no longer feared persecution because the office of the attorney general had made assurances that he would not be arrested upon their return (Ibid.).

It is clear from the examples above that several *panistas* who publicly declared their intentions to request political asylum eventually returned to Mexico on their own accord. This trend has several possible (and not mutually-exclusive) explanations: asylum applications were lodged frivolously and later withdrawn in order to make a political statement; asylum claims were made in earnest but circumstantial changes allowed applicants the opportunity to withdraw their claims and return to Mexico; and/or, asylum applicants during this time period were discouraged by low grant rates and therefore withdrew their claims and sought refuge in the U.S. as unauthorized immigrants.

Selected Case Studies: 1990s

While Burciaga and Poblano's asylum victories in the early 1990s were relatively isolated, they did serve an important symbolic role in demonstrating that it was, in fact, *possible* for a Mexican national to be granted political asylum from the U.S. government. Mexican asylum applications and grants both increased steadily throughout the 1990s. According to an anonymous senior INS official quoted in 1995 by the *San Antonio Express-News*, "most of the claims filed by Mexicans are members of the PRD [Democratic Revolutionary Party], the National Action Party (PAN) and activists of the Zapatista Army for National Liberation" (Durand, 1995a). Plascencia (2000) is able to shed a bit more light on these applicants through his analysis of 22 asylum case files from 1994 to 1998 that were provided to him by the Human Rights Documentation Exchange (p.76). In his analysis, Plascencia (2000) found that the main reasons behind these applications were the following:

a) treatment of military deserters; b) fear of drug traffickers; c) fear of sexual abuse; d) religious persecution; e) official corruption; f) persecution of indigenous communities; G) persecution because of sexual orientation; h) persecution of peasants; i) threats by PRI and PRD officials, and political persecution; j) fear of organized crime; k) treatment of journalist critical of officials; and l) persecution by organized labor officials" (p. 76).

Altogether, Plascencia (2002) found that most of the claims he reviewed were based on political persecution.

The cases detailed below represent just a tiny portion of the more than 86,000 Mexican asylum applications that were lodged during the 1990s.

Ariel da Silva

Ariel da Silva, a gay man from Mexico "who has been harassed, beaten, and raped by police in his home country" (Randazzo, 2005, p. 34). Da Silva, using the pseudonym "Jose

Garcia,” testified that “police had arrested him for walking in certain neighborhoods, going to certain bars, and attending certain parties...they falsely accused him of crimes and extorted money from him...as a teen-ager, he was raped by a police officer” (Associated Press [AP], 1994). On March 18, 1994, da Silva became the first homosexual to be granted asylum affirmatively by an INS official (Ibid.). Unfortunately, da Silva died of complications from AIDS just five months after having been granted asylum (Agence France-Presse [AFP], 1994).

Ana María Guillen

Ana María Guillen, a PRD activist, fled Matamoros in 1992 after having been falsely accused “of setting a building afire that she claimed housed evidence of voter election fraud” (Associated Press, 1995). Guillen claimed that she was being persecuted by the Mexican government “because of her role in uncovering environmental abuses in border *colonias* and voter fraud in the 1992 elections” (Ibid.). Guillen’s affirmative asylum application was initially denied by the INS, but she was granted asylum in deportation proceedings by immigration Judge Richard Brodsky in November, 1995 (Durand, 1995b).

Unnamed Domestic Violence Survivor

An unnamed Mexican woman (living without legal documents in the U.S.) applied for political asylum after suffering continuous beatings, rapes, and death threats from her husband between 1991-1996 (Center for Gender and Refugee Studies [CGRS], n.d.). Her Mexican-born husband was eventually deported following a parole violation resulting from domestic violence charges filed by the asylum applicant (Ibid.). He threatened to kill the applicant in revenge for her actions and became a police officer in Mexico. This applicant was denied asylum affirmatively but

granted asylum by an immigration judge who ruled that she was a member of a particular social group defined as “Mexican women married to and domestically abused by Mexican public officials or those charged with protecting the public” (Ibid.).

Captain Jesus Valles

Former Mexican Army Captain Jesus Valles, defected from the military in 1995 and sought political asylum in El Paso, Texas after refusing orders to “kill, rather than capture, suspected rebel” fighters on the outskirts of Chiapas (Ross, 1999). Following his refusal, Valles was transferred to another military unit “where several colleagues warned him that he would be “disappeared” (Ibid.). Represented by Carlos Spector, Valles “became the first member of the Mexican military to ever be granted political asylum in the U.S... [and] the first Mexican to ever be given sanctuary on the grounds of a ‘conscientious objection to killing his fellow Mexicans.’” His case was granted by an asylum judge in March of 1999 (Ibid.).

Selected Case Studies: 2000-2006

According to immigration attorney Carlos Spector, asylum applications based on strictly political persecution (or at least those involving highly-publicized cases) decreased with the electoral fall of the PRI in 2000 and the election of Vicente Fox (PAN) (personal communication, April 26, 2013). However, as demonstrated previously, asylum application and grant rates among Mexicans continued their overall 1990s growth trend well through the first half of the 21st century. Several assumptions can be made about these asylum seekers; for example it is reasonable to assume that some of these applicants were seeking asylum due to political repression, perhaps including members of the PRI and PRD parties who experienced problems associated with the

newly-elected PAN government. Likewise, we can assume that many of the applicants fell into the same general categories outlined by Plascencia (2000).

Unfortunately, (and surprisingly) from 2000 to Calderón taking office on December 1, 2006, I did not find a single newspaper article about a Mexican national seeking asylum due specifically to political persecution. Instead, the early 2000s were dominated by stories about applicants seeking asylum due to persecution based on sexual/gender identity and domestic violence.

Rosalda Aguirre-Cervantes

Rosalda Aguirre-Cervantes, a 19 year old Mexican woman who ran away from home and sought asylum in the U.S. after experiencing years of horrific abuse at the hands of her father (Egelko, 2001). Aguirre-Cervantes testified that “her father struck her with a horsewhip, branches, a hose, and his fists from the time she was 3, beat her unconscious, refused to let her seek medical treatment, and threatened to kill her” (Ibid.). Aguirre-Cervantes was first granted asylum by an immigration judge, but that ruling was overturned by the BIA, who argued that her persecution was not the result of membership in a particular “social group” (Ibid.). Upon a directive by Attorney Janet Reno, the U.S. Court of Appeals overturned the BIA’s ruling, granting Aguirre-Cervantes’ asylum claim on the basis that her immediate family constituted a “social group” (Ibid.).

Geovanni Hernandez-Montiel

Geovanni Hernandez-Montiel, a transgender Mexican woman who first sought asylum in 1994 to “escape beatings and rape that he [*sic*] suffered at the hands of Mexican police for adopting female dress and mannerisms” (Randazzo, 2005, p. 37). Hernandez-Montiel testified that she

began dressing like a woman at age 12 and “was expelled from school, thrown out of his [*sic*]home by his [*sic*]parents the next day, and stopped, arrested, and strip-searched numerous times by police” (“Court Grants,” 2000). Later, at age 14, Hernandez-Montiel was raped repeatedly by police (Ibid.). An immigration judge originally denied Hernandez-Montiel’s asylum claim, and that decision was held up by the BIA who argued that “Hernandez-Montiel himself [*sic*] was to blame for the persecution he [*sic*]endured, and he [*sic*]should merely dress differently in order to avoid being persecuted again in the future” (Randazzo, 2005, p. 37). However, in August of 2000, the 9th U.S. Circuit Court of Appeals overturned the Board’s decision, stating that Hernandez-Montiel was eligible for asylum as a member of the “social group” defined by “gay men with female sexual identities” (“Court Grants,” 2000). Hernandez-Montiel thereby became the first Mexican to be granted political asylum by the immigration court due to sexual orientation (even though she identifies as a transgender woman, *not* a gay male) (Randazzo, 2005).

Jorge Soto Vega

Following the Hernandez-Montiel verdict, a number of other gay and lesbian Mexicans were granted political asylum in the U.S. Jorge Soto Vega, a gay Mexican who applied for asylum in July of 2002 after “being detained and severely beaten by the police who, while calling him antigay names, threatened to kill him if they ever saw him again” (Lambda Legal, n.d.). An immigration judge denied Soto Vega’s asylum claim, arguing that he could choose to keep his sexual orientation secret since he did not “appear gay” (Randazzo, 2005, p. 47). The BIA affirmed this decision and the case was referred by GLBT rights organization Lambda Legal to the Ninth Circuit Court of Appeals (Lambda Legal, n.d.). In 2007, the court found that Soto Vega should not

be expected to hide his sexual orientation to be safe and granted asylum to Soto Vega (Lambda Legal, n.d.).

Jose Boer-Sedano

Jose Boer-Sedano, a gay, HIV-positive Mexican man first applied for political asylum in 1997 after facing repeated harassment, arrests, rapes, and death threats by a Mexican police officer (“Abused Gay Man,” 2005). Boer-Sedano’s case was denied by an immigration judge who argued that these confrontations with this police officer amounted to a “personal problem,” not systematic persecution (“Abused Gay Man,” 2005). Once again, the Ninth Circuit Court of Appeals overturned this decision, ruling that Boer-Sedano had been a victim of persecution in Mexico and was therefore eligible for asylum (“Abused Gay Man,” 2005).

Conclusion

Contemporary trends can best be understood by also taking into account the historical background of Mexican asylum seekers since formal asylum proceedings were first codified into US law with the 1980 Refugee Act—by looking back, present-day Mexican asylum researchers can add a greater degree of richness to their analyses. The cases described above provide a good illustration of the ways in which political asylum norms changed during the early years of the 20th and early 21st centuries: from political dissidents to cases based on domestic violence, sexual orientation, and gender identity. While these types of cases continue into the latter half of the decade, the U.S has also experienced an explosion of political asylum claims since 2006 due to Mexican hyperviolence; these cases will be discussed in the following chapters.

Chapter 6: Contemporary Mexican Asylum Seekers

There has been an explosion of Mexican political asylum claims filed in the U.S. during the past several years. Some of these asylum seekers hail from the same persecuted groups discussed in the historical overview provided in Chapter 5: politicians fleeing political persecution, women fleeing domestic violence, and individuals fleeing persecution based on their sexual orientation and gender identity. However, the growth of Mexican political asylum claims in the past several years is due primarily to the increase of other groups fleeing to the U.S. due to Mexican hyperviolence and cartel-linked persecution. These Mexican asylum seekers include persecuted journalists and human rights' activists, former police officers, business-owners targeted by extortionists and kidnappers, and other civilians whose lives have been devastated by Mexican hyperviolence. In this section, I provide information about several Mexican asylum seekers in each of these seven categories (domestic violence, sexual orientation and gender identity, journalists, activists, police officers, business owners, and others), attempting to share the stories of both high-profile cases and of individuals who have received little or no press attention.¹⁴

Domestic Violence

Bookey (2013) offers a detailed analysis of domestic violence-based political asylum claims in the U.S from 1994 to 2012, using data gathered from the University of California, Hastings College of the Law Center for Gender and Refugee Studies (CGRS). Her study identifies several instances in which Mexican woman have been granted political asylum in the

¹⁴ Not all Mexicans who have been granted political asylum during the past several years fit into one of these seven broad categories; for example, on September 26, 2013, a USCIS asylum officer granted political asylum to a Deaf Mexican based on persecution he had experience in Mexico as a member of the Deaf Community (Bajramovic, 2014). There are likely other outliers, though their stories have not been widely publicized.

U.S. based on domestic violence and gender-based persecution (Bookey, 2013). One of the most famous cases involving a Mexican woman fleeing domestic violence is known as the *Matter of L-R*. The anonymous asylum petitioner, “*L-R*,” applied for asylum in the U.S. in 2005 after years of physical and sexual abuse by her common-law husband (Preston, 2010). According to court documents, *L-R*’s abuser “repeatedly raped her at the point of guns and machetes, and once tried to burn her alive” (Ibid.). *L-R* argued in front of the immigration court that the Mexican government had been unwilling and unable to protect her due to a cultural tolerance of such abuse; in one instance when she went to a judge looking for protection, he told her he would only help her if she agreed to have sex with him (Ibid.).

L-R’s claim was originally denied by the immigration judge and appealed to the Board of Immigration Appeals (BIA) (Bookey, 2013). In 2009, the Department of Homeland Security filed a supplemental brief in front of the Board of Immigration Appeals outlining a new departmental position in support of the following categories being considered particular social groups: “(1) Mexican women in domestic relationships who are unable to leave; or (2) Mexican women who are viewed as property by virtue of their position in a domestic relationship” (Bookey, 2013, p.116). The brief also restated that a particular social group can be based on family bonds (Ibid.). Following this brief, the BIA remanded the case back to the immigration judge who granted *L-R* and her children political asylum on August 4, 2010 (Preston, 2010). Since that time, the *Matter of L-R* has been seen as an important precedential case used in support of other claims for political asylum filed by Mexican women fleeing domestic violence-based persecution (Bookey, 2013). However, many immigration judges also continue to deny these claims, often arguing insufficient nexus between social group and the persecution experienced by the applicant (Ibid.).

Sexual Orientation and Gender Identity

In addition to domestic violence-based Mexican asylum applications, there continues to be a small but significant number of Mexican political asylum claims being granted on the basis of sexual orientation and gender identity based persecution. According to a *Washington Post* article (Connolly, 2008), immigration lawyers interviewed estimated that “dozens” of gay and lesbian Mexicans are granted political asylum in the U.S. each year, even though claims are becoming more difficult as Mexico continues to liberalize its laws regarding sexual orientation. One such example is Francisco Ornelas-Chavez, a Mexican national who suffered years of abuse and violence in Mexico due to their sexual identity and gender expression (Link, 2006). Ornelas-Chavez was beaten repeatedly by both parents as a child and was once drugged and raped by a friend at the urging of their father (Ibid.). Their father also conspired to have them arrested and jailed in order to “teach him to behave;” the police chief threatened to arrest them again if he found out that Ornelas-Chavez was having sex with men (Ibid.) Ornelas-Chavez was also frequently attacked later in life by their coworkers at a state-run prison because of their sexual orientation, who once attempted to smother them to death with a pillow (Ibid.). When Ornelas-Chavez reported the abuse to their supervisors, they did nothing (Ibid.). Ornelas-Chavez also testified as having two gay friends murdered by Mexican police officers (Ibid.).

Both the immigration judge and the BIA rejected Ornelas-Chavez’s asylum, Convention against Torture, and Withholding of Removal claims, ruling that the suffering they experienced was not sufficient to qualify as persecution (Link, 2006). However, on August 21, 2006, the 9th Circuit ruled that Ornelas-Chavez had suffered persecution as a member of the particular social group of “gay female-identified men from Mexico” (Ibid.). They furthered argued that Ornelas-Chavez had not been protected by the Mexican government from persecution since they had

reported their abuse while a government employee at the state-run prison. The 9th Circuit ruled that the BIA had ruled improperly and remanded the case back to the immigration judge, who granted Ornelas-Chavez Withholding of Removal because they had failed to meet the timely filing deadline necessary for a grant of asylum (McKinnon, 2008).

Interestingly, McKinnon (2008) argues that Ornelas-Chavez actually identifies as a transgender woman, not a gay male, even though their grant of relief from removal was based on primarily on their sexual orientation, not gender-identity. Another example of a Mexican transgender asylum seeker is Alexandra Reyes, who was granted permission to remain in the U.S. by a Denver, Colorado immigration judge in the fall of 2010 (Cardona, 2010). Reyes began living his life as a girl at the age of eight, “infuriating her traditional Mayan family in Cenotillo, Mexico” (Ibid.). She suffered extreme amounts of abuse by her family members, including an incident in which her aunt entered her room in the middle of the night and attempted to murder her with a machete (Ibid.). Reyes says she reported her abuse to the authorities, but that the police refused to arrest her attackers (Ibid.). Reyes entered the U.S. without inspection in 2000 and was not detected by immigration officials until 2009; upon her arrest, Reyes was held for eleven months with male detainees while awaiting the outcome of her court proceedings (Ibid.).

Journalists

Among the most prominent of all contemporary Mexicans asylum seekers in the U.S. are journalists who have fled their country after receiving death threats linked to their coverage of cartel-violence and government corruption. This is understandable given that non-governmental agency Reporters without Borders ranked Mexico the fourth “deadliest country for journalists” in 2012; according to their estimates, 89 Mexican journalists have been “killed in connection with

their work since 2000,” in addition to another 17 journalists who have been disappeared (“RWB Urges Authorities,” 2014). While confidentiality regulations surrounding asylum cases make it impossible to gather official statistics, El Paso-based immigration lawyer Carlos Spector has been quoted in the press as estimating that approximately fifteen Mexican journalists have been granted political asylum since 2006 (O’Connor, 2013). In the following section, I present the stories of six such journalists, four of whom have already been successfully granted political asylum in the U.S.

Jorge Luis Aguirre

Jorge Luis Aguirre is often cited in the press as the first Mexican journalist to have been granted political asylum in the U.S. since the period of hyperviolence began in 2006 (“Special Report,” 2012; Rodriguez, 2010; Schmall, 2010). A veteran journalist, Aguirre is the well-known founder and editor of the widely-read news website *lapolaka.com*, described in one article as an “amalgam of news tidbits and pointed musings” that are a “must-read for Juárez politicians, business leaders and journalists” (Becker & McDonnell, 2009). According to Aguirre, *lapolaka.com* was receiving between 25,000 and 30,000 hits per day in 2009 (“La Polaka Journalist,” 2009). An oftentimes vocal critic of government officials in Ciudad Juárez, Aguirre first began receiving death threats by phone after he published a series of articles questioning the “drug-fighting resolve” of chief city prosecutor Patricia Gonzalez (Becker & McDonnell, 2009). The final straw came when Aguirre was on his way to the funeral of murdered fellow journalist Armando Rodriguez; a menacing voice called Aguirre’s cellphone and yelled at him, “You’re next” (“Mejor el bicentenario,” 2010). Immediately after, Aguirre fled with his wife and three children to El Paso, Texas using “temporary visas” (Becker & McDonnell, 2009).

In news interviews, Aguirre is clear that he never planned on moving to the U.S., stating: “I was happy in Mexico; I never intended to leave, until they vowed to kill me...When they tell you that in Juárez, you better believe it” (Aguirre, as quoted in Becker & McDonnell, 2009). In fact, Aguirre lived for several months in El Paso with his temporary visa before eventually deciding to apply for political asylum affirmatively, telling reporters in March of 2009 that he was worried about the possibility of being deported if his application was rejected (Ibid.). However, in September of 2010, Aguirre and his family were granted political asylum affirmatively by a USCIS asylum officer (Schmall, 2010). At a press conference to announce his victory, Aguirre told reporters, ““I can breathe again...this asylum opens the door to journalists caught in the middle in Mexico, where there is no justice and where the [local] governments are part of drug trafficking”” (Ibid.). Today, Aguirre and his family continue to reside in El Paso, Texas, with Aguirre telling reporters in November 2012 that the entire process has made him “more spiritual and focused” (“Special Report,” 2012). Aguirre continues to publish his unique blend of social commentary and journalism at lapolaka.com.

Alejandro Hernandez Pacheco

Similar to the press coverage of Aguirre, Alejandro Hernandez Pacheco is often cited by the media as the “second Mexican journalist to receive political asylum since his country’s current was of drug violence began” (Berdfeldt, 2011). Prior to fleeing to the U.S., Hernandez Pacheco was a cameraman for the Mexican TV network *Televisa* (Grillo, 2011b). In July of 2010, he was sent on assignment to cover protests taking place at a prison in Torreon, Coahuila; the protests was in response to the recent arrest of the prison’s director on charges of “releasing prisoners at night to carry out organized crime hits” (Olsen, 2010). Upon completing their

assignment, Hernandez Pacheco and three other reporters (two from a rival television network, *Multimedios*) were car-jacked and kidnapped at gunpoint by “unidentified men” (Ibid.). The four kidnapping victims were held for five days during which they were beaten and tortured (Molloy, 2010c).

Eventually, the abductors contacted *Televisa* and *Multimedios* and demanded that they air a series of videos in exchange for the lives of the kidnapped men (Olsen, 2010.). According to media reports, *Multimedios* agreed to air the videos while *Televisa* refused to comply with the kidnappers’ demands (Ibid.). Nevertheless, all four kidnapped men “got released or escaped” with Hernandez Pacheco running “for his life when kidnappers thought rescuers were closing in” (Ibid.). According to his attorney, Carlos Spector, what happened next caused irreparable damage to Hernandez Pacheco’s ability to ever live safely in Mexico again:

“Historically the Mexican government has attempted to deflect responsibility by blaming the victim. We’re seeing that play out today in the three journalists I represent for asylum, the latest being Alejandro Hernández who was kidnapped for five days, tortured and starved. He’s picked up July 26. He’s released July 31 at 6 in the morning, by 1 p.m., he’s in Mexico City at a press conference with federal police saying that they’re great and they saved him. They duped him into going to Mexico City, saying that President Calderón was going to meet him. He gets there and the cameraman counts, because he’s a cameraman, 32 cameras. And they’re forced to have a press conference. He’s traumatized. They haven’t been dealt with psychologically, physically or medically, they haven’t bathed, they’re given only a muffin to eat, and they’re exhibited and then released on the streets to face the wrath of the cartels for testifying against them. He complains about that and now the government is saying he’s an ingrate, saying “We saved your life and you’re really a criminal who’s in search of your residency.” So the answer to your question is yes, they have a penchant for villainizing the victim. They’re experts at it.” (Spector, as quoted in Negron, 2010).

By being thrust into the spotlight, Hernandez Pacheco was identified on national television as having cooperated with Mexican federal law enforcement, a sin that is frequently punishable by death at the hands of angry cartel members seeking to deter other would-be informants.

Moreover, Mexican officials at the press conference linked the attack to the Sinaloa cartel in particular, an organization that is well-known for its use of revenge-killings (Olsen, 2013).

Hernandez Pacheco fled to the U.S. a couple of weeks later in August 2010, carrying nothing more than the “clothes he wore and some documents,” including his Border Crossing Card (Chavez, 2010, Sep 15). He was joined by his wife and two young children a few days later (Ibid.; Molloy, 2010c). Hernandez Pacheco and his family applied affirmatively for asylum in September 2010 and their petition was granted on September 1, 2011 based on membership in the social group of Journalists (Balbina Florez, 2011; Grillo, 2011b). While speaking to the press following the good news, Carlos Spector, called the ruling “historical” and indicated that it would have a positive impact on the future cases of other Mexican journalists seeking political asylum (Berdfeldt, 2011). Hernandez Pacheco, however, was more demur, telling the press sadly, “It is hard to celebrate when it means I am never going back to my country...I miss my family, my friends, my city and my house” (as quoted in Berdfeldt, 2011).

Hector Salazar Gomez

On September 21, 2011—just twenty days after Hernandez Pacheco and his family were granted political asylum affirmatively by a USCIS officer—immigration judge Mimi Tsankov granted Mexican journalist Hector Salazar Gomez’s defensive asylum petition in federal immigration court (Balbina Florez, 2011). Salazar Gomez, his wife, and daughter had been living in Denver, Colorado since 2007 when they entered the U.S. using tourist visas (Ibid.). The family had come to Denver with the original plan of only staying a few months, hoping that the circumstances in Mexico that had caused them to leave would be resolved (Ibid.). Instead, the situation in Mexico continued to deteriorate, causing Salazar Gomez and his family to remain in

the U.S. without lawful immigration authorization on tourist visas that had long-since expired (Ibid.). In a 2011 interview, Salazar Gomez explains that in order to support his family, he “did the same thing as all of the unauthorized community, cleaning offices, distributing fliers, working as an assistant to people who worked cleaning windows in buildings and homes” (as quoted in Balbina Florez, 2011).

Eventually, in October 2008, Salazar Gomez was able to get a good job working for a Spanish-language AM radio station on a program called *Palabras* that addresses issues related to Mexican politics and immigration (Balbina Florez, 2011; Ripley, 2012). However, in January 2009, Salazar Gomez was stopped for a traffic violation and put into immigration proceedings after the officer inquired about his immigration status (Balbina Florez, 2011). Following the advice of an attorney, Shawn Meade, Salazar Gomez decided to apply for political asylum on the basis of having been persecuted as a journalist in Mexico (Ripley, 2012).

Salazar Gomez explained in court that he had been forced to flee Mexico after receiving numerous death threats related to editorials he had published in his home city of Yautepec, Morelos, which were critical of government officials, including then-governor Sergio Estrada Cajigal (Balbina Florez, 2011). From 2003-2006, he received numerous threatening messages to “tone down” the content of his articles (Ibid). In 2005, Salazar Gomez expressed interest in running for mayor under the banner of the Revolutionary Democratic Party (Partido de la Revolucion Democractica; PRD) but was deterred by internal party politics and a marked increase in the frequency of menacing phone calls and other death threats (Ibid.). Shortly thereafter, Salazar Gomez was kidnapped, robbed, and tortured by two men dressed as police officers (Ripley, 2012). He was told by his abductors that they had been ordered to kill him, but he was able to secure his escape via a generous bribe (Ibid.).

Even after escaping, Salazar Gomez continued his work as a journalist; however, the threats and strange occurrences continued. For example, he received a letter in the mail from a long-time family friend that consisted of “pornographic cut-outs of naked women” and threatening critiques against him written in pasted letters cut-out from magazines (Balbina Florez, 2011). Later, his family’s mausoleum was demolished; on another occasion, bullets were fired at the front of his house during the early morning hours (Ibid.). Finally, Salazar Gomez and his wife made the decision to visit family members in Denver for a few months hoping that things would eventually settle down; their intention was not to join growing population of violence-driven Mexican exiles living as unauthorized immigrants in the U.S. (Ripley, 2012). When the couple realized that conditions were not improving in Mexico, they decided to overstay their visas in order to protect their family’s lives (Ibid.).

Salazar Gomez is understandably grateful about being one of only a handful of Mexican journalists to have been granted political asylum in the U.S. He continues as a Spanish-language radio reporter for *Radio 1150* in Denver, and occasionally travels to speak at events about his experiences in Mexico and his life as a Mexican exile (Asmar, 2012; “VoV 2014 Forum,” n.d.). However, Salazar Gomez still laments having to leave Mexico, as is evidenced by this statement to *Zocolo* magazine in 2011:

Any person who fears for her/his life should ask for asylum from the United States or another country, [but] this does not mean that we stop being Mexican or that we will not return to our homeland; yet it's an opportunity, an alternative, I believe that the search for survival is a valid reason. I love my country, the country where my life was in danger, and that was why I sought asylum in the United States, but I would like to consider the possibility of returning to Mexico.

Miguel Angel Lopez Solano

Like Salazar Gomez, photojournalist Miguel Angel Lopez Solano has suffered greatly due to attacks made against him and his family in retaliation for their work as newspaper reporters in the Mexican state of Veracruz. The following excerpt summarizes the various attacks endured by Salazar Gomez prior to his decision to flee to the U.S. (Martinez-Cabrera, 2012):

Early in the morning on June 20, 2011, López's father, mother and brother were gunned down and killed at their home. His father Miguel Angel López Velasco, 55, was a prominent columnist at Notiver [local newspaper]. According to the Committee to Protect Journalists, the father was a former deputy editor of Notiver, edited the newspaper's police section and regularly wrote about politics and security issues. His brother Misael López Solana, 21, was a photographer with the same newspaper. López said he believes the attack on his family was related to a recent column written by his father on drug trafficking.

After being informed of the killings, López ran past police officers outside his parents' house and went in. The ground was covered "in a sea of bullet casings." His mother was in a pool of blood. His father's face was disfigured. His brother had three shots in the back of the neck. Miguel López said the precision of the attacks made him believe the attack was carried out by professional hit men. Investigations into the slayings have become stagnant.

Miguel López said his family's killings came at the end of a series of previous threats, intimidations and close calls. Once, a decapitated head was thrown outside his father's house. A year before the slayings, Miguel López had been kidnapped and threatened with a gun in his mouth for his coverage as a police beat photographer.

Immediately following his family's funeral, Lopez Solano flew to Mexico City, having “literally” driven from the “cemetery to the airport” due to fears about his own safety (as quoted in del Bosque, 2012b). He spent approximately six months in Mexico City during which time he obtained a tourist visa to visit the U.S., still thinking that he might be able to continue to find a sense of peace and security somewhere in Mexico. However, after three more journalists were brutally murdered in Veracruz in May 2012, Lopez Solano “woke up with the overpowering feeling that [he] should leave Mexico immediately” (Ibid.). He and his wife packed their bags and left that afternoon, deciding a few weeks later to apply affirmatively for

political asylum with the help of attorney Carlos Spector. Less than 2 months later, Lopez Solano and his wife were granted political asylum (del Bosque, 2013b).

Since being granted political asylum, Lopez Solano continues to demand that the Mexican government conduct an impartial and honest investigation into the murders of his father, mother, and brother (Zavaleta, 2013). He is “extremely frustrated and worried that nothing has been done in Veracruz to investigate the murders of his family and other journalists,” asking rhetorically in a recent interview, “How is it possible that American justice can grant me asylum in one year and Mexican authorities have still not been able to solve the murders of my family, and it’s been two years?”(as quoted in del Bosque, 2013b). Additionally, Lopez Solano remains a vocal advocate for justice for persecuted, missing, and murdered Mexican journalists, citing his father’s teachings that “‘journalist’s job [is] to uncover injustice’” (Ibid.). Most recently, Lopez Solano has been speaking out publicly on behalf of Veracruz journalist Gregorio Jimenez de la Cruz who was kidnapped and murdered in February 2014 (Gomez, 2014; “Periodista exiliado exige,” 2014). However, like his fellow exiled colleagues, Lopez Solano admits that he and his wife are still struggling with their new lives in the U.S. stating, “‘It’s a hard physical and mental process to survive all the trauma that we suffered in Mexico... We are still recovering from it and trying to adjust to a new culture, a new language’” (as quoted in del Bosque, 2013b).

Ricardo Chavez Aldana

On December 5, 2009, six young people were gunned down while watching a soccer game in the *Solidaridad* neighborhood of Ciudad Juárez (Ponce de Leon, 2009). Among the dead were Luis Cristian Fraire Chavez (19) and Giovanni Fraire Chavez (15), both students and

nephews of Ricardo Chavez Aldana, a prominent crime-news radio host who had “long criticized government corruption and drug trafficking” (Borunda, 2010a; Molloy, 2010c). That same day, Chavez Aldana spoke out publicly on the radio against the attack, demanding that the authorities capture the perpetrators and do something about the various armed groups in Ciudad Juárez who seem to travel about freely “as if they were being protected by the police or the military” (Ponce de Leon, 2009). Chavez Aldana went on state that the city prosecutor’s office was likely to wash its hands of the matter by claiming that the boys were murdered because they themselves were involved in criminal activity, something that the family vehemently denies (Ponce de Leon, 2009 Molloy, 2010c).

Fifteen minutes later, Chavez Aldana received a menacing phone call, the voice on the other end of the line telling him that he “better shut up and that he knew why” (Ponce de Leon, 2009). The caller also threatened him by saying that he was going to be “next” (Balbina Florez, 2011). The next day, Chavez Aldana received yet another call, this one promising threatening the physical safety of his entire family (Ibid.). In addition to these more recent threats, Chavez Aldana had previously been victim to the attempted arson of his car (Borunda, 2010a). Sufficiently frightened, Chavez Aldana gathered up his wife and five children under the age of 15 and went to the U.S.-Mexico Bridge seeking political asylum, accompanied by his sister (Molloy, 2010c). Chavez Aldana (who had a border crossing card) was allowed to enter the U.S. with his wife and children under the guise of humanitarian parole (Ibid.). His sister, on the other hand, did not have a border crossing card and was detained by immigration officials for over a month despite the fact that she had witnessed her two teenaged sons get murdered in cold blood only a few days earlier (Ibid.; Molloy, 2010a).

As of April 2014, there has still not been a final decision made regarding Chavez Aladana's defensive application for political asylum. In a 2011 interview, Chavez Aldana said that he and his family were living off a partial weekly salary he continued to receive from his radio job in Ciudad Juárez, supplemented by generous donations from friends and family members, including from donated funds aimed at supporting Mexican exiles (Balbina Florez, 2011). In a more recent article, Chavez Aldana is said to be working "cleaning tables at a fast-food restaurant in Texas, just like any other foreign migrant in the U.S." (Huerta, 2013).

Emilio Gutierrez Soto

Emilio Gutierrez Soto is one of the most well-known Mexican journalists currently seeking political asylum in the U.S., and someone whose case has been pending for the longest amount of time. Gutierrez Soto was a newspaper reporter in his hometown of Ascensión, Chihuahua before having to flee for his life in June 2008. According to Gutierrez Soto, all of his problems began because he violated the sacred rule of Mexican journalism—never reporting on any stories that make the military look bad (Bowden, 2009). In 2005, Gutierrez Soto wrote a brief story about an event in which "six soldiers came to La Estrella Hotel, a run-down boardinghouse for migrants across the street from the Hotel San Francisco, took food off people's plates, and then robbed the customers of their money and jewelry" (Bowden, 2009, p.3). Several days later the army called Gutierrez Soto for a meeting and threatened him with beating and kidnapping, saying he better never publish another story like that one again (Ibid.). Instead, Gutierrez Soto defied the order and published an account of the threats and filed an official report against the soldiers with the police and the National Human Rights Commission (Ibid.). The investigation went nowhere (Ibid.).

Later, on May 5, 2008, Gutierrez Soto and his son were awakened in the middle of the night by fifty soldiers raiding the house, allegedly looking for weapons and drugs (Ibid.). They found neither and left (Ibid.). A few days later, in June 2008, Gutierrez Soto noticed a suspicious vehicle trailing him throughout the day (Ibid.). A friend came by his house and told him that she had heard rumors from her soldier boyfriend that the other soldiers were planning on killing him (Ibid.). Gutierrez Soto gathered his teenage son and their legal documents and fled to the U.S.-Mexico border where they asked the officers for political asylum (Ibid.). Gutierrez Soto was placed in immigration detention in El Paso, Texas while his son was taken to a detention facility for minors; a month passed before they were permitted to speak on the phone (Ibid.). Gutierrez Soto's son was released to friends after two months in detention while he himself was detained for more than seven months (Ibid.).

Gutierrez Soto's first asylum hearing in front of El Paso immigration judge Robert Hough was on January 21, 2011; however, the hearing did not conclude and was continued until October 2012 and then was rescheduled again for September 2015 ("Mexican journalist," 2011; Aguilar, 2011a; Molloy, 2012d). Almost 6 years after fleeing for his life, Gutierrez Soto now lives in New Mexico and makes a sparse living doing yard work and selling picked vegetables ("Special Report," 2012). In 2009 he told *The Los Angeles Times*, "'It's very hard to accept that I can never return to Mexico, but that is the lamentable reality'" (as quoted in Becker & McDonnell, 2009). In 2010 he told *The Texas Observer*, "'None of us wants to leave Mexico, our lives, our jobs. But those who are able to cross the border have no other alternative ... The worst is knowing I can probably never go back. They took my country away'" (as quoted in Hayward, 2010). In 2011, he told *The Texas Tribune*, "'It's like I am living in limbo, like I am just a number...It's a game that both countries are playing. I didn't come here just to leave

Mexico and get immigration papers, the way some people are saying. I came because I feared for my life” (as quoted in Aguilar, 2011a). In 2012, he told reporters “losing my country has been worse than losing my parents” (Ibid.). By 2013 and 2014, Gutierrez Soto has become much less visible in the press. He is patiently awaiting his September 2015 court date.

Activists

After journalists, human rights’ activists are the second most common type of contemporary Mexican asylum seekers.

Benita Monarrez

Benita Monarrez became a human rights activist in 2001 after the body of her 20 year old daughter, Laura Berenice Ramos Monarrez, was found with the bodies of seven other young women dumped in an abandoned cotton field in Ciudad Juárez (Washington Valdez, 2009). This discovery garnered widespread international attention from the media and human rights organizations including Amnesty International and the Inter-American Commission for Human Rights (Ibid.). For years, Monarrez was a vocal activist in Ciudad Juárez, arguing that the Mexican government had done little to bring justice to her daughter’s murderer (Ibid.). Her activism resulted in constant death threats which formed the basis of her 2007 asylum claim (Ibid.). In December 2009, the Inter-American Court of Human rights ruled that the Mexican government had failed to “adequately investigate” the cotton field murders (Vulliamy, 2011, p.203). The report further stated that “Mexico failed to protect the victims and that the government must publicly acknowledge its responsibility, publish the sentence in official government records, and build a monument in memory of the victims” (Ibid.). In the spring of 2009, Monarrez and her family were granted political asylum by an immigration court in San

Antonio, Texas, after being represented *pro bono* by the University of Texas at Austin Law School (Ibid.).

Cipriana Jurado

Like Benita Monarrez, Cipriana Jurado was a long-time political activist in Ciudad Juárez. Born and raised in southern Chihuahua, Jurado came to Ciudad Juárez in the 1970s when she was 13 years old to begin working in the city's well-known multinational factories known as *maquilas* (Fernández, 2011). She later co-founded the labor-rights organization *Centro de Investigación y Solidaridad Obrera* (Center for Investigation and Worker Solidarity), becoming its director in 1990 (Cipriana Jurado, 2011). She was later integrally involved in the anti-femicide movements of the 1990s and early 2000s (Fernández, 2011).

In the late 2000s, Jurado began receiving reports from residents of Ciudad Juárez about their family members being forcibly disappeared by members of the Mexican armed forces (Ibid.). She and her organization began working with other local groups to denounce these disappearances and demand formal investigations aimed at finding justice for the victims and their families (Ibid.). Jurado's activism resulted in her being continually threatened by anonymous callers and members of the Mexican military (Ibid). In April 2008, she was arrested by soldiers for a nonviolent demonstration that had taken place three years prior; upon her release, Jurado began receiving frequent intimidating visits by Mexican soldiers allegedly looking for weapons and drugs (Figueroa, 2011). People tried to break into her home and important documents were stolen from her office (Fernández, 2011).

Throughout this time period, Jurado watched as several of her fellow activists were murdered one by one (Cipriana Jurado, 2011). One day, Jurado was "approached by a stranger who said that if she continued her protests, her name would be added to the list of activists

gunned down in the border state” (Aguilar, 2012). She left Ciudad Juárez in the summer of 2010 with her two children using BCCs and permission to travel to Chicago for six months for an activist fellowship with the Chicago Religious Leadership Network on Latin America (*Cipriana Jurado*, 2011). While originally planning to return to her life in Mexico, Jurado changed her mind following the murder of fellow activist and friend Josefina Reyes in January 2010 (Aguilar, 2012; Fernández, 2011). After learning about the murder of Reyes, Jurado made the difficult decision to overstay her visa and remain in the U.S. She announced at a March 15, 2011 press conference that she had applied affirmatively for political asylum in February and would be having her hearing in front of USCIS the next day (Gomez Licon, 2011). On June 3, 2011, Jurado and her two children were granted political asylum, making her “the first case in recent history in which the U.S. government recognized that a human rights activist was persecuted by the military in Mexico” (Fernández, 2011). Jurado told reporters, “I fear the cartels, but I fear the Mexican military more... The soldiers have killed many innocent people, and any human-rights workers who stand in their way are in great danger” (as quoted in Grillo, 2011b).

Jurado has spoken frequently to the press about her experiences in Mexico and as an asylum seeker living in the U.S. She told reporters in 2011 that she felt guilty about having to uproot her children’s lives, saying that it was especially unfair to her teenage son who had been planning to enroll in the university before they were forced to flee: “He didn’t choose to be a human rights defender. I did” (Fernández, 2011). She also spoke candidly about her emotional turmoil as a Mexican exile, stating “the loneliness you feel is difficult to bare...you are here, minimally safe, but your friends and family are still in Juárez” (as quoted in Fernández, 2011). At a speaking engagement just a few weeks after receiving political asylum, Jurado told a crowded room that while she was extremely grateful for the decision, she is still sad because “we

had to leave out home, our work, to be here. We have found a lot of support, a lot of people in solidarity with us, but it is not the same to be forced to live somewhere else” (*Cipriana Jurado*, 2011).

Jurado has also continued her work as an activist here in the U.S., serving as a co-founder and board member of the politically-active nonprofit organization *Mexicanos en Exilio* (*Mexenex*). She told reporters in the fall of 2013 that the organization now has over 300 members “struggling to rebuild their lives after fleeing Mexico...It's not easy to start over in another country that has a different language. But at least, they are safe here now” (as quoted in Washington Valdez, 2013b).

Karla Jocabeth Castañeda

One of the most recent human rights activists to publically flee to the U.S. seeking protection, Karla Jocabeth Castañeda was a well-known leader with the Ciudad Juárez-based nongovernmental organization *Comite de Madres y Familiares con Hijas Desaparecidas* [Committee for Mothers and Relatives with Missing Daughters] (“Dan ultimatum padres,” 2013). Jocabeth Castañeda’s 13 year old daughter, Cinithia Jocabeth Castañeda Alvarado, went missing in 2008 while on an excursion to exchange a pair of shoes in downtown Juárez (Figueroa, 2013a). Since then, Jocabeth Castañeda has been a vocal advocate demanding justice for her daughter and the other missing women of Ciudad Juárez. In January 2013, she and other members of the organization staged a seven-day march for justice from Ciudad Juárez to the state capital in Chihuahua, Chihuahua (“Dan ultimatum padres,” 2013). Once there, the Chihuahuan governor, Cesar Duarte, refused to see the protestors or listen to their demands (Ibid.).

Upon returning to Ciudad Juárez, Jocabeth Castañeda began receiving a series of threats from state police officers. First, she was visited by a number of municipal police officers who burst into her home and harassed her and her children (Del Carmen Sosa, 2013). Jocabeth Castañeda and her children fled their home to stay with relatives; a few days later, federal agents arrived and ransacked her home (Ibid.). According to news reports, the officers said that they were looking for her because she was ““meddling too much in the search of her daughter”” (Figueroa, 2013). Later, the Chihuahua Attorney General’s

Directly after this incident, Jocabeth Castañeda and her five children under the age of fifteen went into hiding, leaving Ciudad Juárez on February 11, 2013 (Mayorga, 2013; Lizarraga, 2013). They then crossed into the U.S. seeking political asylum in San Isidro, California (Ibid.). The family was granted humanitarian parole and are living in an unidentified location while they await their asylum court hearings (Mayorga, 2013).

Escobedo Family

The Escobedo family are some of the most well-known contemporary Mexican asylum seekers. The family’s matriarch—Marisela Escobedo—garnered international press attention for her activism on behalf of her daughter, Rubí Marisol Frayre, who was murdered at age 16 in the fall of 2008 (Carmona, 2012). Rubí Escobedo’s partial remains were found burned and dumped in the desert (Ibid.). The primary suspect in her murder was her boyfriend, Sergio Rafael Barraza Bocanegra, who originally confessed to the crime, was found guilty by the court, and was then acquitted and released (Ibid.). After his release, Marisela Escobedo protested until Barraza Bocanegra’s acquittal was eventually overturned in the spring of 2010 (Ibid.). However, Barraza Bocanegra remained at large and Marisela Escobedo continued to pressure the

government to increase their efforts to find him and achieve justice for her daughter. She eventually launched a “one-woman protest” across the street from the governor’s office in Chihuahua, Chihuahua (Ellingwood, 2010).

On December 16, 2010, Marisela Escobedo was gunned down in a brazen, point-blank attack directly in front of the governor’s office (Ellingwood, 2010). Amnesty International condemned the killing as demonstrative of the continued “negligence of state and federal authorities” in failing to protect activists and relatives of crime victims (as quoted in Ellingwood, 2010). There is widespread speculation that Marisela Escobedo’s murder was perpetrated by the Mexican government—or their criminal allies—in direct retaliation for her work as an activist (Ayala, 2011). One day after Marisela Escobedo’s murder, armed commandos set fire to a lumberyard owned by her common law husband, Jose Monje Amparan, and kidnapped her brother-in-law, Manuel Monje Amparan (“Queman madererira,” 2010). Shortly thereafter, Manuel Monje Amparan’s body was dumped on the side of the road; his corpse showed signs of torture (“Hallan sin vida,” 2010).

After these attacks, several members of Marisela Escobedo—her brother, granddaughter, and two sons—quickly crossed into El Paso, Texas seeking political asylum (Gomez Licon, 2010b). Following Rubí Escobedo’s murder, Marisela Escobedo had informally taken over guardianship of Rubí’s toddler, Heidi Escobedo (Calleja & Figueroa, 2011). When Marisela Escobedo was assassinated, her two sons—Juan Manuel and Alejandro—took informal custody of the child (Ibid.). When the family presented themselves to immigration officials for political asylum at the U.S.-Mexico port of entry in El Paso, Texas, the entire family was placed in immigration detention: the two brothers were detained locally while the young girl was transferred to a children’s detention facility in Houston (Ibid.). All of the family was eventually

released under humanitarian parole and scheduled for asylum hearings in front of an immigration judge several years in the future (M. Hernandez, personal communication, April 4, 2014).

Marisela Escobedo's daughter-in-law, Monica Hernandez, (who entered the U.S. at a later date using a BCC) was granted political asylum affirmatively along with her six-year-old son in September 2011 (Porter, 2011). She and her husband Alejandro are currently living with their two young sons in an undisclosed location far from the U.S.-Mexico border (M. Hernandez, personal communication, April 4, 2014). As an asylees, Hernandez has the right to petition for her husband and other son as derivatives; however, as of April 2014, they are still waiting for USCIS to approve their petition (Ibid.). Marisela Escobedo's other son, Juan Manuel Fraye Escobedo is still waiting for his asylum court hearing, along with her sister, Elba Escobedo Ortiz (Villalpando, 2013).

Juan Manuel Fraye Escobedo, has been extremely active in demanding justice from the Mexican government for the murder of his sister and mother (Chavez, 2011). In November 2011, the Paso del Norte Civil Rights Project honored the Escobedo Family with an award in recognition of their tireless quest for justice (Alarcon, 2011). In 2011, he told reporters that his quest for justice in his mother's case was due to him not wanting her to become "just another statistic" (as quoted in Green Sterling, 2011).

In October 2012, Mexican authorities arrested José Enrique Jiménez Zavala (alias "El Wicked"), for the homicide of Marisela Escobedo (Ruiz, 2012). In response, Juan Manuel Fraye held a press conference with his lawyer Carlos Spector denouncing the accusations, confirming for the press once again that his mother's true assassin was Andy Barraza, brother of Sergio Barraza, the alleged killer of Rubí Escobedo (Ibid.) In December 2013, Marisela Escobedo's sister, Elba Escobedo Ortiz, spoke again to reporters claiming that "El Wicked" was a framed

scapegoat and demanding that the Mexican government launch a true investigation into her sister's killing (Villalpando, 2013).

Reyes Salazar Family

The Reyes Salazars are a large family of bakers and activists from Guadalupe Distrito Bravos, a violent rural community located in the Juárez Valley.¹⁵ Their troubles first began in August 2008 when one of the family members, Miguel Angel was forcibly abducted from his home by soldiers who did not have a search warrant (Leon & Rosa, 2011). Miguel Angel's mother—Josefina Reyes Salazar—publicly denounced the abduction and spoke out against militarization even after her son was released (Ibid.). Approximately a year later, another one of her sons, Julio Cesar, was gunned down by unknown shooters (Ibid). Josefina continued her activism and advocacy work demanding an end to militarization and justice for her sons (Ibid.). Josefina received frequent death threats as a result of her activism and was murdered on January 3, 2010 by assailants wearing military uniforms and driving vehicles marked with army insignia (Ibid.).

Six months later, on August 18, 2010, Josefina's brother, Ruben, was shot and killed in Guadalupe (Leon & Rosa, 2011). Then, on February 7, 2011, "six heavily armed men wearing ski masks" abducted Josefina's sister, Malena, her brother Elias, and her sister-in-law Luisa Ornelas Soto (Ibid.). The siblings' elderly mother (Sara Salazar Hernandez) her 11-year old granddaughter were present at the time of the murder and both were threatened at gunpoint (Ibid.). Following the abduction, the Reyes Salazar family staged a sit-in and hunger-strike outside of the Attorney General's office in Ciudad Juárez demanding the safe return of Malena,

¹⁵ Due to the large size of the Reyes Salazar family, I have chosen to use primarily first names in this section

Elias, and Luisa (Ibid.). Shortly after starting the sit-in, the family was notified by a neighbor that Sara's house had been burned down, despite it being located very nearby a military outpost (Ibid.).

On February 21, Sara and another one of her daughters—Marisela Reyes Salazar—went to Mexico City to continue their sit-in and hunger strike in front of the Mexican Senate building (Leon & Rosa, 2011). Just a few days later, on February 25, authorities found the bodies of all three kidnapped Reyes-Salazar family members dumped on the side of the road (Ibid.). The bodies showed signs of having been buried and disinterred, indicating that they were likely only discovered due to the activism around the case (Ibid.). Since this discovery, the Reyes Salazar family has continued to demand justice for their murdered relatives and they have continued to receive death threats.

As of August 2013, a total of 40 members of the Reyes Salazar family have fled to the U.S. seeking political asylum; several family members have been successful in their applications (del Bosque, 2013c). Since fleeing to the U.S, Saul Reyes Salazar, brother of Josefina Reyes Salazar, has been a vocal advocate on behalf of his persecuted relatives, traveling across the country to speak about his experiences (Aguilar, 2012; Molloy, 2012a). On January 23, 2012, Saul Reyes Salazar, his wife, and three children were granted political asylum affirmatively in El Paso, Texas (Davila, 2012 April 2). In 2012, the majority of the surviving members of the Reyes Salazar family—20 people—requested asylum at the El Paso port of entry (“Family of 20,” 2012). In February 2013, Claudia Reyes Salazar—sister of Saul Reyes Salazar and Josefina Reyes Salazar—was granted political asylum by an immigration judge along with six other members of her immediate family (del Bosque, 2013a). In August 2013, Marisela Reyes Salazar—another long-term activist and sister of Josefina Reyes Salazar—and her nephew Hugo

were also granted political asylum by an immigration judge (del Bosque, 2013c). Like Saul, Marisela has continued her activism work on this side of the border.

In September 2013, 78-year-old family matriarch Sara Salazar Hernandez was granted asylum affirmatively by a USCIS asylum officer, making her the 16th family member of the Reyes Salazar family to be granted asylum (Figueroa, 2013c). Having consistently resisted pressure from her family members to come to the U.S., Sara Salazar Hernandez finally acquiesced after she continued to receive death threats even after having gone into hiding in another part of Mexico (Ibid.) She told reporters, “I never imagined living in the United States...I had a life in Guadalupe -- a home, my family, my friends, a family business ... everything” (as quoted in Figueroa, 2013c).

Police Officers

Current and former police officers make up a small but significant portion of contemporary Mexican asylum seekers. In May 2008, Jayson P. Ahern, the deputy commissioner of Customs and Border Protection reported that three Mexican police chiefs had arrived at the U.S. border requesting political asylum during the previous few months (“Mexican police ask,” 2008). Police officers are frequent victims of violence in Mexico, as many are forced to make the infamous choice between “*plomo o plata*” (silver or lead): police officers can wether agree to assist with cartel activities and receive handsome payoffs, or they can refuse and pay with their lives (Lavandera, 2011).

Jose Alarcon

Municipal police officer Jose Alarcon and his family came to the U.S. seeking asylum in 2008 after he was targeted for assassination in Ciudad Juárez. Jose Alarcon's experiences of violence are well-summarized by this 2009 story published in *D Magazine* (Bensman, p.1-2):

One day in April of last year [2008], four-year police veteran Jose Alarcon and his partner, Capt. Felipe Galindo, detained two armed drug dealers after making a traffic stop in Juárez, Mexico. It didn't take long for the Juárez Cartel to learn about the bust. The Cartel had a network of street spies, and it had even infiltrated the police department itself. On Alarcon and Galindo's squad car radio, the voice of a Cartel thug broke in and ordered the two cops to release their detainees immediately—or else. The duo complied with the order, and the drug dealers, for whatever reason, were gunned down by Cartel soldiers a few minutes after their release. Alarcon and Galindo were then dispatched to the bloody crime scene. On their way, the Cartel voice broke in on their radio with another message: no matter that they'd done as instructed. Both officers were marked to die.

The next day, Alarcon and Galindo went to work as usual, but avoided taking any calls, worried that their movements would be traced by cartel members who monitored police frequencies (Ibid.). However, later that afternoon, they were attacked by several men with assault rifles, who succeeded in murdering another rookie officer who was in the patrol car with them at the time of the shooting (Ibid.). Galindo was shot several times but miraculously survived, along with Alarcon who escaped with only a bullet wound to the leg and several cuts on his body from flying glass (Ibid., Sols, 2010).

A few hours after the shooting, a large group of armed men showed up Alarcon's house and threatened his mother, the only one who was home at the time (Bensman, 2009c). Alarcon quickly rounded up his wife and two minor children and fled seeking protection at a U.S. port of entry in El Paso, Texas (Ibid.; Lohmeyer, 2011). Alarcon was originally held in immigration detention in Taylor, Texas, but was later granted humanitarian parole after passing his credible fear interview (Ibid.). He and his family eventually moved to the Northern Texas area while

awaiting their asylum court hearings (Bensman, 2009c). Galindo, on the other hand, began living in the El Paso area “more or less illegally,” returning each month to Ciudad Juárez to pick up his police disability check (Ibid., p.4). However, more than a year after the original attack, Galindo was gunned down in the street not far from the bank he had used to cash his disability check (Ibid.).

Alarcon and his wife sought political asylum in the Dallas Immigration Court with the assistance of immigration lawyers Ludo Perez Gardini and Will Humble (Sols, 2010; del Bosque, 2011). They argued that Alarcon deserved to receive political asylum on the basis of political opinion and membership of a particular social group, that of honest municipal police officers, who were being persecuted and not protected by the Mexican government (Lohmeyer, 2011). The further argued that Alarcon would face future persecution if returned to Mexico due to his status as a former police officer (Ibid.). In addition to describing the events discussed above, Alarcon also testified that he had been ordered to not arrest drug cartel members and that when he ignored these orders, the individuals he arrested would be “immediately released” (Ibid., p.13). He stated that his refusal to follow such orders had created ““a lot of problems within the police force,’ including being forced to go on patrol without a partner, not being permitted to go on patrol, and being partnered with an officer known to take bribes from the cartels” (Ibid.). The immigration judge reported finding Alarcon’s testimony to be ““generally consistent, plausible, and otherwise believable”” (Ibid.).

However, despite having been deemed credible, Alarcon was denied political asylum by the federal judge who presided over his immigration hearing in late December 2010 (Sols, 2011). According to Humble, the immigration judge ruled against granting political asylum based on the argument that Alarcon’s experiences were due to routine ““risks police officers have to take””

(del Bosque, 2011). The judge further ruled that Alarcon and his lawyers had failed to demonstrate the likelihood of future persecution or torture by governmental actors or government acquiescence, citing efforts by the Mexican government to combat drug trafficking organizations (Lohmeyer, 2011). The judge thus denied deportation relief under either Withholding of Removal or the Convention against Torture (Ibid.). Alarcon has since appealed the immigration judge's decision to the Board of Immigration Appeals (Ibid.).

Marisol Valles Garcia

Frequently labeled the “Bravest Woman in Mexico” by the media, Marisol Valles Garcia garnered international press attention in October 2010 when she assumed the position of police chief in the small municipality Praxedis G. Guerrero (Brice, 2010). Located in the notoriously violent Valley of Juárez, Praxedis G. Guerrero has a population of approximately 8,500 people and has been the frequent destination for cartel-related violence (Ibid.). In January 2009, the local police chief was found decapitated on the side of the road (Figueroa, 2013). More than a year later, no one had been willing to replace the murdered officer—until Valles Garcia submitted an application for a secretarial position at the station and was instead offered the opportunity to become the chief of police (Garcia Palafox, 2012).

Valles Garcia, who was twenty years old at the time and a criminology student, accepted the position, stating publically that she was going to focus on “social issues,” not fighting the drug cartels (Lavandera, 2011). She told reporters on several occasions that she and her police force would not interfere with any cartel business and that they would leave those matters to state and federal officials (Llorca, 2011). Valles Garcia decided that her small police force would not carry weapons and that they would concern themselves with reestablishing public trust in the police force and bolstering community and educational programs (Brice, 2010; Lavandera,

2011). She told reporters that she was ““doing this for a new generation of people who don’t want to be afraid anymore”” and that ““the weapons we have are principles and values, which are the best weapons for prevention”” (as quoted in Cardona, 2010; Brice, 2010). Valles also told CNN, ““We have hope that we are going to exchange fear for tranquility and security”” (as quoted in Brice, 2010).

However, despite her public proclamations of wanting to have nothing to do with fighting the cartels, Valles Garcia began being contacted by cartel members just weeks into starting her new job (Adams Otis, 2011). At first, she was told to ““tone it down”” by anonymous callers who told her that the press attention she was receiving (such as being included in Newsweek magazine’s list of ““150 Women Who Shake the World””) was causing problems by bringing international scrutiny to the region (Adams Otis, 2011; Figueroa, 2013). Soon she began receiving requests for information about military activities in the area and other classified information, requests that she refused for months (Ibid.). Just two months after starting, one of Valles Garcia’s officers found a letter written in red ink calling Valles Garcia a pig and threatening to make her young son into an orphan (Garcia Palafox, 2012). She was also constantly notified by her officers about suspicious vehicles driving around her office and her home, cars that were easy to spot given the small size of the municipality (Llorca, 2011). Valles Garcia was offered a bodyguard by the Chihuahuan governor, but turned down the offer when the local mayor warned that widespread corruption could mean that the bodyguard was a spy (Adams Otis, 2011). Valles Garcia became so frightened that she asked her father to start driving her to and from work (Lavandera, 2011).

The final straw came in March 2011 when Valles Garcia received a called from a blocked number demanding that she travel to Ciudad Juárez to meet with a cartel leader ““or else”” (Adams

Otis, 2011; Garcia Palafox, 2012). Valles Garcia agreed to the meeting as a tactic to buy time; a few minutes later, she received a call from her mother saying that strange vehicles had been driving past their house (Ibid.). Valles Garcia went to the mayor's office and requested a temporary leave-of-absence claiming that her son was sick (Garcia Palafox, 2012). She then gathered her infant son, husband, parents and two sisters and they rode in a friend's truck to the U.S.-Mexico border crossing near Ft. Hancock, Texas (Adams Otis, 2011). They left with nothing more than their birth certificates and the clothes on their backs and presented themselves to immigration officials asking for political asylum (Garcia Palafox, 2012), Valles Garcia was held in immigration detention for a few days before she passed her credible fear interview and was released (Gomez Licon, 2011).

Valles Garcia currently lives in an undisclosed location with family members (Garcia Palafox, 2012). She found out that her family house in Mexico was ransacked a few days after they fled for their lives (Lavandera, 2011). Valles Garcia became a client of El Paso immigration attorney Carlos Spector and has since spoken publically on several occasions about her experiences (Quinones, 2011; Adams Otis, 2011; Soloski, 2013). Valles Garcia speculates that part of the reason behind her death threats was that she was ““helping the people they (the cartels) were recruiting from...I don't think they liked that. We were trying to help them make a better life”” (as quoted in Lavandera, 2011). Spector argues that the cartels ““did not want all of the national and international attention she was bringing to the town...They wanted to shut her up. They wanted to kill her”” (as quoted in Figueroa, 2013). Just three months after Valles Garcia fled Mexico, her police chief replacement—Rosario Rosales Ramirez—was critically injured in a knife attack (*EFE*, 2011). The masked assailants also attacked her husband and adult son and robbed several items from their property, including two vehicles (Ibid.).

Valles Garcia told reporters in 2011 that she feels remorse about having left Mexico, but that “it’s better to be safe and alive here...than to be dead in Mexico” (as quoted in Quinones, 2011). Her story continues to garner national and international attention, being adapted in 2013 as two different theater productions in Stockholm and New York (Figueroa, 2013b). Valles Garcia continues to await a final decision in her bid for political asylum.

R.R.D

Similar to Alarcon and Valles Garcia, anonymous former federal police officer “R.R.D.” also sought political asylum in the U.S. with his family after facing several murder attempts and death threats in Mexico, “despite moving constantly to hide his identity and retiring from the force” (“Mexican police officer,” 2014). A former investigator for Mexico’s Federal Agency of Investigations, R.R.D. “arrested hundreds of suspects and repeatedly testified against drug traffickers,” refusing bribes offered by cartel members looking to “get him out of their hair” (*R.R.D. v. Eric Holder, Jr., 2014*). Upon retiring as a police officer, R.R.D. attempted to start a new life by opening a small office-supply business, but fled for his life after strangers came to his house looking for him on multiple occasions (*Ibid.*). R.R.D. entered the U.S. with lawful authorization and then applied for political asylum as a “member of a particular social group of honest former police officers” arguing that he “would face persecution and possibly death should he return to Mexico” (*Ibid.*). Nevertheless, the immigration judge rejected R.R.D.’s asylum claim, ruling that his persecution was in retaliation for his success at fighting the cartels, not because of his status as a police officer in particular.

The Board of Immigration Appeals upheld the immigration judge’s ruling; however, in March 2014, the U.S. Court of Appeals for the Seventh Circuit vacated R.R.D.’s removal order,

“affirming that he has a valid claim to asylum in the United States and ordering the Board of Immigration Appeals (BIA) to review his case” (“Mexican police officer,” 2014). The court held that R.R.D. was a member of the particular social group of “honest police officers” and that he was also a member of an even smaller subset of especially “effective honest police officers” (*R.R.D. v. Eric Holder, Jr., 2014*). The court also affirmed that Mexican cartels clearly exhibit a pattern of targeting former police officers, and R.R.D. in particular. Interestingly, the court also had the following to say about R.R.D. (*Ibid.*):

We have said enough to show why the order of removal cannot stand without further proceedings. We also wonder why the Department of Homeland Security wants to remove R.R.D. and his family. The IJ found that R.R.D. was an honest and effective police officer in Mexico, willing to bring criminals to justice at substantial risk to himself. He appears to have led an exemplary life in the United States since entering (lawfully) and applying for asylum. He appears to be someone who should be hired and put to work by the Department of Homeland Security itself, rather than sent packing. We do not supervise the exercise of prosecutorial discretion but those who do have that power should review R.R.D.’s situation before renewing any effort to remove him.

While this ruling does not automatically grant political asylum to R.R.D.—his claim now must be reviewed again by the BIA—it represents a momentous step in the creation of federal case law supportive of political asylum claims by former Mexican police officers (though only among those whose cases are being heard in the Seventh Circuit).¹⁶

Business Owners

Another group of individuals who have been fleeing to the U.S. due to violence in their home communities are Mexican business owners. As discussed in Chapter 2, extortion of businesses—both large and small—has been reported throughout Mexico, including in regions

¹⁶ Illinois, Indiana, & Wisconsin make up the 7th Circuit

generally deemed as “safe,” such as Mexico City (Cawley, 2013). Failure to meet extortionists’ demands often results in dire consequences, including violent assaults, robberies, arson, kidnapping, and murder (Ibid). However, very few Mexican nationals have been granted political asylum on the basis of extortion, and there has been little case law upholding the relevant particular social group categories such as “small business owners” or “business owners facing extortion.” Likewise, there have been few articles published concerning successful political asylum bids for Mexican business owners; one article published in 2009 briefly mentions the case of a kidnapping survivor who paid a \$250,000 ransom to secure his release and was subsequently granted political asylum by a Harlington immigration judge as belonging to the “social group of wealthy class of merchants” (Bensman, 2009c). In the following section, I discuss the cases of several asylum-seeking Mexican business-owners including one who was granted asylum in 2013, another who was granted Withholding of Removal in 2013, and several others whose cases are still pending.

Policarpo Chavira

Policarpo Chavira was a bus driver and union leader in Ciudad Juárez who faced several threats by extortionists over the years (Chardy, 2013). The final straw came when his 22-year-old son, Edgar Ivan, was kidnapped and held hostage for five days in the fall of 2011 (Ibid.). Shortly after Policarpo paid his son’s ransom, Edgar was released by his abductors and the entire Chavira family immediately fled to El Paso, Texas, entering the country on visitor’s visas (Ibid.). Policarpo and his family went to the Miami, Florida area in order to visit a daughter who was already living there; Policarpo is clear in media interviews that he did not enter the U.S. “with the intention to seek asylum” but that he had “needed to get away from danger and to gather his thoughts” (Shiundu, 2013). However, upon hearing what had happened, Policarpo’s daughter

urged her father and the rest of the family to seek protection from the U.S. government (Ibid.). They filed for political asylum affirmatively in 2012, but their claim was rejected and referred to immigration court (Ibid.). However, in February 2013, Policarpo and several members of his immediate family were granted political asylum by an immigration judge who ruled that he had been personally targeted for persecution as a political activist and union leader (Ibid.). It is important to note that while Policarpo appears to be the first Mexican bus driver to have been granted political asylum in the U.S., reports indicate that the immigration judge ruled on the basis of his political and union activities *not* solely on his past experiences of extortion-based persecution.

Christian Chaidez

In June 2013, El Paso immigration judge Guadalupe Gonzalez granted Withholding of Removal to Christian Chaidez, a 30-year-old former resident of Ciudad Juárez who had fled to the U.S. in 2011 (Aguilar, 2013a). Chaidez—who was not eligible for political asylum due to a previous deportation—came to U.S. seeking protection after eleven of his family members were murdered (Kocherga, 2013). The Chaidez’ family’s problems first began in 2009 when armed men began showing up at the family businesses demanding extortion payments (Washington Valdez, 2013c). Chaidez’s father, who owned a mechanic shop, refused to make the payments and was gunned down on December 17, 2009 (Ibid.). His cousin, a used car dealer, was murdered in June 2009 for failing to meet the extortionists’ demands (Ibid.). Later, another relative was kidnapped and only released following a \$10,000 ransom payment (Ibid.). Then, on October 17, 2010, armed gunmen showed up in broad daylight at a family barbeque and snuck into the house through a back entrance, catching their victims off guard (Ibid.). The assailants gunned down seven of Chaidez’ family members—his “grandmother, three aunts, two uncles and

a cousin” (Ibid.). Chaidez told reporters that he, too, was supposed to have been at the barbeque, but had skipped it because he was feeling tired (Kocherga, 2013).

After his family’s massacre, Chaidez entered the U.S. without authorization and was later detected by Immigration and Customs Enforcement (ICE) in 2012 (Aguilar, 2013). Chaidez filed a defensive asylum petition and spent more than a year in immigration detention while awaiting his final court hearing (Kocherga, 2013). Chaidez’s attorney, Carlos Spector, told reporters at a press conference that the difficult case marked the first time he has won an asylum grant on behalf of someone affected by extortion, noting that the victory was due to the fact that Chaidez also faced persecution as a member of a family group (Ibid.). Furthermore, Spector said that the killings were ““terroristic and political messages”” aimed at sending a ““message to the others of what would happen to them if they, too, refused to pay the extortionists”” (as quoted in Washington Valdez, 2013c). Finally, the Chaidez case was bolstered by evidence of corruption among Mexican immigration officials who have been known to pass on information about recent deportees to cartel members (Kocherga, 2013). Chaidez’s grant of Withholding of Removal means that he can live and work indefinitely in the U.S., though changing country conditions in the future may lead U.S. immigration officials to reopen his case.

Jose Alberto Holguin

Like Policarpo Chavira, Jose Alberto Holguin was the owner and operator of a small family-owned bus transportation company in Ciudad Juárez (Molloy, 2012c). Holguin entered the U.S. seeking asylum in March of 2011 following the shooting murder of his 26-year-old son (Molloy, 2012c; Hennessy-Fiske, 2012). For over two years, Jose’s business was extorted by members of the La Linea (the enforcement arm of the Juárez Cartel) for \$5,000 pesos per week, which amounted to more than 40% of his weekly revenues (Ibid.; Estévez, 2013; Kolb, 2012).

Jose attempted to organize union members against paying the extortion fees and also helped to plan a public protest and bus strike, both of which never actually came to fruition due to fears about what the cartels might do in retaliation (Estévez, 2013). Jose was called and warned that he better cease his organizing activities or there would be consequences; shortly thereafter, Jose's son was murdered as punishment for his defiance, and his buses were burned (Ibid.; Molloy, 2012c).

Jose was held in immigration detention for over six months after crossing into the U.S. seeking political asylum; the only justification given for his prolonged detention was a previous order of deportation (Molloy, 2012c). He was eventually released on humanitarian parole in October 2011 and continues to await the conclusion of his asylum court proceedings (Ibid.). Jose has become an active advocate for Mexican exiles living in the U.S. and was quoted in a 2012 article stating: "We're not people trying to take advantage of this country's system. Most of the people seeking asylum here in the U.S. suffered a tragedy" (Hennessy-Fiske, 2012). Jose revealed in another article that while he used to live a comfortable, middle-class life in Mexico, he spent his first year in the U.S. without employment authorization, struggling to survive on just \$125 per week, the proceeds leftover after paying the extortion fees demanded from his struggling bus company that continues to operate in Ciudad Juárez (Kolb, 2012).

Carlos Gutierrez

In 2009, Carlos Gutierrez lived in Chihuahua, Chihuahua, operating a successful and well-known beverage and snack company that "served many high profile events" (Washington Valdez, 2013). One day, armed men showed up at his business and demanded that he begin paying a monthly "protection" fee, known in Mexico as the "quota" (Ibid.). Gutierrez met the

extortionists' increasing demands for over a year, until they raised the quota to \$10,000 a month, at which point Gutierrez told them he could no longer afford to pay (Ibid.). A few days later, on September 29th, 2009, Gutierrez and his friends were hanging out in a public park in the center of the city when four armed men showed up and forced Gutierrez into the back of his parked SUV (Ibid.). There, while his friends watched, three of the men held down Gutierrez while the third man chopped off both of his feet with a sharp blade (Ibid.). The men left Gutierrez bleeding in the back of his vehicle, telling him that the attack was meant to serve as a warning to others about the dangers of refusing to meet the extortionists' demands (Ibid.). They further threatened him, saying that they would go after his wife and children if he did not pay them what was owed (Calvillo, 2014). Gutierrez's friends rushed him to the hospital where doctors were forced to amputate both of his legs below the knee in order to save his life (Washington Valdez, 2013b).

After recovering, Gutierrez brought his wife and children to the port of entry in El Paso, Texas and requested political asylum (Hastings, 2013). Eventually, with the help of immigration attorney Carlos Spector, Gutierrez' case was "administratively closed," meaning that he was neither granted nor denied asylum, but is able to remain temporarily in the U.S. with employment authorization (Aguilar, 2013b). In November 2013, Gutierrez completed a 700-mile bicycle ride from El Paso, Texas to the state capital in Austin using prosthetic legs that had been provided free of charge thanks to a local prosthetic surgeon (Ibid.). The ride, entitled "Pedaling for Justice," was coordinated by the non-profit organization *Mexicanos en Exilio* and was aimed at raising awareness for the plight of Mexican asylum seekers in the U.S. (Ibid.). Specifically, Gutierrez sought to draw attention to the low asylum grant rates faced by Mexican nationals in comparison to asylum seekers from other nations, and to dispel the notion that Mexicans are

simply trying to game the asylum system (Mosqueda, 2013). Upon his tearful arrival to Austin, Gutierrez told reporters:

“We’re not here because we wanted to be or because that was our inclination...The circumstances that led me to this country were that I had my feet mutilated. This isn’t a game, we’re not playing with the law, with justice, with the system at all—this is the reality.” (Gutierrez, as quoted in Mosqueda, 2013).

A few months after the “Pedaling for Justice” tour, the Mexican Senate took the unprecedented act of passing a resolution in support of Gutierrez and his bid for political asylum (Kocherga, 2014). The bill—which was inexplicably introduced by Senator María de Guadalupe Calderón Hinojosa, the sister of former Mexican president Felipe Calderón—decries Mexican corruption and urges the U.S. government to grant political asylum to Gutierrez (Ibid.).

According to Gutierrez’s lawyer, Carlos Spector, this resolution is a “game changer...the first time in the history of a country that we know of that a Congress has come out and said facilitate the asylum claims of our citizens because we are incapable of defending them” (as quoted in Kocherga, 2014). Spector told reporters he plans on reopening asylum Gutierrez’s case in the future (Aguilar, 2013b).

Others

Not all contemporary Mexican asylum seekers fit neatly into one of the aforementioned categories; in this section, I present an amalgamation of individuals who were essentially in the wrong place at the wrong time.

Cristina Roman

At around 10pm on March 31, 2011, a group of armed men with assault rifles entered El Castillo bar—located just steps away from a municipal police station in Ciudad Juárez—and

began firing indiscriminately (“Sicarios revientan” 2011). Original reports indicated that 7 men were killed in the attack, though subsequent articles placed the murder count as high as 10 (“Massacran a siete” 2011; “Tu vas a ser” 2011). The bar was owned by a man who had previously shut down his other bar after it was attacked in retaliation for unpaid extortion fees (Ibid.)

According to a newspaper interview with an anonymous survivor of the massacre (“Paty”), the bar had opened around 6pm and was then visited by a group of federal police officers around 8:30pm (“Tu vas a ser” 2011). The federal police officers began harassing and searching the bar patrons and employees, confiscating several items including cell phones. One of the female employees got angry with the officers, demanding they return the items; an officer then turned to the employee and told her that “she better shut up because she was going to be the first...” a loosely veiled threat that foreshadowed the massacre that took place only a few minutes later (Ibid.). Sure enough, the female employee who had spoken out was shot and killed (Ibid.). According to “Paty,” the massacre was conducted not by a group of men but by a lone shooter who also attempted to light a car on fire that was parked in front of the bar prior to escaping (Ibid.). Shortly after the shooting, another group of federal police officers arrived, though this time they were wearing full face masks—“Paty” reported being unsure if they were the same officers as from the original group, since she could not see their faces (Ibid.). The officers ransacked the bar, stealing plasma television screens, imported bottles of liquor, and personal items from the murder victims including jewelry and wallets (Ibid.).

Cristina Roman, a single mother in her early 30s, is another survivor of the El Castillo massacre who fled to the El Paso, Texas area in April 2011 where she is currently seeking political asylum (Hernandez, 2012). Roman has spoken out publicly on numerous occasions

about the ways in which “the epic violence and criminal impunity in her native Ciudad Juárez invaded her own life” (Ibid.). Prior to surviving the bar massacre, Roman and her family were the victims of another violent attack (Ibid.). Early in the morning in May 2010, she and her husband were awakened by a loud pounding on the door, followed by several gunmen pushing their way into the house (Ibid.). The men beat Roman and her husband, while also threatening to execute them and their two small children (Ibid.). Eventually, the gunmen allowed Roman to take her children into the other room where they listened as the men beat Roman’s husband for more than a half hour (Ibid.). When the noise finally subsided, Roman cautiously exited the room and discovered that her husband had been kidnapped (Ibid.). A few hours later, her brother-in-law was called and given ransom instructions; Roman and her brother-in-law spent the next couple of days frantically coming up with the ransom money by selling everything associated with their small used-car dealership (Ibid.). Shortly after paying the ransom, however, Roman’s husband’s dead body was discovered dumped on the street (Ibid.).

Due to her husband’s murder, Roman moved back in with her parents and began working as a waitress at El Castillo bar in order to support her children (Hernandez, 2012). Her version of the events closely mirror the massacre as reported by the anonymous survivor “Paty,” though Roman states that there were actually two, not one gunmen (Ibid.). Roman survived the massacre by cowering on the floor under a pile of dead bodies, and only ran when she began to smell smoke from the burning building (Hennessy-Fiske, 2012; Ibid.). When she left, she noticed that several cars were on fire and that the federal police were stationed nearby, despite having done nothing to prevent or react to the massacre (Ibid.). Roman claims that the only reason why she was able to get away was because members of the municipal police showed up at the same time and the two groups of officers began arguing with each other (Ibid.).

After the massacre, Roman refused to give statements to the police out of fear of retaliation (Hernandez, 2011). She then heard from another waitress who had survived the attack that gunmen had begun visiting other nightclubs in the area looking for the other living witnesses (Ibid.). For that reason, Roman decided against seeking work in another nightclub (Ibid.). Despite taking these precautions, Roman was attacked shortly thereafter by masked men in a Dodge Ram who tried to run her off the highway with her kids in the car (Ibid.). The next day, Roman took her three children to the U.S.-Mexico Bridge and requested political asylum (Ibid.).

Unfortunately, the fear experienced by Roman and her family has not fully subsided since moving to the U.S. In 2012, Roman's father was kidnapped in Mexico after he refused to cooperate with armed gunmen who showed up at his door demanding Roman's U.S. address (Hernandez, 2012). Roman's father has not been heard from since and is now presumed dead (Ibid.). Following these events, several other members of Roman's family including her "mother, sister, brother-in-law, and nephews" have also come to the U.S. seeking political asylum (Hernandez, 2012, p.6). Additionally, Roman says that the threats against her life have also followed her across the border: in February of 2012, four men came to a house in which she was working and pounded on the doors ordering her to come out (Kocherga, 2012). The FBI was assigned to investigate the event, but the results of their investigation were never publicized. At this time, Roman and her family continue to await their upcoming asylum court hearings, which are scheduled for the summer of 2014 (C. Roman, personal communication, April 2014).

Ernesto Gutierrez Martinez

Ernesto Gutierrez Martinez is a good example of the ways in which Mexican hyperviolence compels individuals from a wide range of diverse social classes to seek protection and political asylum in the U.S. Prior to fleeing for his life, Gutierrez Martinez was wealthy and

successful attorney in Mexico who had “built up a prosperous civil practice of contract law, divorce and—significantly—case involving government property seizures” (Bensman, 2009c). Gutierrez Martinez has since had to “abandon or sell everything: the law practice that supported his family, two homes in Mexico, a \$210,000 house in Brownsville [Texas], a South Padre Island condo, sports cars” (Ibid.). Like so many other asylum seekers, Gutierrez Martinez has also been forced to cut ties with friends and members of his extended family for fear that they may be targeted by cartel members trying to locate him.

Gutierrez Martinez’s difficulties began in 2004 when he reluctantly became part of the legal defense team of notorious Gulf cartel leader Osiel Cardenas-Guillen (Bensman, 2009c). Cardenas-Guillen had been one of Mexico’s and the United States’ most wanted fugitives prior to his 2003 capture following a violent shootout with Mexican authorities in Matamoros (Ibid.). On January 29, 2004, Celia Salina Aguilar de Cardenas, wife of Osiel Cardenas-Guillen, walked into Gutierrez Martinez’s law office and requested his assistance in reclaiming her house that had been seized by the Mexican government (Ibid.). While Gutierrez Martinez eventually decided to take the case, he claims that it was the first time he had ever worked with any cartel members and that he feared the possibility of reprisals if he refused; furthermore, he figured that his public image in Matamoros would keep him safe (Ibid.).

Gutierrez Martinez ended up accepting a few more property-seizure cases for other family members of Cardenas-Guillen, and was eventually asked to visit the cartel boss in prison, located more than nine hours away (Ibid.). Once there, Cardenas-Guillen asked him to join his team of legal defenders working to fight his extradition case to the U.S. Gutierrez Martinez initially turned down the request, only agreeing after the brother of Cardenas-Guillen showed up at his house demanding he take the case (Contreras, 2010). Worried about the consequences of

declining the request Gutierrez Martinez compromised by agreeing only to a “part-time advisory role” (Bensman, 2009b).

Shortly thereafter, Gutierrez Martinez’s fears were confirmed when two other members of the Cardenas-Guillen legal team were gunned down not far from the prison’s gates (Bensman, 2009b). Gutierrez Martinez contends that he never played more than a minor role in the legal defense of Cardenas-Guillen, something that has been confirmed by the cartel leader’s current attorneys (Ibid.). Furthermore, Gutierrez Martinez claims that he had no involvement with helping Cardenas-Guillen continue to run his cartel activities from inside the prison walls, accusations of which have been made against other members of the legal team (Ibid.).

In January 2007, Cardenas-Guillen lost his case and was ordered extradited to the U.S. Gutierrez Martinez states that he was summoned to the prison and interrogated by an angry Cardenas-Guillen who blamed his failed attempt at avoiding extradition on a “missed deadline to file a motion” (Bensman, 2009b). Just a few days later, several Zetas (the enforcement arm of the Gulf Cartel at that time) burst into Gutierrez Martinez’s office and notified him that they were “investigating legal mistakes” and that he “would be killed if faulted” (Ibid.). The following passage describes what happened next, as reported by Gutierrez Martinez to investigative reporter Todd Bensman in June 2009 (Bensman, 2009b):

Five months later, at about 3 p.m. Aug. 17, 2007, a team of 10 armed Zetas stormed his second-floor office, according to an affidavit from a client who was there. The men hammered Gutierrez with gun butts to the face and head, starting streams of blood. They handcuffed, blindfolded him, then hauled him outside to a waiting vehicle. Some 20 minutes later, the vehicle stopped at what Gutierrez guessed was a detention center. He could tell by the screams and the sounds of beatings, which he would hear from his 6-by-6-foot room day and night. Too often, he would hear someone scream, “‘Oh my God,’ and then you could hear a shot fired and nothing else.” Over the next three weeks, he ate nothing. He was not allowed to use the bathroom. He was beaten most days, often to unconsciousness, by a baseball bat, iron bar, fists and gun butts. Pictures taken later show a festering infection on his broken nose. A medical report notes a right eye socket

partly collapsed and eye damage. The handcuffs never came off, digging deep into his skin and causing an oozing infection.

But the psychological abuse was far worse. Constant threats that his turn to die had arrived were underscored by murders he was forced to witness. In addition to the prisoner burned to death, he said he was forced to watch as another prisoner was shot through the head. Morticians were called in to clean up the messes. On another day, they brought him out to see a man's throat cut so deeply the head almost toppled off. Gutierrez was splattered by blood. The Zetas then put a knife to Gutierrez's throat and cut, though not quite deeply enough to kill. They told him they'd instead concoct an especially creative way to torture him to death. A thin scar runs horizontally across his two jugulars. Once, the guards sprayed him with a flammable liquid, saying they had finally gotten around to burning him alive.

After more than three weeks in captivity, Gutierrez Martinez was inexplicably “treated, cleaned up, and released” (Ibid.). Gutierrez Martinez credits his freedom to his previous legal successes—he had won many property seizure cases for the Cardenas-Guillen family, and, for that, his life had value (Ibid.).

Upon his release, Gutierrez Martinez was ordered to represent several other cartel members in their upcoming legal battles (Ibid.). The lawyer quickly agreed to do so, but instead immediately fled to Brownsville, Texas, while his wife—Josephina—and children planned to join him a few weeks later (Ibid.). However, Josephina’s plans quickly changed when armed Zetas showed up at their house demanding that Gutierrez Martinez attend to his newly-acquired legal responsibilities (Ibid.). The Zetas threatened to kill her and her children, causing Josephina to flee to the U.S. just two days after her husband’s departure (Ibid.).

The family settled in the Brownsville home of their older daughter, installing a complicated series of security measures including “steel storm shutters” and a “sophisticated surveillance camera system” (Bensman, 2009b). Despite all of these protections, they family still lived in constant fear, afraid to leave their home any more than was necessary (Ibid.). Neighbors reported seeing men in fancy SUVs driving by the house and taking pictures (Ibid.). Eventually,

Gutierrez Martinez's father was visited by Zetas who warned him that Gutierrez Martinez would be abducted yet again if he did not resume his legal duties (Ibid.). Fearing for his life once again, Gutierrez Martinez took his family and "fled north" taking up residence in an undisclosed location (Ibid.).

In August 2008, Gutierrez Martinez filed affirmatively for political asylum (Bensman, 2009b). Unsuccessful in his bid, Gutierrez Martinez's case was referred to immigration judge David Ayala in Harlington, Texas (Contreras, 2010). His asylum court hearing was held in February 2010; however, there do not seem to be any news reports indicating the results of these proceedings, and inquiries to the two journalists who reported on this case have remained unanswered.

Jose Jimenez

Jose Jimenez is another example of someone who claims to have become a target of cartel violence due to no fault of his own. A skilled mechanic with a small shop, Jimenez was asked by some clients if he would be willing to accompany them to their house to fix a broken-down tractor trailer (Chardy, 2010). Jimenez agreed, but once he got there, he saw "something that didn't quite seem legal" and tried to back out of the assignment (Ibid.). By that point, he was told that it was too late and that he would not be allowed to leave since he had already seen "too much" (Ibid.). Jimenez was then ordered to work for the men building secret compartments inside trucks where drugs could be hidden from border crossing officials; he was told that if he refused, he would be killed (Ibid.). Jimenez says that his family was also threatened and that the men "had a surprising amount of his personal information, including his home address and the names of relatives" (Ibid.).

Jimenez agreed to work with the men, fearing for his life and the lives of his family members if he refused (Ibid.). However, one day he was summoned by leaders of the cartel who were upset with him that some of the compartments had been discovered by border officials, and demanded that he do a better job in the future (Ibid.). Once again, Jimenez refused, trying to extricate himself from this dangerous business; in retaliation, he was visited by a man who told him ominously, ““You are not leaving us. Tomorrow or day after tomorrow you will be killed”” (Ibid.). Jimenez went into hiding and tried to report the events to the police, but was deterred when he was warned that doing so would likely lead to his location being disclosed by corrupt officials (Ibid.). While in hiding, he received repeated threats on his cell phone with the callers indicating that they were close to finding him (Ibid.). Finally, on March 1, 2009, Jimenez entered the U.S. using a BCC and applied for asylum affirmatively approximately one year later, around the same time that he decided to share his story with the Miami Herald; unfortunately, no follow-up stories were published regarding his case (Ibid.).

Unnamed Client of Immigration Attorney Juan Gonzalez

On June 2, 2011, San Antonio-based immigration lawyer Juan Gonzalez posted a blog entry on his firm’s website announcing the “resounding victory” for an unnamed Mexican national who was granted Withholding of Removal by an immigration judge as a member of a particular social group targeted by cartel persecution (Gonzalez, 2011). The client was not a member of the police but had provided significant assistance to the police in their efforts to combat drug trafficking (Ibid.). He then began receiving numerous death threats, eventually surviving “a kidnapping and four assassination attempts” (Rozemberg, 2011). According to Gonzalez’ blog posting,

...the Immigration Judge emphasized that the evidence shows that the Mexican National's life or freedom would be threaten if returned to Mexico. In fact, the Immigration Judge pointed out that "the country conditions documentation in the record indicated that drug violence in Mexico has increased since [Mexican National] fled his country... as the brutality and violence used to silence individuals who are perceived to be against or interfering with the operations of the cartels." The Immigration Judge stated that even internal relocation would be a problem because "the country conditions documentation supports the proposition that many Mexican officials in law enforcement are corrupt and assisting the drug cartels." Finally, the Immigration Judge reiterated that "drug related violence in Mexico is a countrywide phenomenon. Even the Department of State has urged American Citizens to use extreme caution when traveling to Mexico."

Gonzalez (2011) went on to says that this ruling was a "small step and victory for those who are fleeing the violence" in Mexico. His client told reporters, "I hope, and I pray things in Mexico change. It's not going to be easy. But I hope it happens one day. Then I can go back to my country" (Rozemberg, 2011).

Alvarado Espinoza Family

Several members of the Alvarado Espinoza family fled to El Paso, Texas in August 2013, including 18-year-old identical twins Mitzi Paola and Nitza Citlali, their fifteen year old sister Deisy, and their aunt, María de Jesus (Aguilar, 2013c). However, their troubles in Mexico had begun several years earlier on December 9, 2009 (Washington Valdez, 2013c). On that date, the Alvarado Espinoza family was hosting their large annual Christmas gathering in a small village located in the notoriously violent Juárez Valley when a group of Mexicans soldiers arrived unexpectedly and arrested Nitza Paola Alvarado Espinoza (mother of Mitzi, Nitza, and Deisy) and her cousin Jose Angel Alvarado Herrera (Ibid.). The family was given no indication as to why their relatives were being arrested though they later learned that yet another cousin, Irene Rocio Alvarado Reyes, had been picked up by soldiers that same day (Ibid.). The next—and only—time that they heard from the three missing cousins was in early February 2010 when

María de Jesus recognized the voice of her sister calling to say that she was alive and in a prison in Mexico City (Aguilar, 2013c).

Since that fateful night in December, the Alvarado Espinoza family has been provided no information about the location of their missing relatives. The Mexican military has repeatedly denied having been involved in the abductions (Amnesty International, 2013b). When the Alvarado Espinoza family tried to file an official complaint with the state prosecutor's office on December 30, 2009, "the prosecutor told them that "he had information that the people were being held in the 35th infantry battalion in Nuevo Casas Grandes, Chihuahua,' and that the family should wait several days before taking any action" (Human Rights Watch, 2011, p. 131). The family continued to pursue the matter for several years, even though their persistence in seeking justice for their missing relatives resulted in continuous death threats against the remaining family members (Ibid.). Their efforts eventually resulted in rulings from both the Mexican National Human Rights Commission and the Inter-American Commission on Human Rights—both agencies ruled that there is significant evidence implicated military involvement in the disappearances (Amnesty International, 2013b).

After the latter ruling garnered a great deal of international press attention, the Alvarado Espinoza family began to be threatened by the military once again (Aguilar, 2013c). María de Jesus—who assumed caretaking responsibilities for her three nieces following their mother's disappearance—originally attempted to protect her family by relocating to another state in Mexico (Ibid.). However, the threats followed the family no matter where they went, eventually causing them to seek refuge in the U.S. (Ibid.). Currently, María de Jesus is pursuing a political asylum claim while her three young nieces have applied for another form of special immigration relief sometimes available to unaccompanied minors (Ibid.). In the meantime, the girls have

enrolled in public high school and have started their own organization (*Hijos de Desaparecidos/Children of the Disappeared*) aimed at providing support for other young people suffering from similar traumatic experiences (Ibid.).

Advocacy on behalf of Contemporary Mexican Asylum Seekers

More Mexicans than ever before are fleeing persecution and seeking political asylum in the U.S. Due to this surge, there are a number of individuals and associations dedicating themselves to supporting contemporary Mexican refugees, a few of which are describe in detail below.

Carlos Spector and *Mexicanos en Exilio*

Many high-profile Mexican asylum seekers are clients of the El Paso-based immigration attorney Carlos Spector, a well-known advocate and frequent legal representative for members of this population. Spector, who has Mexican roots and family on both side of the border, has been a long-time immigration attorney and immigrant rights' activist (del Bosque, 2012). In 1991, Spector became one of the first attorneys to successfully win a defensive asylum claim for a Mexican national, helping to secure political asylum for Ernesto Poblano, a former mayor of a small town near the U.S.-Mexico border (Ibid.; see Chapter 5 for further analysis). Spector's office is currently representing more than 100 Mexican families who are seeking political asylum in the U.S., most of the cases having been accepted on a reduced-cost or pro-bono basis (del Bosque, 2014; del Bosque, 2012). Since 2008, Spector has handled several cases in which asylum or withholding of removal has been granted (Lyst, 2013).

Spector makes frequent use of press conferences and political demonstrations to garner publicity for the plight of Mexican asylum seekers, generally only accepting clients *pro bono* under the condition that they are willing to go public with their stories (Greene Sterling, 2011). These tactics enable asylum seekers to raise awareness about the plight of Mexican refugees and to drum up support for their individual cases. However, there is also some worry that these strategies can potentially further-endanger individuals who are fleeing for their lives in the U.S. and who therefore may be better off keeping a low profile. For example, Spector himself has been the target of death threats due to his legal advocacy on behalf of Mexican asylum seekers; in 2011, a red SUV pulled up alongside Spector's car as he was leaving his office. The driver inside—clad completely in black—pointed a gun at Spector and told him in Spanish "You've taken enough cases" (Hennessy-Fiske, 2012). The driver and his female passenger grinned menacingly before speeding away. Despite this incident, and other threats against his life, Spector has continued with his advocacy work.

Regardless of these critiques, Spector should be applauded for having one of the highest rates of success in winning Mexican asylum cases, not to mention being one of only a handful of immigration attorneys in the El Paso area even willing to take on these highly-complex and time-consuming cases. Spector is highly successful in an arena where failure is the norm, "a true crusader in trying to push the asylum envelope" (Kathleen Walker, former president of the American Immigration Lawyers' Association, as quoted in Hennessey-Fiske, 2012). It is quite possible that Spector's success in the courtroom is at least partially influenced by his prominent public image. Similarly, while immigration judges are meant to impartially decide cases based only on the merits as presented in court, common sense dictates that U.S. press coverage of the

plight of Mexican asylum seekers likely has some sort of impact on their judicial decision-making.

In addition to his work as an immigration attorney, Spector, along with his wife, Sandra Spector, played an integral role in founding the activist organization *Mexicanos en Exilio* [Mexicans in Exile; abbreviated as *Mexenex*] (del Bosque, 2012). Though several fundraising and speaking events were held informally using this name previously, *Mexenex* was officially launched in August 2012 (Molloy, 2011; Mexicanos en Exilio, 2012). Composed of Mexican refugees and their supporters, *Mexenex* stated in their initial press release to represent 153 Mexican asylum seekers who were demanding an end to widespread impunity in Mexico (Mexicanos en Exilio, 2012). According to their website, *Mexenex* does the following:

“Mexicanos en exilio offers quality legal defense to Mexicans seeking political asylum in the United States. Additionally, we assist our members in continuing to demand justice from the Mexican government, which has failed to investigate the abuses committed against them by members of organized crime, the military or law enforcement. This includes; speaking to the press, church groups, student organizations, and academics in the United States and abroad. Our goal is to eventually be able to offer services to our members such as counseling, language courses, and basic needs upon arrival.”
(Mexicanos en Exilio, n.d.a)

At this time, *Mexenex* is a semi-autonomous organization that primarily works out of the Law Offices of Carlos Spector, since they lack their own building. *Mexenex* is currently in the process of obtaining 501(c)(3) non-profit status (Mexicanos en Exilio, n.d.b).

Mexenex has been very active in El Paso and across the country during the past few years. Member of *Mexenex* have held several speaking engagements aimed at educating the public about the violence in Mexico and the situation face by Mexican exiles living in the U.S.; this has included talks at the University of Texas at Austin and California State University at Northridge (Aguilar, 2012; Molloy, 2012a). This is in addition to dozens of press conferences and demonstrations that have been hosted in the El Paso area (Mexicanos en Exilio, n.d.a). Press

conferences have been held in relation to several different high-profile asylum-seeking activist and journalist families. Other press conferences have focused on broader issues including the practice of detaining asylum seekers and in opposition to comments made by then-mayor of Ciudad Juárez, Hector Murguía, calling those who have left the city “traitors” (Washington Valdez, 2012).

In the late summer of 2012, three members of *Mexenex* joined Mexican poet and political activist Javier Sicilia on his month long “Caravan for Peace and Justice with Dignity,” driving across country for a month while making stops in several cities to speak out against violence and impunity in Mexico (Molloy, 2012b). On November 2nd 2012, the Day of the Dead, members of *Mexenex* also created a memorial altar in the name of their murdered friends and relatives (Molloy, 2012e). In partnership with another organization located in Mexico City, *Mexenex* has also been able to provide therapy to a handful of Mexican asylum seekers via internet-based video conferencing (Molloy, 2012c). Filly, in the fall of 2013, *Mexenex* members—including double-amputee and asylum seeker Carlos Gutierrez—biked from El Paso to Austin in order to raise awareness about Mexican asylum seekers. *Mexenex* has been reported on by several national news sources including *The New York Times*, *Latin American Herald Tribune*, *NBC Latino* and *The Huffington Post* (Aguilar, 2012; Agencia EFE, n.d.; Gonzalez Gomez, 2012). The organization currently boasts around 300 members (Washington Valdez, 2013b)

Annunciation House

Annunciation House, a migrant house of hospitality located in El Paso, Texas, has also been very active in advocating on behalf of Mexican asylum seekers. First, the house routinely houses indigent Mexican asylum seekers who have been released from immigration custody

under humanitarian parole (Ruben Garcia, personal communication, April 26, 2013).

Annunciation House staff volunteers then assist these guests in adjusting to life in the U.S., obtaining employment authorization, and finding immigration legal assistance (Ibid.).

Annunciation House also has organized several consciousness-raising and advocacy events centered on the issue of contemporary Mexican refugees. These include:

- Holding a Press Conference on April 24, 2010 urging the U.S. government to provide protection to Mexican nationals fleeing violence in Ciudad Juárez and the rest of the country (Annunciation House, 2010a). At this event, Annunciation House also released their “Petition for Protection” petition and spent several months gathering signatures from supportive agencies and individuals (Annunciation House, 2010b; Appendix C).
- Organizing several events around the Javier Sicilia “Caravan for Peace and Justice with Dignity” in the late summer of 2012 (Molloy, 2012b)
- Prominently featuring the issue of Mexican asylum seekers and refugees at all-day educational Immigration Forums in 2011, 2012, 2013, and 2014 (Annunciation House, 2011, 2012, 2014; Molloy, 2013b)
- Holding a Press Conference on August 13, 2013 denouncing abuses made against asylum seekers by Customs and Border Protection and Immigration and Customs Enforcement (Annunciation House, 2013a; Annunciation House 2013b; Appendix D).
- Organizing several successful “Urgent Actions” requests in which community members are asked to contact Immigration and Customs Enforcement and encourage them to grant humanitarian parole on behalf of detained asylum seekers.

Southwest Asylum and Migration Institute

The Southwest Asylum and Migration Institute (SAMI)—located in Las Cruces, New Mexico—was founded in 2013 by several individuals with years of experience working with asylum seekers. According to one of SAMI’s founders, the organization’s mission and activities are summarized in the selection below (personal communication, April 26, 2014):

The Southwest Asylum & Migration Institute (SAMI) was created to provide low cost (and at times) pro bono immigration legal services. The main focus of SAMI’s activities is aimed at representing those fleeing violence from northern Mexico and seeking a safe place and asylum in the United States...In addition to legal representation at court, before Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP), SAMI assists individuals complete various immigration forms issued by the United States Citizenship & Immigration Services (USCIS) including work authorization, naturalization, etc. In addition to legal support, SAMI offers assistance to families interested in relocating and pursuing their legal claims in more favorable jurisdictions. We have had great success in bridge crossing that led to humanitarian parole and later attaining permission to move to California and Chicago with legal counsel and housing offered to clients. Moreover, SAMI offers informational, educational and training workshops/ seminars on immigration topics related to asylum, detention and DREAMers both in Mexico and the United States and staff members have participated in conferences in Mexico City, Juárez, New York, as well as giving talks in New Mexico and Texas.

Though a relatively new organization, SAMI has had many successes in providing free and low-cost immigration legal representation to Mexican asylum seekers in El Paso and southern New Mexico.

Other Organizations and Advocacy Efforts

In addition to Carlos Spector’s office, *Mexenex*, Annunciation House, and SAMI, several other regional and national organizations have been vocal advocates on behalf of Mexican asylum seekers during the past several years. A selection of these efforts are listed below:

- Border Network for Human Rights held a press conference in support of exiled Mexican journalists on September 21, 2010 and have also been participants at several other related events in the El Paso area (Molloy, 2010b).
- The El Paso Press Club held panel discussion and fundraising benefit on December 11, 2010 in support of exiled Mexican journalists seeking political asylum in the area including Emilio Gutierrez, Ricardo Chávez Aldana, and Alejandro Hernandez Pacheco (Molloy, 2010d).
- The University of Texas at Austin Law School Immigration Clinic has provided *pro bono* legal assistance to several Mexican asylum seekers who have been successful in their asylum claims, including Benita Monarrez and several members of the Reyes Salazar family (Washington Valdez, 2009; del Bosque, 2013a, 2013c)
- In Las Cruces, New Mexico, advocates have held two free educational conferences dedicated to the issue of Mexican asylum seekers in the summer of 2012 and 2013. The conferences are focused on education and raising funds to support Mexican refugees. They were cohosted by the Alianza for Political Asylum Seekers, the Unitarian Universalist Church of Las Cruces, and the Department of Government of New Mexico State University (Molloy, 2013c).
- Also in Las Cruces, New Mexico, the Catholic Charities of the Diocese of Las Cruces and the Southwest Asylum & Migration Institute jointly created “Project 380” aimed at raising funds to cover the costs of employment authorization documents for Mexican and Central American asylum-seeking humanitarian-parolees (“Project 380,” n.d.).
- Diocesan Migrant and Refugee Services located in El Paso, Texas hosts *pro se* asylum workshops that aim to educate and empower both detained and non-detained asylum

seekers who are unable to find individual legal representation (S. Thomas, personal communication, April 26, 2014).

- Las Americas Immigrant Advocacy Center in El Paso, TX provides legal representation to both detained and non-detained indigent Mexican asylum seekers through their Mexican Asylum Project (“Mexican Asylum Project,” n.d.).
- In April 2014, the American Civil Liberties Union and the National Immigrant Justice Center filed a lawsuit in the U.S. District Court in San Francisco alleging “the government violated the law in thousands of cases, with individuals waiting in detention for many months for...[credible & reasonable fear determinations] and in some instances more than a year” (Linthicum, 2014a)
- New York based immigration advocacy organization Immigration Equality frequently provides low and no-cost immigration legal services to GLBT Mexicans in political asylum proceedings and have placed a crucial role in the success of many cases (Ortiz, 2014)
- Likewise, the University of California at Hastings Center for Gender and Refugee Studies (CGRF) supports women, children and GLBT Mexican asylum seekers by providing “strategic advice, practice advisories, expert declarations, country conditions reports, briefs and decisions, and referrals to potential experts” (“Our Work,” n.d.).

Conclusion

Clearly, there are a wide range of individuals fleeing Mexico and seeking political asylum in the U.S. today. However, Mexican asylum seekers face terrible odds in the political asylum bureaucracy, with only a 9% chance of eventually winning their case in front of an immigration judge (DOJ, 2014a). Furthermore, Mexican asylum seekers are subjected to

discouraging immigration officials at U.S. ports of entry, long periods of confinement in prison-like detention facilities, limited opportunities to receive affordable legal counsel, difficulties finding gainful employment, emotional trauma related to their experiences of violence, and the difficulties associated with trying to establish oneself in a new country with a new culture and a new language. Due to these problems, many individuals fleeing violence and persecution in Mexico are choosing to seek refuge in the U.S. without formally seeking political asylum; their experiences are discussed in the following chapter.

Chapter 7: Contemporary Non-Asylum Seeking Mexican Refugees

In addition to the thousands of Mexicans who have entered the US formally seeking political asylum since 2006, hundreds of thousands more have fled violence in their home communities by immigrating using various means outside of the formal political-asylum bureaucracy. For example, take the following passage from a 2010 article about Mexican refugees living in El Paso, Texas:

“There are four types of Mexican citizens in El Paso: those who have legalized their status, those who have resident visas because they are students, professionals or business people, and there are those with border-crossing cards who either live in El Paso and work in Juárez, or stay in El Paso illegally,” said Gustavo de la Rosa, the human rights ombudsman for the Mexican government in Juárez... Wealthy Mexicans, he says, usually have visas, resident status or relatives who are U.S. citizens. They can afford El Paso rents that are three times the rates in Mexico. (Since the drug wars began, real estate prices along the border are up 20 to 40 percent in urban areas.) “You say you are going to visit family. You stay in El Paso and pay rent, but you’re not absolutely legal and (U.S. officials) know it,” de la Rosa said. “There are certain illegalities that are tolerated by the U.S.” (Hayward, 2010).

These individuals, therefore, are also contemporary Mexican refugees because the primary impetuses behind their decisions to migrate were *violence and persecution*. These non-asylum-seeking refugees fall into the following three broad categories:

1. *U.S. Citizens and Immediate Relatives*: individuals with U.S. citizenship who were living in Mexico until deciding to migrate to the U.S. due to violence in their home communities; and individuals who decided to apply for legal permanent residency through their immediate relatives in response to violence in their home communities.
2. *Refugees with Non-Immigrant Authorization*: Mexican nationals who migrated to the U.S. due to violence in their home communities who are *not* currently seeking political asylum, but who do possess various forms of non-immigrant authorization including valid student visas (F-1), and business/investor visas (E-1/E-2/L-2);
3. *Refugees without Authorization*: Mexican nationals who migrated to the U.S. due to violence in their home communities who are *not* currently seeking political asylum, and who do not have valid immigration authorization.

As mentioned previously, there is substantial movement among these three categories as immigration status changes over time. In this chapter, I offer a brief description of each category including an analysis of any pertinent numerical data. I then provide complementary profiles of non-asylum-seeking modern Mexican refugees within each category in order to illustrate some of the realities faced by these individuals.

U.S. Citizens and Immediate Relatives

Though less shocking than Mexicans presenting themselves at the U.S.-Mexico border requesting political asylum, a significant number of Mexican citizens have quietly immigrated to the U.S. fleeing violence since 2006 by way of U.S. citizenship and immediate relative immigrant visas. In direct contradiction to the anti-immigrant rhetoric assuming that *all* Mexicans would flood the U.S. given the opportunity to do so, these cases represent Mexican nationals who could have chosen previously to move to the U.S. but who had decided against migration because they *enjoyed* living in Mexico. It was not until Mexican hyperviolence forced them from their homes that they chose to migrate seeking safety in the U.S. Therefore, these individuals must also be considered modern Mexican refugees because their decisions to migrate to the U.S. were made primarily due to experiences of violence in their home communities.

U.S. Citizens

While hard to pinpoint, a substantial number of U.S. citizens live in Mexico, both with and without the proper Mexican immigration authorization. According to Mexican officials, an estimated 70,000 U.S. citizens are “legally living and working in Mexico...a number that does not include many students and retirees, those on tourist visas or the roughly 350,000 American

children who have arrived since 2005 with their Mexican parents” (Cave, 2013a). However, other estimates put the population of US-born individuals living in Mexico at more than 700,000 (Latapí, Martin, Lowell, & Fernández de Castro, 2013). Many of these U.S.-born children have returned to Mexico following the deportation or repatriation of their Mexican parents, while others have spent the majority of their lives since infancy in Mexico (Cave, 2012). Individuals from this latter group are particularly common in cities along the U.S.-Mexico border due to the fact that some expectant mothers making strategic use of tourist visas to ensure that their children are born on U.S. soil (though this practice is still fairly infrequent, and complicated by discretionary admission policies employed by Customs and Border Protection officers; Gonzalez, 2011; “Visit the U.S.,” 2013). Regardless, both groups of U.S.-born children retain their U.S. citizenship for life due to relatively liberal birthright citizenship laws in the U.S. (Cave, 2012).

Upon establishing residency in Mexico, U.S. citizen children with Mexican parents are generally also registered as dual-citizens of that country. This is a bureaucratic necessity for residing in Mexico and securing national benefits such as public healthcare, public schooling, public housing assistance, employment authorization, the right to own property, and the right to vote (Escobar, 2007). Therefore, many children who were born in the U.S. can aptly be described as Mexicans, due to their dual-nationality, their cultural upbringing, and their long histories of residence in Mexico. Many of these children—and fully-grown adults—have happily decided to make Mexico their home, despite being legally permitted to emigrate to the U.S.

However, with the explosion of Mexican hyperviolence in 2006, the U.S. has seen an increase in these dual-citizens moving back to the U.S. after having experienced violence in their home communities (Morales et. al., 2013; Rice, 2011). While not the typical image of a refugee, these individuals must be included in discussions of violence-driven Mexican migration. Even

though the legal mechanics of their migration was made facile by their U.S. citizenship, the socioeconomic and emotional toll of leaving one's home due to violence is similar to that of any other modern Mexican refugee.

Selected Case Studies

High School Focus Group

The following set of case studies comes from a focus-group conducted in the spring of 2012 in El Paso, Texas of four high school sophomores: Julia (16), Kayla (16), Octavio (15), and Eli (15). All four of the students were born in the United States and are therefore United States citizens. However, all of the students grew up in Ciudad Juárez and did not move to El Paso until the years 2010 and 2011, at the urging of worried family members.

When asked why they had decided to move to El Paso, both Julia and Kayla answered that it was in order to improve their life situations and create better futures for themselves. Though neither explicitly mentioned the violence as a reason behind their decisions to move, subsequent discussion indicated that the violence in Ciudad Juárez had played a significant factor. Octavio and Eli, on the other hand, both explicitly mentioned the violence as the primary motivation behind their decisions to move to El Paso, with the desire to better their lives being a secondary, though equally important, factor. When asked later in the interview if they had ever experienced trauma related to the violence in Ciudad Juárez, all four students answered with an enthusiastic yes.

The students described a few of the ways in which they had been personally affected by the violence in Ciudad Juárez. For one, they all agreed that the police in Ciudad Juárez were generally corrupt and that they felt much more amicable toward police officers in the United States. Eli reported once being unjustly detained by the police in Ciudad Juárez while hanging out on the

street with some of his friends. After seeing him absent-mindedly running a popsicle-stick along a wall, two police officers falsely accused him of vandalism, and then told him to get into their police car. He refused, saying that it was unjust since he was not doing anything illegal, and the police officers started yelling at him, calling him a “cholo,” [hoodlum/gang member] saying that he was on drugs, etc. Eli continued to argue that he had not been doing anything illegal, and one of the officers eventually ordered him to do 50 push-ups. Eli was confused by the order and refused once again, telling the officers that they did not have any right to make such a demand. The officer replied that he either do the push-ups, or they were going to take him away. One of the officers then hit Eli, and told the other officer to handcuff him and load him into the police car. At that moment, a car turned the corner, and the officers apparently felt threatened by the possibility of being seen harassing Eli. They took off the handcuffs and told him to get lost, only after yelling at him to go get a haircut. Eli describes feelings of frustration and impotence at having experienced this injustice.

Kayla related a similar story involving her father, who was picked up by the municipal police officers for no apparent reason and taken in their patrol car to the central police station. The officers told him that he looked “cholo,” something that Kayla considered absolutely absurd considering her description of her father as a “Christian” who “always has the bible in his hand.” At the station, the police officers searched her father and stole 500 pesos (approximately \$40 USD) before ultimately releasing him. Julia added that while she did not want to discuss the specifics, her mother had also been subject to “abuses from the authorities.” Both Kayla and Julia described situations in which they believed that they were being followed by men in trucks while walking to school and stores in Ciudad Juárez; one time, one of the girls mentioned a car stopping so that the men inside could take pictures of her and her female cousin. Overall, the two female students

reported general fears of being stalked and/or accosted, while the two male participants did not share these sentiments.

None of the students seem to be particularly happy about living in El Paso, stating that they were shocked by how hard it was to have to start their lives over from zero and adjust to the differences between the two countries. All of the students reported feeling like their lives had changed drastically since moving to El Paso, and described feelings of unexpected shock about the extent to which things are different in the United States. Eli said that he believes that life in El Paso is very closed-off, there are many restrictions, and that the people are not nearly as friendly as they are in Ciudad Juárez; instead, he sees people in the United States as being holed up in their houses glued to their cell phones. Kayla and the others agreed with this characterization, adding that people in the United States are all very independent. The students also admitted to having become more Americanized to some extent; for example, turning down opportunities to hang out in larger groups and at parties in order to instead spend more time alone with boyfriends and girlfriends.

Considering the myriad ways in which their lives have changed since moving to El Paso, all four of the students interviewed agreed, without pause, that they had experienced some level of depression as a direct result of their moves. They described these feelings as stemming from the fact that they were forced to rebuild their lives from zero, having to make all new friends while being unaware of what they might confront in their new environment. Additionally, three of the students were living with relatives in El Paso, something that was difficult to get used to and often brought up feelings of guilt. They also discussed some frustrations regarding feelings of guilt associated with not wanting to ask the relatives with whom they were staying for spending money, even for small things such as snack foods. All of the students were very clear that they miss

“Juaritos” a lot; this fact is perhaps best illustrated by Kayla, who noted that she still wakes up thinking that she is living in Ciudad Juárez at least three times a week.

Even though they reported having experienced varying levels of violence and trauma while living in Ciudad Juárez, all four students reported taking advantage of their U.S. citizenship to easily cross the U.S.-Mexico border and said that they continued to return to Ciudad Juárez regularly. This is despite the fact that the students—especially the two females—stated they continued to be afraid of what might happen to them while visiting. Eli, Octavio and Julia all said they went every weekend, while Kayla lamented that she could only go every two months or so since she had yet to get an American passport and was wary of trying to cross more frequently with only her birth certificate.¹⁷ The students all said the main reason that they returned was to see their family members, especially since most of them were living with aunts and uncles in El Paso while their parents and siblings had mostly remained living in Ciudad Juárez.

Apart from wanting to see their remaining family members, missing their overall lives in Ciudad Juárez was cited that as the other main reasons why the students continued to return on weekends. All of the students reported warm feelings about their home city, especially during the time before the violence began in 2008. The nostalgia the students expressed for Juárez was palpable; they reported missing their lives in Juárez profoundly and returning every chance they got, regardless of the violence. However, the students were all clear that they believe coming to the United States was something that they needed to do in order to better themselves; for this

¹⁷ Though it is legally-permitted under federal law to enter the U.S. using various documents to prove U.S. citizenship, U.S. Customs and Border Protection (CBP) *policy* requires the use of a valid U.S. passport. However, CBP officials are prohibited from denying entry to *anyone* they reasonably believe to be a U.S. citizen, even individuals lacking *any* identity documents. Therefore, in reality, U.S. citizens routinely cross the border without presenting valid passports (especially in busy ports of entry near highly-populated cities) though this practice is frowned upon and can cause delays while officials deliberate an applicant’s citizenship. Occasionally, it can also result in being placed in immigration detention while nationality is established.

reason, they were willing to make the sacrifice of leaving their beloved Juárez to seek a brighter future.

Adolfo Guerrero

Adolfo Guerrero is another example of a U.S. citizen who had spent his entire life in Mexico prior to deciding to migrate to the U.S. due to experiences of violence. His story was told in the following passage from a 2009 article in the *Nation* magazine (Becker, 2009b):

On the night of January 10, Adolfo Guerrero, a 43-year-old father of one, who works in San Diego County but lives in a middle-class neighborhood on the edge of Tijuana, was driving home from downtown Tijuana. Guerrero, who was born in the United States but has always lived in Mexico, saw a white Ford pickup pull up behind him, its headlights flashing. Thinking the driver wanted to pass, Guerrero switched lanes as he descended a long hill. The driver of the Ford chased him, eventually pulling alongside. Guerrero saw the front passenger hold up a long-barrel rifle and gesture at him to pull off the road.

Guerrero fled, lost control and rammed his truck into a fence surrounding a housing development, the impact causing the bed of his truck to jackknife. One of the men in the Ford tried to open the truck's door, but Guerrero resisted and other cars approached. The man ran off. Moments later, a police car and tow truck appeared.

Rather than take a statement from Guerrero or pursue the Ford, the cop demanded \$300 on the spot to cover the damage to the fence, Guerrero said. When Guerrero said he didn't have the money, the officer, who said he was with the anti-kidnapping unit, hauled him to jail. Afraid of police collusion, Guerrero paid \$150 at the station. As he was about to leave, an officer said, "Think about it, Güero" (an insult insinuating that Guerrero was just a dumb American). "At least you're alive."

For about a year, Guerrero had contemplated moving away from Tijuana, where his family had lived for generations. The incident spurred him to buy a home in San Diego County. "What is happening in Tijuana is happening to everyone. Social status doesn't matter," he said. "You can't go to anyone (in the police). They ignore you or laugh."

Though brief, Guerrero's story provides a good example of an individual with dual U.S.-Mexican citizenship who was forced to flee Mexico due to violence.

Yanar Family

Similar to Guerrero, the Yanar family consists of U.S. citizens who had voluntarily chosen to live in Ciudad Juárez, Mexico until violence forced them from their home in the fall of 2009 (Rice, 2011). Their experience is detailed in the following passages from a 2011 *New York Times* article (Ibid.):

Young Pepé Yanar stood in the glow of neon at a bar, his hair stylishly mussed, a gold cross dangling in the crook of his V-neck. “Everybody here is from Juárez,” he said as he surveyed the place, one of many that have opened on the well-to-do west side of El Paso over the last year or so. The Texan side of the border has traditionally been considered dowdier and straitlaced; Juárez used to be where Mexicans and Americans alike went for rollicking nightlife. But now many of its restaurants and clubs are closed, emptied by the violence, burned down by extortionists or cleared away by a dubious downtown renewal project.

Pepé told me about the event that drove out his own family: in November 2009, his father, José Yanar, was kidnapped as he made his way home from work for a dinner celebrating his 52nd birthday with his family. The kidnapers called, threatening to return his father in pieces if they did not receive a ransom of several hundred thousand dollars. Miraculously, José escaped — he still has a semicircular scar on his arm where the kidnapper he grappled with bit down hard — and immediately the whole family piled into a car and raced over the Paso del Norte bridge, abruptly severing themselves from their previous lives.

The Yanar family is in the furniture business, and they had never considered themselves vulnerable to Mexico’s violence. Pepé, his parents and his siblings were U.S. citizens, having been born in the United States, like the children of Casa de Nacimiento [private birthing center located in El Paso, Texas]. Even though the family lived in Juárez, Pepé went to high school in America and then on to the University of Texas-El Paso, which offers in-state tuition to eligible Mexican residents. He and his friends spoke English and Spanish interchangeably, and they moved with assimilated ease on both sides of the border.

José Yanar opened a furniture store called Designer World on Texas Avenue, just off Interstate 10. He and his son both work there, coordinating orders with the family’s factory, six miles away in Juárez, which they hadn’t visited in 18 months. I visited Designer World one day and found the elder Yanar — a bluff, barrel-chested boss nicknamed Pelón (Baldy) by his employees — in an office next to the showroom, where he was keeping watch over the factory on a large flat-screen television that was divided into 16 quadrants, each of which was streaming a jerky feed from a closed-circuit camera. Periodically one of his several phones would screech, and José would carry on his daily business in Spanish with the walkie-talkie voice of a factory manager.

“The people that I have there working for me, they’re very loyal, and of course I pay them a little bit more,” José said. Still, running a business from afar involves all sorts of

annoying inefficiencies. He was afraid to set foot in Juárez, but not all of his managers had U.S. visas. So when he had to see them in person, he sometimes conducted meetings at the center of a border bridge, in the buffer zone beneath the Mexican and American flags.

After José escaped his kidnappers, the whole family crowded in with a sister-in-law who already lived in El Paso, and they put their place in Juárez on the market. “I still hope I can sell it,” he said. “But every single house in Juárez is for sale.” Compared with what others were going through, though, these were minor hardships. Yanar purchased a house in El Paso, and soon he found his neighborhood was full of people he knew from the other side. His social life picked up. He didn’t have to worry about his kids sneaking back into Juárez, because most of their friends had moved, too.

“In the beginning, it was very hard,” Yanar said. “Now I’m getting used to it.” One evening...The Yanars told me they always considered themselves proud citizens of Juárez. “The Mexicans that have a lot of time in the U.S. . . . they think they’re gringos,” José said dismissively. But now they are trying to figure out where they fit.

Immediate Relatives

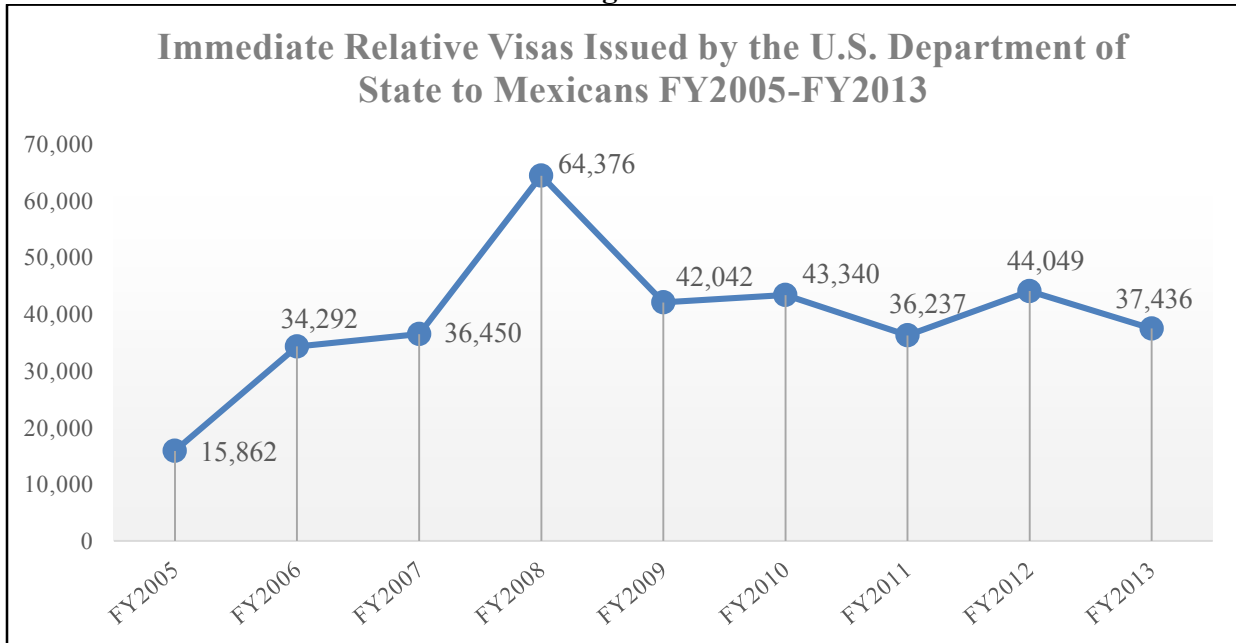
The U.S. immigration system is heavily defined by family-based immigration. Though there are a myriad of ways to immigrate to the U.S., including the diversity lottery and immigrant visas for highly-skilled workers, the vast majority of authorized immigration to the U.S. stems from family-based petitions (Motomura, 2006). The least complicated and fastest way to lawfully immigrate to the U.S. (or to adjust immigration status once already in the U.S.) is to have a U.S. citizen petition for you as their “immediate relative.” An “immediate relative” is defined by immigration law as the spouse of a U.S. citizen, unmarried child under the age of 21 of a U.S. citizen, or parent of a U.S. citizen over the age of 21 (“Green card for,” 2011). According to U.S. Citizenship and Immigration Services (USCIS), “immediate relatives have special immigration priority and do not have to wait in line for a visa number to become available for them to immigrate because there are an *unlimited number of visas* for their particular categories” (Ibid.; emphasis mine).

Immediate relatives, therefore, are considered able to enter the U.S. immediately, without having to “get in the back of the line” while waiting for a visa to become available (as opposed to non-immediate relatives such as siblings and adult children who must wait 10-20+ years for a visa to become available) (“Visa bulletin for,” 2014). In practice, however, the various steps involved in gaining authorized entry to the U.S. as an immediate relative currently take about a year and a half in “processing time” from start to finish (E. Allen-Rodriguez, personal communication April 15, 2014). Furthermore, the application fees and costs of required documentation exceed \$1,000 (not including attorney costs) and the intending immigrant must demonstrate that he or she has a “sponsor” in the U.S. who earns sufficient annual income to assume financial responsibility for the immigrant for a period of ten years (“Family Immigration,” n.d.). Regardless, obtaining authorized entry to the U.S. as an immediate relative is a fairly straightforward and predictable process if the intending immigrant does not have any issues in terms of their criminal or medical background.

Similar to U.S. citizens who choose to live in Mexico, many Mexican citizens choose to continue living in Mexico despite having the possibility of being able to immigrate to the U.S. with an immediate relative visa. Once again, these individuals are demonstrative of the fact that not every Mexican *wants* to live in the U.S., even if they can potentially be authorized to do so. However, the period of Mexican hyperviolence that began in 2006 has been accompanied by a surge of immediate relative visas issued to Mexicans by the U.S. Department of State (see Figure 1). In FY2006, the number of immediate relative visas issued to Mexicans (34,292) more than doubled in comparison to FY2005 (15,862). By FY2008, the number of immediate relative visas issued to Mexicans had more than quadrupled (64,376) from its low point in FY 2005. Though the numbers of immediate relative visas issued to Mexicans each year then dropped in FY2009, the

2009-2013 average (40,621) is still almost three times as high as the pre-Calderón baseline in FY2005.

Figure 1



Note: Adapted from U.S. Department of State [DOS]. Bureau of Consular Affairs. (2014). Report of the Visa Office 2013. Retrieved April 19, 2014 from <http://travel.state.gov/content/visas/english/law-and-policy/statistics/annual-reports/report-of-the-visa-office-2013.html>

Obviously, it would be unreasonable to argue that these trends should be attributed entirely to rates of violence in Mexico; certainly other factors, such as the economy, played a role. That being said, a significant portion of these immigrants were likely influenced by the violence plaguing their country when they made the decision to migrate. Many, in fact, were likely directly impacted by that violence, meaning that they, too, are refugees for all intents and purposes, even though they did not enter the U.S. seeking political asylum.

Selected Case Studies

Rosa and Jorge

Rosa and her husband, Jorge, both in their early fifties, moved to the U.S. in the beginning of 2013 on immediate relative visas secured through their adult daughter, Sophia, (who had become a naturalized U.S. citizen through marriage several years earlier). Rosa has a master's degree in Communications and was working as an adjunct instructor at the university in Ciudad Juárez prior to migrating to the U.S.; additionally, she and her husband were the owners of successful jewelry store that had been in the family for more than 20 years.

Starting in 2008, Rosa and her family began witnessing and hearing about lots of violence in Ciudad Juárez. They became aware that several other stores in the shopping center where their jewelry store was located had been targeted by extortionists, including a hardware store and a grocery store. The extortionists had gone so far as to kidnap and murder one of the store owners who had refused to pay the monthly protection fee; one of the other stores had simply closed to avoid payment. Rosa and Jorge decided that they, too, would close their business in order to avoid the inevitable threat of extortion.

In a decision that they later came to regret, Rosa and Jorge then moved their business to their home address out of financial necessity and continued to work on a much smaller scale. Business was slow, however, considering that many people in the city were no longer buying jewelry both out of economic hardship and the desire to keep a low profile in order to ward off potential assailants. This period was especially difficult emotionally for the couple because Jorge spent a lot of time traveling and selling jewelry to various contacts across the city and in the surrounding countryside, making him a frequent witness to acts of violence including armed robberies, assaults, and murders. Rosa worried about his safety constantly, even as she continued to become more and more anxious about traveling back and forth to the university to teach classes.

At the same time, several of Jorge's family members—also jewelry sellers—were violently robbed, and the couple's twenty-year-old nephew was murdered.

Finally, Rosa and Jorge themselves became victims of the violence plaguing their city. Though they thankfully were not at home when it happened, their house was broken into and robbers made off with everything of value, including approximately \$15,000 worth of jewelry. Even though they were not present for the robbery, this event had a hugely traumatic effect on Rosa and Jorge:

We were the victims of robbery in our own home, they stole all of the jewelry that we had, the product of twenty years of work...luckily we were not there when it happened, and I say luckily because many friends and family members had also been victims [of robbery] during which they had been beaten up and threatened with murder...we left in the morning and when we came back at night, our home had been destroyed; the jewelry was no longer there, they left nothing. Luckily we weren't there, but you still feel a kind of helplessness, a rage, a violation of your things...in your body you feel a very strong pain to see all of your things thrown on the ground, disordered, because you think that your home is your protection from the outside world...in your home, in your house, you have security—to have this sense of security violated is something that is very painful.

Rosa also reported high levels of anxiety about becoming the victim of future violence, coupled with difficulty sleeping, even after having migrated to the U.S. She stated that during her final year living in Ciudad Juárez, she stopped watching the news altogether because she thought that the stress of hearing what was going on in her city was making her “sick in the mind” and “paranoid.”

In addition to the emotional pain they suffered, Rosa and Jorge were significantly damaged financially by the robbery, especially considering that most of the jewelry stolen had been purchased with credit—debts of which they are continuing to pay. This also led to the eventual collapse of their longstanding business, coupled with an intense sense of burden placed on Jorge, who was/is scrambling to pay off these debts—Rosa described this as a type of “psychological violence” for her husband that was perhaps “as dangerous, if not more so, than a physical blow.” Furthermore, Rosa and her husband decided against reporting the robbery to the police, who they

see as corrupt and inextricably connected to the criminal enterprises of Ciudad Juárez. They feared that by admitting to the amount of merchandise that had been stolen, they would make themselves appear rich and therefore the potential targets of future extortion or kidnapping.

Ultimately, Rosa and her husband decided to migrate due to the continued insistence of their daughter, Sophia. The final straw was when Sophia called her mother in a panic after seeing a news story about an unidentified man who had been gunned down while feeding his dogs in the same neighborhood as the family's jewelry store; the physical description of the man provided by the reporters matched that of Jorge. Though Jorge had luckily not been harmed in this attack, the proximity of this senseless act of violence served as a light-bulb moment for Rosa who realized that their decision to remain in Ciudad Juárez was also inflicting a type of emotional violence on her daughter. Even then, Rosa and Jorge insisted on applying for immediate relative visas in Ciudad Juárez, instead of entering the U.S. using their BCCs and then adjusting their status from this side of the border, a process that would have been faster and immediately removed them from danger. Rosa explained that she and her husband simply did not feel comfortable doing things that way, especially since it would mean that they would not be able to work [with legal authorization] and would therefore not be able to afford the cost of living in the U.S.

Rosa is unequivocal when explaining that she and her husband decided to migrate to the U.S. solely because of the violence and insecurity of Ciudad Juárez—she describes candidly that she had never wanted to live anywhere but Mexico, even joking at the end of her interview that her friends used to refer to her as the “*anti-gringa*”:

The process of obtaining [legal permanent] residency was long, tedious; it is only the desire to succeed that motivates you to continue. Truthfully, in other circumstances, I would not have even completed the first requirement, I would have given up, because I want to be in Mexico...Definitely the desire to be in the United States has to do with the opportunities available here, it has to do with one's economic status, it is possible that a person with a low economic status wants to be making dollars on this side, but when you have a

profession, when you have a goal-driven life, when you enjoy not only Ciudad Juárez but all of the country enough to live happy, I believe that it is not necessary to look for a way to leave your country, I believe that when people say that all Mexicans want to be here in the United States, it is a lie.

Even though Rosa did not want to migrate to the U.S., she is grateful that she had the opportunity to find a renewed sense of security on this side of the border.

Rosa goes on to explain that immigrating has been very difficult for her and her husband, especially considering that she has gone from being a respected university instructor with an advanced degree to a low-level worker who has been denied jobs washing dishes and cleaning bathrooms for “lack of experience.” She and her husband have also experienced discrimination and verbal harassment while looking for employment, a problem compounded by their minimal English-language skills, and the lack of time needed to attend English classes. However, both Rosa and Jorge have been able to secure steady employment and feel optimistic about their futures here in the U.S., stating that their ability to adjust to their new lives has been significantly influenced by the emotional and financial assistance of their daughter, Sophia. The silver lining of their move to the U.S. has been getting to spend more time with her and her young son. That being said, Rosa plans to return to Mexico as soon as it is feasible to do so, though she worries that it will be several years before Ciudad Juárez returns to its former glory—for her, what we hear on the news about the violence decreasing is purely political “theater.”

Refugees with Valid Non-Immigrant Authorization

In addition to immediate relative *immigrant* visas, there are several *nonimmigrant* visas available to foreign nationals who wish to live, work, and/or study in the U.S. on a temporary basis. While generally only available to individuals with a substantial amount of economic capital, these types of visas provide yet another avenue through which Mexicans can seek protection in

the U.S. after fleeing violence and insecurity in their home communities. The most commonly available forms of these nonimmigrant visas are student visas and business/investor visas.

Student Visas

There are two types of nonimmigrant visas available to foreign nationals wishing to study in the U.S.: F-1 visas which are available to students entering approved academic programs of study and M-1 visas which are available to students entering approved vocational or other nonacademic programs of study (“Students and employment,” 2013). According to the USCIS website, an applicant must meet the following requirements in order to qualify for one of these nonimmigrant visas (Ibid.):

- *You must be enrolled in an "academic" educational program, a language-training program, or a vocational program*
- *Your school must be approved by the Student and Exchange Visitors Program, Immigration & Customs Enforcement*
- *You must be enrolled as a full-time student at the institution*
- *You must be proficient in English or be enrolled in courses leading to English proficiency*
- *You must have sufficient funds available for self-support during the entire proposed course of study*
- *You must maintain a residence abroad which he/she has no intention of giving up.*

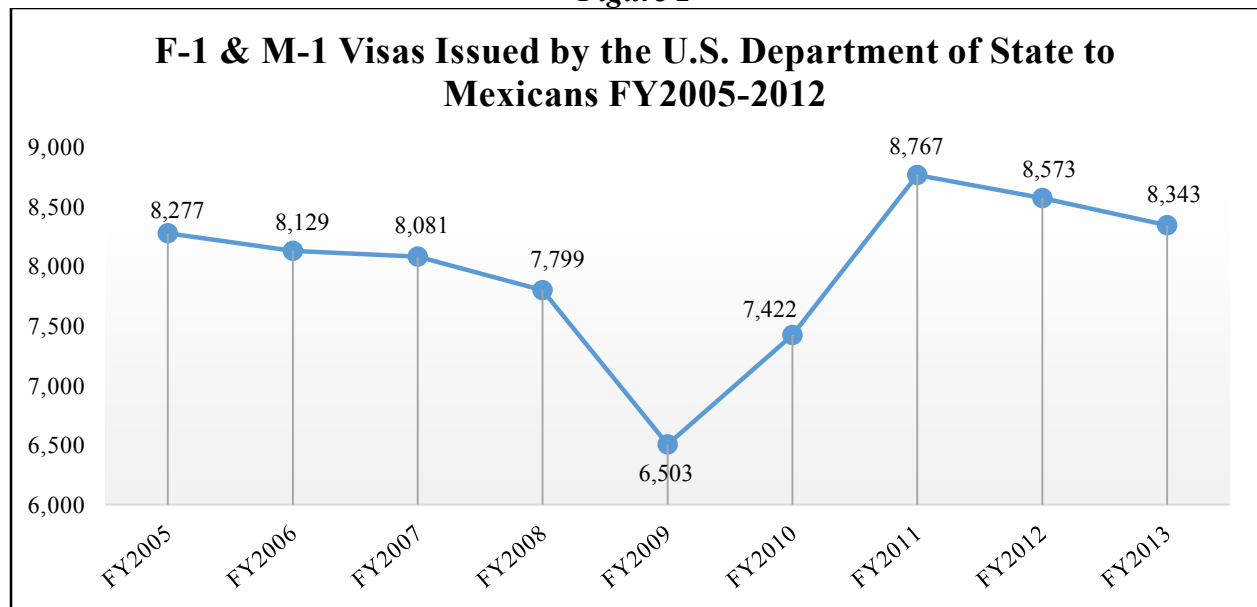
While in school, F-1 and M-1 visa holders are allowed to work in limited circumstances both on and off campus as long as the employment is “related to their area of study” (Ibid.). Furthermore, visa-holders are also able to apply for similar nonimmigrant visas for their spouses and minor children to accompany them during the length of their studies (“Student visa,” n.d.).

As evidenced by the requirements above, student visas are only available to individuals with a significant level of economic privilege. Applicants must demonstrate the ability to pay for all educational and living expenses within the United States while also maintaining a permanent residence in their country of origin. Furthermore, consular officers charged with granting student visas must be convinced of one’s intention to return to their home country following the

completion of their studies; documents used to evidence these “strong ties” to the home country include employment and home ownership, in addition to “financial resources” (“Visa denials,” n.d.).

While F-1 and M-1 visas are only temporary and not meant for permanent migration, it is fair to assume that some Mexicans have used these visas in order to seek protection in the U.S. while fleeing violence in their home communities. These visas can be renewed fairly easily as long as one remains a full-time student, and enable the visa-holder to live and work in the U.S. with lawful authorization. Student visas also provide for initial lawful entry into the U.S., after which one can choose to join the ranks of the vast population of unauthorized visa-overstays. Unlike immediate relative visas, however, the grant rate for student visas to Mexicans has not increased significantly since the period of hyperviolence began in 2006, with the numbers of visas granted actually dipping substantially in 2009 (Figure 2).

Figure 2



Note: Adapted from U.S. Department of State [DOS]. Bureau of Consular Affairs. (2014). Report of the Visa Office 2013. Retrieved April 19, 2014 from <http://travel.state.gov/content/visas/english/law-and-policy/statistics/annual-reports/report-of-the-visa-office-2013.html>

One possible explanation for these trends is that consular officials became stricter when making discretionary decisions about applicants' intentions to return to Mexico following the completion of their studies; understandably, high rates of violence in Mexico could be seen as a deterrent to return migration. Another possible explanation is that the economic side-effects of Mexican hyperviolence—such as high extortion fees and decreased consumer purchasing—have hurt many middle to upper class Mexican families financially (Martinez, 2011). Regardless, previous research indicates that student visas have been used by some Mexican nationals seeking protection in the U.S. (Morales et. al., 2013).

Selected Case Studies

Ivan

On June 21, 2011, Jorge Pastraña published an online story profiling 19-year-old University of Texas at El Paso student “Ivan” as part of “Mexodus,” an “unprecedented bilingual student-reporting project that documents the flight of middle class families, professionals, and businesses to the U.S. and safer areas of Mexico because of soaring drug cartel violence and widespread petty crime in cities such as Ciudad Juárez” (“Mexodus,” 2014). According to the article, Ivan was raised in Mexico and was in his second semester as an engineering student at the Chihuahua campus of the “Tecnológico de Monterrey” prior to being forced to flee to the U.S (Pastraña, 2011). His mother, “Miranda,” was a successful business owner of “four nail and cosmetics businesses” across the state of Chihuahua (Ibid.). fei_1731

However, when the businesses began to get extorted, Miranda refused to pay the protection fee; in retaliation, one of her salons was firebombed by a Molotov cocktail during the working day while several employees and customers were inside (Pastrana, 2011). Several death-threats

followed shortly thereafter (Ibid.). Miranda, a U.S. citizen, fled to the U.S. immediately, telling her children that she was only going to visit family members for a short vacation. Instead, she set about planning her family's migration and "doing all the paperwork" (Ibid.). Within a week, Ivan, his father, and two brothers had all fled their home, leaving it "intact, fully furnished, [with] their cars parked outside" (Ibid.). Miranda had provided for Ivan's safe passage to the U.S. by way of a rushed student visa application; Miranda plans to petition for her family members as immediate relatives in order to make their immigration status more permanent (Ibid.). The death threats and extortion demands have followed them across to this side of the border, where Miranda continues to operate her businesses over the phone and using the internet (Ibid.).

Business and Investor Visas

Another way in which Mexicans fleeing violence in their home communities can attempt to find protection in the U.S. is by securing one of numerous different types of non-immigrant visas for temporary workers. The most common of these visas employed by Mexicans fleeing violence, the E-1, E-2, and L-1 visas, are colloquially referred to as business or investor visas.¹⁸ The E-1 visa is available to "treaty traders" (and certain employees) who are citizens of "a country with which the United States maintains a treaty of commerce and navigation" and who are seeking temporary admission to the U.S. in order to "engage in international trade" ("E-1 treaty traders," 2014). In order to obtain such a visa, the applicant must demonstrate that s/he plans to "carry on *substantial trade*" between the U.S. and his/her country of origin; while there are no specific

¹⁸ The EB-5 *immigrant* visa is another type of "business/investor" visa, that actually allows the visa holder to immigrate to the U.S. if s/he can create a new business in the U.S. with a minimum investment of \$500,000 and the creation of 10 full-time jobs ("EB-5 Immigrant Investor," 2012). However, these visas are relatively uncommon (only 63 were issued to Mexicans in FY2013; U.S. Department of State, 2013) so they are not discussed in-depth. Certainly some Mexicans have used to EB-5 visa in order to flee violence in their home community and migrate to the U.S. (Wiggin, 2011; Corchado, 2012; Nickell, 2013).

financial parameters used to define “substantial trade,” USCIS states that this concept “generally refers to the continuous flow of sizeable international trade items, involving numerous transactions over time” (Ibid.). Trade, likewise, consists of various activities and items including: “goods, services, international banking, insurance, transportation, tourism, technology and its transfer, [and] some news-gathering activities” (Ibid.).

Likewise, E-2 visas are available to “treaty investors” (and certain employees) who are seeking admission to the U.S. for the purposes of “investing a substantial amount of capital in a U.S. business” (“E-2 treaty investors,” 2014). The applicant must demonstrate that s/he has invested or is “actively in the process of investing” and that s/he has “at least 50% ownership of the enterprise or possession of operational control through a managerial position or other corporate device” (Ibid.). The applicant must also show that the investment capital was earned legitimately, and not through criminal activity. Once again, there are no specific financial parameters used for defining “substantial capital,” but the adjudicator must believe that the investment amount is sufficient for the business to succeed. Furthermore, the business cannot be defined as “marginal,” meaning that it “does not have the present or future capacity to generate more than enough income to provide a minimal living for the treaty investor and his or her family” (Ibid.).

E-1 and E-2 visas are also available to some employees of treaty traders and treaty investors, as long as they are “engaging in duties of an executive or *supervisory character*” or have “special qualifications” that are not “readily available in the United States” and make them an integral part of the employer’s operations (“E-2 treaty investors,” 2014). Upon entering the U.S. with an E-1 or E-2 visa, the individual is generally granted a two-year period of “nonimmigrant

status” during which they can lawfully live and work in the U.S. (Ibid.).¹⁹ This status can be renewed indefinitely, as long as the nonimmigrant “maintain[s] an intention to depart the United States when their status expires or is terminated” (Ibid.). E-1 and E-2 visas are also available to the spouses and unmarried children under 21 years of age of treaty traders and their employees (Ibid.). Both E-1 and E-2 nonimmigrant status can be terminated in the event that there is “substantive change” in the terms on which the status was granted (Ibid.).

Similar to E-1 and E-2 visas, the L-1A visa represents yet another type of non-immigrant employment visa available to business “executives” or “managers” (“L1-A Intercompany,” 2013). These visas are available to executive and managerial employees of companies that operate on both sides of the border, or for companies who are looking to establish a new branch in the U.S. (Ibid.). L-1A visa-holders who are establishing new branches are granted an initial stay of one year while visa-holders transferring to an existing branch are granted an initial stay of three years (Ibid.). Like the E-1 and E-2 visas, the period of stay is renewable, and visa-holders are allowed to bring their spouses and minor children along with them to the U.S. (Ibid.).

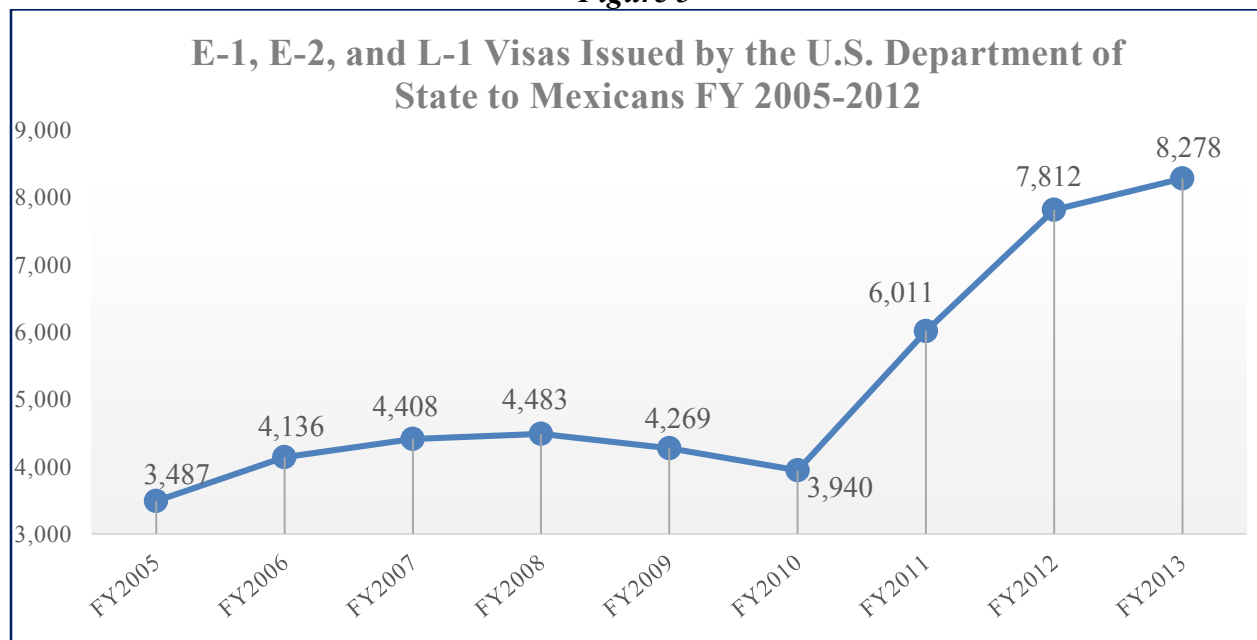
As evidenced by the information listed above, obtaining an E-1, E-2, or L-1A visa requires a significant amount of financial capital and business expertise. While journalists and academics often erroneously claim that the E-2 visa, in particular, requires a \$100,000 investment and the employment of at least five U.S. workers, the loosely-defined parameters of “substantial capital” do indicate the need for significant economic investment (Payan, 2013). These visas are clearly available to only a very small percentage of the privileged elite. That being said, economic privilege does not necessarily shield one from the pervasive effects of Mexican hyperviolence—

¹⁹ Note that nonimmigrant status means just that; E-1 and E-2 visa holders do not have a firm pathway to legal permanent residency nor citizenship, though some may eventually adjust through other means (such as family-based petitions or other immigrant employment visas for the highly skilled).

on the contrary, such privilege actually makes one *more* susceptible to certain kinds of violence including kidnapping and extortion. It is therefore reasonable to assume that at least some Mexicans have come to the U.S. fleeing violence in their home community by way of an E-1, E-2, or L-1 visa.

These suppositions are bolstered by the fact that E-1, E-2 and L-1 visas issued by the U.S. Department of State for Mexicans in FY2013 (8,278) more than doubled in comparison to FY2006 (4,136) (See Figure 3). Once again, these trends cannot be attributed solely to the violence in Mexico, especially considering the improving Mexican economy; however, the observed correlation between rising rates of violence and numbers of business/investor visas issued does seem to indicate that violence in Mexico is playing some role in the growth of this visa category.

Figure 3



Note: Adapted from U.S. Department of State [DOS]. Bureau of Consular Affairs. (2014). Report of the Visa Office 2013. Retrieved April 19, 2014 from <http://travel.state.gov/content/visas/english/law-and-policy/statistics/annual-reports/report-of-the-visa-office-2013.html>

Selected Case Studies

Since 2009, several newspaper articles have been published profiling the phenomenon of wealthy Mexican business owners fleeing violence in their home communities by securing expensive employment-based visas in the U.S. (Giovine, 2009; Besnman, 2009; Anaya, 2010; Gomez Licon, 2010a; “Immigration News,” 2010; Barnes, 2010; Sheridan, 2011; Chardy, 2011; “Business Owners,” 2011; Hennessy-Fiske, 2013, Nickell, 2013). Many of the articles cite statistics related to the rising numbers of Mexican-owned businesses showing interest in opening branches in the U.S.:

- *Cindy Ramos-Davidson, the president of the Hispanic Chamber of Commerce in El Paso, said that her staffers have received a large number of requests from Juárez businesspeople who are seeking to establish themselves in El Paso. During the 12 months ending July 31, more than 200 Mexican companies opened in the city, which represents an increase of 40 percent compared with the same period last year, she said. “It’s the largest migration of wealthy Mexican nationals (to El Paso) since the Mexican Revolution,” Beto O’Rourke, an El Paso city councilman, said recently. (Giovine, 2009)*
- *Luis Cantu, vice president of international relations for the McAllen Chamber of Commerce, said his city had seen a “great influx” of Mexican business persons inquiring about investment opportunities in the US. “They are looking at establishing their businesses. They are buying their residences here in McAllen,” Cantu said. “This is something we began to notice at the beginning of last year. So far this year, we’ve seen a great number of people.” (“Immigration News,” 2010).*
- *“It’s a very substantial flow; I would say probably the largest since the 1920s, the last great period of upheaval in Mexico,” said Henry Cisneros, a former mayor of San Antonio who served in President Clinton’s Cabinet. “We have whole areas of San Antonio that are being transformed.” (Sheridan, 2011)*

In these cities, several organizations aimed at assisting newly-arrived Mexican business owners have been founded or have expanded their membership base. This includes “La Red” in El Paso, Texas, which was founded in 2010 and grew to almost 500 members at its peak in 2011, and the San Antonio Mexican Entrepreneurs Association which went from “a handful of members” to

more than 200 in 2011 (Giovine, 2009; Chardy, 2011; Sheridan, 2011). Even cities not typically known for their large Mexican-American populations—such as Vail, Colorado—have been profiled as destinations for a growing number of the wealthy Mexican elite (Abkowitz, 2012).

The running theme in these articles is that a significant number of Mexican business-owners are using business and investor visas to flee to the U.S. after surviving threats such as kidnapping, burglary, and extortion. For example, Pierre Gama told reporters that after being kidnapped in Mexico City for the fourth time, he decided he had to get his family to safety (Barnes, 2010). He was able to move to San Antonio, Texas via an L-1 visa secured after he purchased an American-style restaurant called Village Gourmet (Ibid.). Likewise, Manuel Octavio Espejo Pantoja secured an L-1 visa in San Antonio after “an escalating series of extortion plots, kidnappings, and death threats” including several “short-term ‘express-kidnappings’ for ATM money” (Bensman, 2009c). The final straw for Espejo Pantoja came when extortionists demanded two million pesos (approximately \$150,000 USD) and placed a funeral wreath on his doorstep bearing the name of his daughter (Ibid.).

The following passages illustrates several similar stories of violence-driven migration aided by entrepreneurial and business visas (Bensman, 2009c):

Luis Escobar, a kidnapping survivor who made his move on an L visa six years ago, runs a San Antonio company that specializes in helping wealthy Mexicans relocate their businesses and families. He has brought 259 families to San Antonio since January. But Escobar said his outreach in Mexico now overwhelms his capacity, bringing in more than 23,000 inquiries so far this year...The new arrivals are showing up defeated and downtrodden, with horror stories of kidnappings, torture and extortion, Escobar and others say...Escobar, for instance, recounts a wealthy tycoon who showed up in San Antonio last month, missing a foot...The businessman’s kidnappers hacked off the foot at the ankle without anesthesia, he said, and sent it to family members to urge faster ransom payment. As soon as they secured the businessman’s release, the family fled to San Antonio and became Escobar’s clients, first so the victim could be committed to psychiatric facility and second so no one would have to return. Escobar is now helping the family arrange L visas so the man and his family can stay.

Another family walked into Escobar's offices this summer after kidnappers released their traumatized son with a message cut into his chest that read: "Next time, when we say \$500,000, we mean \$500,000." Still another wealthy executive arrived with his family in San Antonio last month, catatonic. Escobar said the client's captors had forced him to spend 35 days in an underground water storage tank before ransoming his freedom. A blindfold that never once came off has permanently disfigured the man's face. "We know people who have had these [experiences] have to be taken care of in a very different way because one can make bad decisions out of fear," Escobar said. "The people cry in my conference room. What can you tell them? You have no clue what these incidents do to these people."

Obviously, even though these individuals are wealthy, they too have suffered extremely due to Mexican hyperviolence and form part of the contemporary Mexican refugee population living in exodus in the U.S.

Refugees without Authorization

The final category of non-asylum-seeking modern Mexican refugees is "Refugees without Authorization" (RWA)—Mexican nationals who fled violence in their home communities and who are now living in the U.S. without proper immigration authorization. This category includes two types of individuals: those who entered the U.S. without authorization (e.g., using false documents or entering the country outside of a designated Port of Entry) *and* those who entered the country with valid authorization but subsequently allowed their authorized status to lapse by violating the terms of their visa ("visa violators") or by remaining in the U.S. longer than was permitted ("visa overstays"). Approximately one-half of all unauthorized (often referred to as "unauthorized," or, more pejoratively, as "illegal") immigrants living in the U.S. today overstayed their visas, with the other half having initially entered the country without authorization ("Modes of Entry," 2006).

Entering with Non-Immigrant Visas

Tens of thousands of Mexican citizens enter the U.S. each day using a non-immigrant visitor visa known as a Border Crossing Card (BCC) (“Modes of Entry,” 2006). Only offered to Mexican citizens, BCCs are joint B1 (business) and B2 (tourism and visit) visas that are generally valid for a period of ten years (“Border Crossing Card,” n.d.). BCCs are issued by the U.S. Consulate in Mexico and consular officers have the sole authority in determining whether or not an applicant qualifies for the visa (“Visa Denials,” n.d.). In order to qualify for a BCC, an applicant must provide sufficient supporting documentation to “overcome the presumption of immigrant intent, required by law, by sufficiently demonstrating that you have strong ties to your home country that will compel you to leave the United States at the end of your temporary stay” (Ibid). Generally, applicants are able to meet these requirements by showing proof of employment, income, property ownership, and familial ties in Mexico (Ibid.). BCCs may only be used for brief visits to the U.S. to conduct “permitted activities” that exclude study, employment, or taking up residence (See Table 7; “Visitor Visa,” n.d.). BCC holders may only remain in the country for up to thirty days and within twenty-five miles of the U.S.-Mexico border, unless they receive advance permission to extend the parameters of their visit (“Border Crossing Cards,” n.d.).

As evidenced in Table 7, BCCs are not meant to be used for permanent immigration to the U.S. However, BCC holders sometimes violate the terms of their visitor visas by engaging in non-permitted activities such as working, taking up residence, or remaining in the U.S. for longer than the allowed thirty days (Chavez, 2011). The Pew Research Center estimates that about 1.7% of Mexicans entering the U.S. each year using a BCC overstay the terms of their tourist visa and become part of the unauthorized immigrant population (“Modes of Entry,” 2006). The researchers also estimated the overall number of BCC overstays living in the U.S. to be between 250,000 and

500,000 individuals, though these numbers have likely grown since 2006 when the research was conducted (Ibid.).

Table 7: B1/B2 Border Crossing Card Parameters

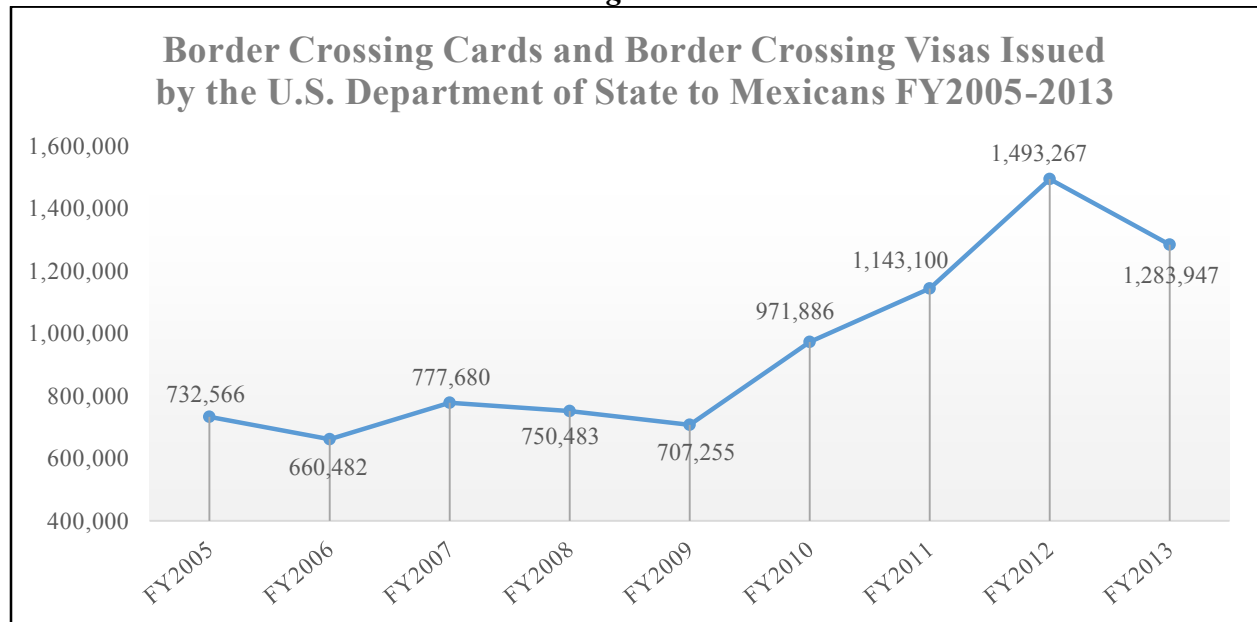
	<i>Permitted Activities</i>	<i>Non-Permitted Activities</i>
B1 (Business)	<ul style="list-style-type: none"> • Consult with business associates • Attend a scientific, educational, professional, or business convention or conference • Settle an estate • Negotiate a contract 	<ul style="list-style-type: none"> • Study • Employment • Paid performances, or any professional performance before a paying audience • Arrival as a crewmember on a ship or aircraft • Work as foreign press, radio, film, journalists, and other information media • Permanent residence in the united states
B2 (Tourism and Visit)	<ul style="list-style-type: none"> • Tourism • Vacation (holiday) • Visit with friends or relatives • Medical treatment • Participation in social events hosted by fraternal, social, or service organizations • Participation by amateurs in musical, sports, or similar events or contests, if not being paid for participating • Enrollment in a short recreational course of study, not for credit toward a degree (for example, a two-day cooking class while on vacation) 	

Note: Adapted from Visitor visa (n.d.). Bureau of Consular Affairs, U.S. Department of State. Retrieved March 9, 2014, from <http://travel.state.gov/content/visas/english/visit/visitor.html>

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Rates of B1/B2 visas issued by the U.S. Department of State to Mexicans more than doubled from FY2005 to FY2012, with the sharpest increase being seen from FY2009 to FY2010, dates that coincide with the peak of violence in bordertown Ciudad Juárez, Mexico (See Figure 4).

Figure 4



Note: Adapted from U.S. Department of State [DOS]. Bureau of Consular Affairs. (2014). Report of the Visa Office 2013. Retrieved April 19, 2014 from <http://travel.state.gov/content/visas/english/law-and-policy/statistics/annual-reports/report-of-the-visa-office-2013.html>

Like IR visas discussed earlier, the number of B1/B2 visas that can be issued each year is not capped; theoretically, anyone who pays the application fee and sufficiently demonstrates strong financial and familial ties to Mexico should be granted a visa. Therefore, increased approval rates indicate increased application rates and greater demand for non-immigrant Mexican visitor travel to the U.S. These trends can be partially attributed to the growing Mexican economy—as employment opportunities increase, more Mexicans are able to prove the financial ties necessary for obtaining these visas. However, it is also reasonable to assume that the greater demand for BCCs is at least somewhat a result of middle and upper-class Mexican citizens looking for a way

to lawfully enter the U.S. in order to flee violence in their home communities. Once again, these individuals constitute yet another portion of the modern Mexican refugee population that exists outside the realm of formalized political asylum.

Selected Case Studies

Paola and Family

Paola's family first caught a glimpse of what was going to happen to Ciudad Juárez very early on, when things were first starting to get bad during the early months of 2008. She and her husband, Joaquin, both in their early forties, owned a small restaurant that was frequented by a well-dressed gentleman from Mexico City. Joaquin and this customer became friendly and spoke on a regular basis. Eventually the patron told Joaquin that he was a private investigator for the Mexican Federal Government who had been sent to Juárez to find "certain people." Joaquin asked him why so many people had started to die in Juárez, and, according to Paola, this gentleman answered the following:

"Let's say I come into your house and I tell you to leave, and that this house is now going to be my house, your wife is going to be my wife, your children are going to be my children...you, what are you going to do? You are going to defend yourself. And this is what is going to happen here in Juárez."

Paola explained that both she and her husband were incredulous, certain that nothing like that was going to happen. However, shortly thereafter, two men with clearly-visible guns [civilian possession of firearms is prohibited in Mexico] came into the restaurant while Joaquin and two of his brothers were out back fixing a gas leak. This meant that when the men entered, only the female cook and a couple of customers were visible from the front entrance. However, once these armed men saw Joaquin and his brothers working outside, they left immediately, seemingly deterred by the potential obstacle they presented. Joaquin was deeply impacted by this event and by what his

Mexico City customer had told him; therefore, he and Paola decided to sell the restaurant immediately, before anything worse could happen.

In addition to owning the restaurant, Paola and Joaquin both worked as full-time professionals, having studied Business Administration together at the university (though Paola never graduated). When the violence first began in Juárez in early 2008, Paola worked in sales of the advertising department for Channel 11, where she had been employed for the previous 7 years. However, business owners quickly realized that buying advertising was making them targets for extortionists and kidnappers. Simply put, demonstrating that you had the money to pay for advertising also proved that you had the money to pay kidnappers' ransoms and/or weekly protection fees (quotas) to extortionists linked to organized crime (according to Paola, these fees varied depending on the size of the business, but ranged from about \$200-\$300 dollars per week).

Therefore, Paola was laid-off from Channel 11 as they were forced to make cut-backs as a result of diminished advertising contracts. Paola then went to work for a different television station, Channel 5, from which she was also eventually laid off. Finally, Paola began working for a large, multinational broadcasting company that operated a billboard subsidiary in Juárez. This, too, proved short-lived; clients began demanding that their billboards be taken down immediately since they were receiving extortion demands within 3 days of the billboards going up. Paola was laid-off once again, with the company she worked for eventually choosing to shut down all operations in Juárez.

During this same time period, Paola's husband, Joaquin, was also struggling professionally as a direct result of the ever-increasing violence in Juárez. By 2008, Joaquin had been working for approximately 15 years for a large, multinational pharmaceutical company as a traveling drug sales representative. Paola explained that Joaquin was well-trained by the company in the fields of

medicine and pharmaceuticals and was often sent to Mexico City for months-long continuing education courses. However, this industry was hit hard by the violence in Juárez. Several colleagues of Joaquin were robbed by armed commandos wielding assault rifles who stormed doctors' offices during sales calls. Another one of Joaquin's coworkers was car-jacked at gunpoint in broad daylight while driving a late-model company car. All of these events, though not experienced directly, had a profound emotional impact on Joaquin and Paola since they feared for his life every time he went to work.

Since doctors are a prime target for extortionists, kidnappers, and robbers, many closed their private offices and began working in (relatively safe) hospitals, while others left the city altogether. This caused pharmaceutical sales to decrease drastically, leading to cut-backs and Joaquin being laid-off from by his employer of more than fifteen years. Joaquin was then luckily able to find another pharmaceutical representative position with a much smaller company, though his salary was also slashed substantially. After about a year and a half, as the violence continued to intensify, Joaquin was laid-off from this position as well.

Unable to find another job in the pharmaceutical industry, Joaquin began looking for other sources of income. College-educated, Joaquin had little to no experience in manual labor. He ended up going online to learn basic carpentry skills through Youtube and began finding a series of odd-jobs on this side of the border, through which he was constantly learning new skills and getting additional job referrals. Though difficult, Joaquin was often able to make up to \$100 in a single day working in El Paso while both he and his wife were unable to find any worthwhile employment in Juárez. However, crossing the border daily to work in the U.S. was a source of constant anxiety since it meant violating the terms of his BCC and possible deportation.

By this time—the early spring of 2010—Paola and Joaquin had long-since realized that things did not seem to be getting better in Juárez. The magnitude of the violence was steadily growing. The father-in-law of one of Paola’s nieces was beaten to death in his mechanic’s shop 3 days after being unable to pay his extortion quota due to decreased clientele. One of Paola’s neighbors and friends, also a mechanic, was killed by extortionists just days after having repaired Paola’s car; he left behind three young children and a wife who had been constantly pressuring him to close up the business to avoid potential problems.

Paola explained that the violence was everywhere; one could no longer say that they were protected by living in a wealthy neighborhood. She and her family members saw dead people lying in the streets frequently—“it was very common...you got used to seeing things like that...after a while you started to see it as very normal, even though it is not something normal.” Paola worried about her children getting accustomed to seeing so much violence. Furthermore, being frightened for their safety, Paola kept her children locked up in the house most of the time, only allowed to go out with their friends on the El Paso side of the border; this, too, took an emotional toll on the family.

In addition to the violence they were witnessing all around them, Joaquin and Paola were struggling financially. Customs officials had started to become increasingly inquisitive as to why Joaquin was crossing the border so frequently using his tourist visa (with which he was not permitted to work). They were far behind on their mortgage payments ever since Joaquin had lost his job, and were well-aware that bank-repossession was a possibility in the near future. Therefore, with dwindling savings and tourist visas that were about to expire, Paola and Joaquin made the hard decision to leave their lives in Juárez and make a go of it as unauthorized immigrants in El Paso. They voluntarily returned their house to the bank, avoiding formal repossession, and crossed

one last time into El Paso using their soon-to-be-expired tourist visas. In order to avoid drawing attention to their true intentions of violating the non-immigrant terms of these 30-day visas, Paola and Joaquin got their citizen-daughter to cross their furniture and personal belongings. The family moved into a small house rented to them by family friends at the low rate of \$200 per month.

After crossing into El Paso, Paola and her family began the process of making new lives for themselves. When they moved, none of Paola's children were happy with the decision. Her two daughters—who had been attending a private high school in El Paso for years—had the easiest time adjusting since they both graduated one month later, moving, separately, to two different universities to which they each had secured full-ride scholarships. Paola's youngest son, however, had a very hard time adjusting to the change, becoming, in Paola's eyes, very depressed and reserved. Even after living in the United States for a year and eight months, Paola says he has adjusted a bit but mostly remains the same, saying: "he never goes out [and] he doesn't have any friends, except for his friends at school."

Economically, the family has done fairly well, especially considering that Paola and her husband do not have legal documents to live or work in the United States. Joaquin continued to find odd jobs in construction and yard work after moving to El Paso, eventually getting temporary work in a pecan orchard in southern New Mexico. One day a friend of Joaquin's boss came looking for people to employ on his newly-purchased pecan farm; the boss recommended Joaquin as one of his best workers, and he was hired on the spot. Paola speaks warmly of this farm-owner. He has provided Joaquin and his family with a well-maintained house on the farm in which they can live, rent-free. Paola says that he pays and treats Joaquin very well, and that the two have become fast friends despite the fact that neither speaks the other's language fluently. As a migrant farmworker, Joaquin and his family qualify for free basic health and dental services through a government

program, despite their unauthorized status in NM explain a bit more. However, Paola prides herself on having never applied for food stamps or other government welfare, saying that she would only want to turn to these programs if she was in dire need. Instead, she supplements the family's income with a few housekeeping jobs that she has secured through word of mouth at her children's private school.

Paola is clear that she and her family have no plans to return to live in Ciudad Juárez. She says that she does not believe that things have truly gotten better in Juárez, because even though there are fewer bodies in the streets, there are still rampant extortions, car-jackings and home invasions. Furthermore, she says that she thinks things are never going to get better in terms of governmental corruption throughout the country. Paola says that they have nothing to go back to in Juárez, especially since they had to give up their house to the bank. However, Paola is quick to explain that while she and her husband had thought about maybe eventually applying for U.S. legal permanent residency through their citizen daughter, they had never planned on living in the U.S. without the proper legal documents—nor had they ever needed to do so. In Paola's words:

“We thought we were going to fix our papers from Juárez...we never had plans to stay over here, without legal documents...we lived well in Juárez, we had work, we had everything, we didn't want to be in the situation of not having papers, or that migration could stop you, we didn't have the necessity to cross for this reason, because we had the hope of fixing our papers through our daughter...we had everything, we had a house, we had a late-model car, we had work, we had two daughters in school over here, we didn't have any need to cross.”

Clearly the lives of Paola and her family were shaped dramatically by the violence in Juárez, even if they were never directly affected by any violent events on a personal level. Instead, the violence that surrounded them affected Paola and her family emotionally, resulting in the heavy burden of constant anxiety and fear. Paola and her family chose to leave Ciudad Juárez before anything bad could happen to them directly, after having borne witness to the assaults,

kidnappings, and murders of their friends, family members, and professional colleagues. For this reason, they should be considered an example of modern Mexican refugees, even though they have chosen to seek protection in the U.S. outside of the formal political asylum bureaucracy.

María Salazar and Family

María Salazar is someone who was very open about the use of her real name and identifying details. A prime example of the non-asylum seeking modern Mexican refugee, María and her family moved to El Paso, Texas using BCCs in July of 2010 following the murder of her 19-year old son in Ciudad Juárez. While she and her husband have since adjusted their status to that of legal permanent residents through another adult U.S. citizen son, the first few months of their time in the U.S. were spent in the precarious position of a visa-overstay.

María's son, Alejandro Ruiz Salazar, was born in the U.S. (and was thus a U.S. citizen) but had spent most of his life living in Ciudad Juárez with his family. At the time of his murder, Alejandro was a sophomore nursing major studying at the University of Texas at El Paso (UTEP) and a work-study employee of the UTEP Graduate School (Borunda, 2010b; Chavez, 2010). Alejandro spend the week in El Paso living with his adult brother, and returned home to Ciudad Juárez every weekend. According to local news reports, Alejandro and his friend Jorge Pedro Gonzales Quintaro—another U.S. citizen and former UTEP student—were chased and gunned down by AK-47-weilding assailants while traveling on the highway that connects Ciudad Juárez and the neighboring village of Villa Ahumada (Ibid.) Alejandro's body was found with multiple bullet wounds lying on the asphalt next to a Jeep Cherokee, while Jorge's body was found in the driver's seat (Ibid.).

María is emphatic when explaining that her son's murder was due to no fault of his own. A model student and aspiring professional, Alejandro had never been in trouble with the law and

was in no way associated with gangs or cartels in Ciudad Juárez. María explained that she is a very overprotective mother who does not even allow her children to learn to drive until they are twenty years old, and that Alejandro was not the type to be out partying on weekends—according to her, Alejandro had “never even kissed a girl.” Likewise, Jorge was a long-time friend of the family, a college graduate, and someone who had never been in any trouble with the law. At the time of their murder, Alejandro and Jorge were actually returning from a Boy Scout community service excursion in Villa Ahumada.

María is still unclear as to what exactly happened to her son—official reports indicate that Jorge refused to stop his car at an informal criminal roadblock set up on the highway, causing the boys to be pursued and ultimately murdered. However, María still has doubts about this narrative, especially considering that Jorge’s family had received extortion-related kidnapping threats shortly before the shooting. At the same time, she recognizes that it also could have been a simple car-jacking and robbery gone wrong; the Jeep that Jorge was driving was late-model and in nice condition. Regardless, María states that almost four years later, both the Mexican and U.S. government have done “absolutely nothing” to get justice for her son, even though he was a U.S. citizen who had recently registered to become a soldier in the U.S. army.

After Alejandro’s murder, María and her husband became extremely worried about the safety of their other children, especially considering that Alejandro’s wallet had been stolen, meaning that the assailants had his home address and other personal information. Likewise, María and her husband were well-acquainted with the stories of extortions, kidnappings, and murders of several friends and family members. While they themselves had not yet been victims of extortion, they considered themselves to be in imminent danger of this possibility; their son’s murder served to solidify their fears about what may happen if they remained in Ciudad Juárez. They decided to

move to El Paso almost immediately—“from one night to the next”—crossing on BCCs and planning to eventually obtain residency through another son.

Moving to El Paso was very hard on María and her family. Previous owners of a small chain of jewelry stores, María and her family lived comfortably in Ciudad Juárez, firmly established members of the business-owning middle class. They had plenty of money to provide their children with extracurricular and educational activities including frequent travel, swimming classes, karate, and musical instrument lessons. They lived in a “large, pretty, six-bedroom” house in a wealthy gated community; upon moving to the U.S., they moved into the cramped quarters of their adult son’s one-bedroom apartment. María describes the move in the following passage:

...it was very difficult because of the pain...also, even though we are only separated by a puddle [the Rio Grande River, which marks the U.S. Mexico border], the culture changes here on the other side, the way of thinking changes here... We were not living in our house, we did not have enough space, it was only an apartment for a bachelor, and you have to imagine that we had a lot of needs, we had a lot of pain, we had a lot of obligations, we had a lot of debts to pay, everything that was still involved with our house over there that is very expensive, we had to pay bills both here and there...it was very hard...

As evidenced above, the standard of living for María and her family changed drastically because of their move, something that only served to compound the grief they were experiencing as a result of Alejandro’s murder. Their jewelry stores eventually closed due to their absence and the ever-present threat of extortion, converting from successful income-producing entities to sources of debt and disappointment. Unable to work lawfully as visa-overstays, the family’s first few months in the U.S. were very precarious economically.

Almost four years later, María and her family are doing much better, even though they still sometimes struggle to pay their bills. Now legal permanent residents, María and her husband have been able to find lawful employment, something that is significantly more fulfilling and lucrative than their initial strategy of making and selling tamales to help pay the bills. They have also been

able to move out of their son's apartment into a nice—but modest—mobile home. María and her husband are both studying at the local community college, even though it is difficult for them to balance the demands of full-time work and school.

While she reports having experienced discrimination as an immigrant, María has also been able to make solid friendships on this side of the border. She returns to Ciudad Juárez only very infrequently, still afraid in the city that is marred by painful memories of her lost son. She never allows her youngest son to return with her, and seems resigned when explaining that she unfortunately can no longer prohibit her adult sons from returning for occasional visits. Additionally, she and the rest of the family have experienced extreme emotional pain due to Alejandro's death, but have been unable receive any psychological help due to financial and time constraints. All in all, María's life has changed profoundly since being forced from her home and community due to being directly affected by the violence and insecurity of Ciudad Juárez.

Unauthorized Entry

Apart from those who have violated the terms of their visas, many unauthorized immigrants living in the U.S. entered the country without the proper immigration authorization, what is generally referred to colloquially as “illegal entry.” This group includes individuals who presented fraudulent or borrowed immigration documents to gain entry to the U.S., though the majority of this group entered the U.S. without inspection by immigration officials (known as “Entry without Inspection” or EWI). It has been well-documented elsewhere that rates of such migration to the U.S. have been decreasing steadily in the past several years, something that can be partially attributed to the deterrent effect of enhanced border security measures (Passel, Cohn, & Gonzalez-Barrera, 2012). Increased numbers of Border Patrol agents, the construction of miles of fencing,

and the use of advanced technology including night-vision cameras, infrared, and motion sensors have all served to make the process of entering the U.S. outside of an official Port of Entry much more difficult (Ibid.). Likewise, punitive immigration enforcement operations—such as the criminal prosecution and incarceration of unauthorized border-crossers—have also had a deterrent effect (Ibid.).

At the same time, unauthorized immigration to the U.S. has become increasingly dangerous over time, as migrants seeking entry have been pushed further and further into remote desert regions in their attempts to evade detection by the authorities; hundreds of such migrants die each year in the U.S. due to dehydration, drowning, and exposure (Rosenblum, 2012). Furthermore, migrants seeking unauthorized entry into the U.S. are endangered by the growing dominance of Mexican cartels in controlling migration routes and demanding steep extortion quotas in return for the privilege of attempting to cross along “their” part of the U.S.-Mexico border; non-compliance is met with beatings, torture, kidnapping, and murder (Ibid.). Accordingly, average costs for hiring a human smuggler (*coyote*) have increased steadily over the past several years as associated risks have multiplied (Ibid.).

Despite these risks, hundreds of thousands of Mexican nationals attempt to enter the U.S. outside of an official Port of Entry each year, more than 92% of whom succeed in entering the country eventually (Rosenblum, 2012). It is unknown at this time what percentage of these migrants are motivated to leave Mexico primarily due to the threat of violence in their home communities. However, due to the dangers involved, it is evident that push factors for migration are substantial enough to warrant an assumption of the risks associated with unauthorized migration. For many Mexicans, violence may be one of the key impetuses behind their decision to enter (or attempt to enter) the country without inspection. It is also worth noting that the majority

of these immigrants probably have relatively little socioeconomic capital; otherwise, they would have likely obtained a B1/B2 Border Crossing Card in order to enter the U.S. in a much safer manner.

Selected Case Studies

For Mexicans who do not have the proper documentation to enter the U.S. at an official Port of Entry, such as a BCC, entry without inspection is seen as a viable option for seeking protection from violence, especially when the threat is imminent. Among Mexican migrants who choose to enter the U.S. without inspection, there are several possible outcomes: giving up during the journey and returning to Mexico; being abducted by armed thugs and extorted and/or forced to traffic drugs into the U.S.; dying; being taken into custody by U.S. immigration officials; and successfully entering the U.S. without detection. The following case studies illustrate the experiences of two Mexican migrant families who entered the U.S. without inspection.

Gabriel and Family

Gabriel is one such immigrant who entered the U.S. outside of an official Port of Entry while seeking to provide protection for himself, his wife, and his two small children. About a year and a half prior, Gabriel had successfully entered the U.S. without inspection near a busy border city with the help of human smugglers he hired after having been acquainted by word of mouth. However, shortly after arriving in the U.S., Gabriel and several other migrants were kidnapped by their smugglers and imprisoned in a small room of rural, single-family home. The smugglers seized the migrants' cell phones and other possessions and ordered them to call their family members demanding approximately \$1,000 each in exchange for their lives. The kidnappers called and texted Gabriel's wife, Laura, in Mexico repeatedly, threatening that if she did not pay the money, Gabriel would be tortured and killed. After several days of captivity, Laura had managed

to gather a significant portion of her husband's ransom by selling personal possessions and begging for loans from friends and relatives. However, shortly before she planned on wiring the money to her husband's captors, Laura was contacted by law enforcement agents notifying her that her husband had been rescued and was now in their custody.

Instead of being turned over to immigration officials immediately to be detained and deported, Gabriel agreed to testify against his captors in exchange for temporary non-immigrant status as an informant. Gabriel spoke repeatedly with officers from several different agencies providing extensive information about his smugglers and other smugglers with whom he had come into contact in the past. After several weeks waiting in a safe house, Gabriel was allowed to move to another state to stay with relatives while awaiting his kidnappers' trial. A few months later, Laura fell very ill in Mexico. Gabriel contacted his primary handler and requested permission to return briefly to Mexico to check on her and his children. Gabriel's handler granted him permission to go to Mexico for 15 days and assured him that he would be able to re-enter to the U.S. as long as he returned within the designated time frame—all he needed to do was call his handler's cell phone upon arriving at the international port of entry. However, when Gabriel attempted to re-enter the U.S.—well within the 15-day period—he was turned away, despite his handler's previous promises. He was told by his handler that he was no longer needed and that there was nothing that he could do.

Distraught, Gabriel returned to his family's home located in a town several hours away from the border. Since his kidnapping and subsequent rescue, Laura had been continuously receiving death threats for Gabriel by phone and text message. The threats escalated once Gabriel returned home. After a few months of living in fear, Gabriel narrowly escaped with his life after

an armed assailant burst into his home, called him a snitch, and shot at him multiple times. Luckily, Gabriel was able to subdue the shooter and detain him until he was arrested by the police.

The family then fled their hometown, with Laura and her children going to live with relatives in another city while Gabriel went to hide out in the countryside. The isolation and separation were incredibly difficult for both Gabriel and Laura, and were almost unbearable for their children. Eventually, after several months, Gabriel reluctantly decided to try reuniting with his family in the city of Laura's relatives. Shortly thereafter, Gabriel and Laura's house was ransacked by a truckload of masked men clad in black from head to toe. Luckily, the family was not at home when this happened. The intruders trashed their house but did not steal anything of value—only photographs and documents were taken, something that Gabriel believes was a way for them to find out even more identifying details about the family. Since his kidnapers were members of a Mexican cartel with significant influence throughout the country, Gabriel explained that by having his family's photos, their fate was essentially sealed no matter where they attempted to move in Mexico.

Gabriel and his family fled immediately after talking to his neighbors about what had happened to his ransacked house. They packed practically nothing and traveled directly to a city near the U.S.-Mexico border. Upon arriving, Gabriel and Laura were mugged under the threat of violence, an event that was especially traumatic for the couple's two small children. The assailants took all of the family's possessions, including the cell phone they had been saving as proof for immigration officials of the numerous death threats that had been made against their lives. The only thing that was not taken was a small amount of money hidden in Laura's bra.

Terrified and desperate, Gabriel took Laura and his children to the U.S.-Mexico border. The couple struggled to safely cross their two young children over the 10-foot-tall chain-link fence.

After crossing successfully, and without having been apprehended, the couple actually set out on a mission to turn themselves in to the Border Patrol and request political asylum—unfortunately, Gabriel had been unaware that it was possible to seek political asylum by asking for it from Customs and Border Protection officials at a Port of Entry.

After turning themselves in to Border Patrol, Gabriel was promptly detained and taken to the county jail. He was sentenced to 10 days of incarceration for the federal felony of “illegal re-entry” for having entered the country without authorization after having been previously ordered removed (deported) in *absentia* by an immigration judge. Gabriel had no idea that he had even been assigned a court date since the hearing took place long after he had been denied re-entry by his untrustworthy handler. Laura and the children, on the other hand, were released citing humanitarian reasons almost immediately, though this decision can also be partially attributed to the logistical and financial difficulties associated with detaining young children.

Having no money, Laura and her children moved into a single room in a homeless shelter for families. Gabriel was moved from the county jail to a federal jail and finally moved to an immigration detention center. Several weeks passed before Gabriel’s family was granted permission to visit him, and this occurred only after significant pressure was applied by local community activists. While being detained, Gabriel grew increasingly hopeless—he was being treated like a prisoner, was only able to see his family for one hour once a week, and had been told by legal professionals that his political asylum case was very weak from a legal standpoint since he was not a member of any of the five protected classes and did not have any proof of the death threats that had been made against him. Gabriel was shocked to hear that the proof of his attempted murder was likely not sufficient evidence to provide him with a chance at security in the U.S.

Laura struggled greatly while attempting to adjust to life in a homeless shelter and in the U.S., especially considering that she was now living as a single-mother, with no employment authorization nor family members to assist with childcare responsibilities. Gabriel grew more and more depressed living behind bars. Finally, after several months of detention, Gabriel gave up—instead of submitting his completed asylum application, Gabriel renounced his claim and asked a judge to deport him as soon as possible. He was driven back into Mexico a few days later and his family joined him voluntarily very soon after. I am unaware of what happened to him after he returned to Mexico.

Mariana and Family

Unlike Gabriel, Mariana and her family were able to successfully enter the U.S. outside of an official Port of Entry without being detected by immigration officials (Torres, 2011). They made the decision to abandon their lives in a small Chihuahuan town after their house was broken into by “20 men dressed as Mexican police agents” in August 2009 (Ibid.). The assailants physically assaulted Mariana’s dad and threatened the rest of the family (Ibid.). The men then kidnapped Mariana and held her for two days while her family frantically rushed to gather enough money to meet the kidnappers’ demands; the family paid \$8,000 for Mariana’s return (Ibid.).

Upon her release, Mariana’s family fled immediately to El Paso, “leaving behind their properties, relatives, friends and everything that defined their life in the state of Chihuahua” (Torres, 2011). Mariana describes her experiences as an unauthorized refugee in the following passage:

I know that we came here illegally, but at least we can sleep in peace now...If you have to choose between being killed there and being imprisoned here, the jail would be better... Life has been very difficult here, because I don't know English, and I don't go out...People at the school have helped me a lot because I didn't know anything. I didn't know how to use a computer, but now I know... In my hometown there were about 10 students in our

school, we didn't have Internet, nothing... It has been a dramatic change... [but] there are a lot of students from Juárez with stories similar to mine, for that reason it was not difficult for me to make friends here.

Nearly two years after her kidnapping, Mariana told the reporter profiling her that she was finally starting to adjust to her new life in the U.S. and that “she plans to take advantage of all the opportunities it offers” (Torres, 2011).

Conclusion

As clearly evidenced in this chapter, there are a wide variety of Mexicans who have fled violence in their home communities since 2006 by migrating to the U.S. *without* seeking political asylum. However, due to the very nature of their experiences, these individuals are refugees for all intents and purposes and thus should be counted as part of the contemporary violence-driven Mexican exodus living in the U.S. The reasons behind avoiding the political asylum bureaucracy are myriad; for some contemporary Mexican refugees, many better options for migration were available, such as existing dual-citizenship, immediate relative visas, or business visas. For others, choosing to not seek political asylum was a calculated decision based on the knowledge that asylum grants to Mexican citizens are exceedingly rare. In these instances, some contemporary Mexican refugees have chosen to live in the shadows, knowing that they could choose to apply for political asylum in the future if their unauthorized status was ever detected.

A great deal of socioeconomic diversity exists between and within the above categories. However, all of the different types of non-asylum seeking contemporary Mexican refugees are linked by common experiences of violence and displacement. Even though they have differing degrees of capital available (financial, social, and cultural) to cope with these circumstances, the feelings of suffering and adjustment affect all of the different groups.

Chapter 8: Conclusion

Research Limitations and Future Directions

Any research about refugees and asylum seekers is limited by a number of practical concerns, most notably that asylum court proceedings are sealed for the protection of the applicants, and even retracted court decisions are only rarely released to the general public. Only basic statistics concerning applications lodged, rejected, and granted are published by the Department of Homeland Security and the Department of Justice—no specifics about these applications are released. While this data provides meaningful information about the “big picture,” it does little to offer insight into the lived experiences of individual Mexican asylum seekers.

Therefore, my research relies heavily on journalistic sources from both the United States and Mexico, especially in the case of asylum seeking refugees. This means that my findings are skewed such that they highlight the experiences of the small number of applicants who chose to go public with their asylum claims. Deciding to go public with your asylum claim is a very personal decision, one that carries potential political and personal repercussions, especially if you have family members still living in the area from which you fled. Since many of the individuals who chose to go public with their asylum cases were seasoned politicians, journalists, and activists, it is reasonable to assume that their decisions were at least partially shaped by their past experiences with being vocal and in the public eye. Furthermore, choosing to speak publicly about one’s case is favored by those who are successfully granted political asylum and therefore do not have to worry about being deported to Mexico and facing reprisals for being outspoken about their experiences. Finally, asylum seekers who had not previously been in the public eye but chose to come forward anyway were most likely among the minority of applicants who had legal

representation and were encouraged by their attorneys to do so in order to garner public support for their cases, perhaps thereby encouraging asylum officers and/or judges to rule in their favor.

All in all, this means that journalistic sources focus almost exclusively on the minority of asylum seekers who: a) won their cases; b) decide to go public with their applications due to past experience in the public eye; and/or, c) decide to go public with their applications due to encouragement from their legal representatives. Journalists have generally been less likely to highlight the stories of non-asylum seeking Mexican refugees, though I was able to find a few good sources, especially those related to more affluent refugees. Unfortunately, though, these articles usually only provide a solitary, “point-in-time” profile of a given individual, as opposed to the longitudinal coverage provided to many of the higher profile Mexican asylum seekers.

Because of these limitations, I supplemented my research with data garnered from a handful of in-depth semi-structured interviews. However, non-asylum seeking refugees—especially U.S. citizens, immediate relatives, and student/business visa-holders—often do not consider themselves as such and are consequentially difficult to identify. Likewise, refugees without authorization have a vested interest in avoiding detection. Despite concerted efforts, I experienced difficulties identifying individuals within these categories who were willing to be interviewed. I also had several potential informants drop out at the last second, without providing a good explanation for their decisions (though I speculate it could have been due to the desire to avoid negative emotions associated with the retelling of traumatic memories or fearing that telling their story could get them blackmailed, detained, or deported). Therefore, my research is limited by the relatively low number of direct informants. My research is also limited because all of my interviews were conducted in El Paso, Texas and are thus not representative of all Mexican

refugees living in the U.S. Finally, each informant was only interviewed once and was not followed over time.

As exploratory, case-study-based research, my work is not generalizable to the entire Mexican refugee population. Future research should seek to identify and interview a greater number of contemporary Mexican refugees within each category: asylum seekers, U.S. citizens and immediate relatives, refugees with non-immigrant authorization, and refugees without authorization. This research should be conducted across the U.S. with Mexican refugees living in both rural and urban environments. Future researchers should also conduct longitudinal studies with their informants instead of relying solely on cross-sectional data. Finally, future research should also look at Mexican refugees who fled to countries other than the U.S., such as Canada and Spain.

Conclusions and Policy Change Recommendations

An estimated 130,000 Mexicans have been murdered since 2006, with another 27,000 having been officially “disappeared;” approximately 2-3% of the adult Mexican population has been forced to leave their homes due to this violence, many of whom have entered the United States seeking refuge (Molloy, 2013; Olivares, 2012). These “narco-refugees” have emigrated using a variety of both legal and illegal channels, with a significant (and increasing) number applying for political asylum in the United States (Rexton Kan, 2011). It is clear that bias has caused Mexican asylum seekers to be treated unfairly by the U.S. government despite moral and legal *nonrefoulement* obligations to protect asylum-seeking migrants from persecution, torture, and death in their countries of origin.

The U.S. government has a moral and legal obligation to provide refuge to the thousands of Mexicans who have been persecuted and displaced due to extreme levels of violence, corruption, and lawlessness within their country. Furthermore, the U.S. government must ensure that these arriving refugees are treated fairly and humanely, without being subjected to further persecution and trauma. In order to achieve these goals, the U.S. government should immediately take the following steps:

- Launch an independent investigation into human rights violations perpetrated against arriving asylum seekers by Customs and Border Protection (CBP) officers, including the use of intimidation and threats designed to encourage these individuals to withdraw their requests for political asylum.
- Ensure that *all* arriving aliens who express any amount of fear upon entry are guaranteed the right to appear in front of an asylum officer for a credible or reasonable fear determination in a *timely* manner.
- Cease all criminal prosecutions of asylum seekers, even those who have been denied designation of having credible or reasonable fear.
- Drastically reduce the number of asylum seekers who are held in immigration detention by detaining only those individuals who have been deemed an extreme risk to public safety. For all others, adopt alternative monitoring protocols.
- Formally adopt the 1984 *Cartagena Declaration on Refugees* as the legal basis of all asylum adjudications, defining refugees as “persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”

- Conduct an independent investigation of the entire political asylum application process (both affirmative and defensive) in order to identify and address rampant adjudication disparities among applicants of different nationalities. Following this investigation, implement policies to ensure that asylum officers and immigration judges across the nation are making asylum determinations based solely on impartial analysis of the facts, not political bias against asylum seekers from Mexico.
- In instances when it is determined that a Mexican national fleeing violence does not meet the criteria for political asylum, “grant relief and protection through the use of existing avenues available in law and regulation, including, but not limited to, Temporary Protected Status, withholding of removal, delayed enforced departure, humanitarian paroles, stays of removal, and deferred adjudication” (Annunciation House, 2010).

The U.S. must act immediately to rectify the serious problems that plague the existing political asylum bureaucracy. Hector Marroquín’s words from a 1979 editorial in the *Los Angeles Times* continue to ring true today:

...just as urgently, the U.S. State Department must reconsider and admit that serious repression exists in Mexico. Not just for my sake, but for the sake of thousands of political prisoners, for torture victims and their families and for those that have ‘disappeared.’ The U.S. government’s admission and the American people’s concern could greatly influence the treatment of these people in Mexico.” (Montemayor, 1979).

Contemporary Mexican asylum seekers are not “gaming the system;” they are fleeing for their lives, and the U.S. government must treat them accordingly.

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Appendix A: Informed Consent

University of Texas at El Paso (UTEP) Institutional Review Board Informed Consent Form for Research Involving Human Subjects

Protocol Title: Life Experiences of Mexican Migrants to the El Paso Region who have Experienced or Witnessed Violence in Ciudad Juárez, Chihuahua and/or Surrounding Communities

Principal Investigator: Taylor Levy

UTEP Department of Sociology and Anthropology

1. Introduction

You are being asked to take part voluntarily in the research project described below. Please take your time making a decision and feel free to discuss it with your friends and family. Before agreeing to take part in this research study, it is important that you read the consent form that describes the study. Please ask the study researcher or the study staff to explain any words or information that you do not clearly understand.

2. Why is this study being done?

You have been asked to take part in a research study of how the violence that has emerged in Ciudad Juárez and the surrounding communities had led to migration to the El Paso region. We are conducting a study exploring the life experiences of people who were living in Ciudad Juárez but moved to the El Paso region after having witnessed and/or experienced violence in their home community.

Approximately, 10-30 individuals will be enrolling in this study in the El Paso region.

You are being asked to be in the study because you are over 18 years of age and have previously indicated to the researcher that you migrated to the El Paso region after having witnessed and/or experienced violence in and around Ciudad Juárez.

If you decide to enroll in this study, your involvement will last about one and a half hours.

3. What is involved in the study?

If you agree to take part in this study, the research team will ask you questions about your life in Ciudad Juárez, the reasons why you chose to move to the El Paso region, and what your life has been like since deciding to migrate.

4. What are the risks and discomforts of the study?

There are risks involved in all research studies. This study may include only minimal risks. You may become uncomfortable or sad when answering some questions, but you are not expected to answer any questions that you do not wish to answer. Please let me know immediately if you wish to stop or pause the interview.

5. What will happen if I am injured in this study?

The University of Texas at El Paso and its affiliates do not offer to pay for or cover the cost of medical treatment for research related illness or injury. No funds have been set aside to pay or reimburse you in the event of such injury or illness. You will not give up any of your legal rights by signing this consent form. You should report any such injury to Dr. Howard Campbell 915-747-6525 and to the UTEP Institutional Review Board (IRB) at (915-747-8841) or irb.orsp@utep.edu.

6. Are there benefits to taking part in this study?

There may not be direct benefits to you as a participant in this study. However, if you participate we will attend greater knowledge about the experiences of people who were living in Ciudad Juárez but moved to the El Paso region after having witnessed and/or experienced violence in their home community.

7. What other options are there?

You have the option not to take part in this study. There will be no penalties involved if you choose not to take part in this study.

8. Who is paying for this study?

There is no funding being provided for this study.

9. What are my costs?

There are no direct costs. You will be responsible for travel to and from the research site and any other incidental expenses.

10. Will I be paid to participate in this study?

You will not be paid for taking part in this research study

11. What if I want to withdraw, or am asked to withdraw from this study?

Taking part in this study is voluntary. You have the right to choose not to take part in this study. If you do not take part in the study, there will be no penalty.

If you choose to take part, you have the right to stop at any time. However, we encourage you to talk to a member of the research group so that they know why you are leaving the study. If there are any new findings during the study that may affect whether you want to continue to take part, you will be told about them.

The researcher may decide to stop your participation without your permission, if he or she thinks that being in the study may cause you harm.

12. Who do I call if I have questions or problems?

You may ask any questions you have now. If you have questions later, you may call Taylor Levy at 303-506-9700 or Dr. Howard Campbell at 915-747-6525.

If you have questions or concerns about your participation as a research subject, please contact the UTEP Institutional Review Board (IRB) at (915-747-8841) or irb.orsp@utep.edu.

13. What about confidentiality?

Your information will be kept confidential. Organizations that may inspect and/or copy your research records for quality assurance and data analysis include, but are not necessarily limited to:

UTEP Institutional Review Board

Because of the need to release information to these parties, absolute confidentiality cannot be guaranteed. The results of this research study may be presented at meetings or in publications; however, your identity will not be disclosed in those presentations.

There will not be any written or oral references that will connect you to this study. There will not be any way to connect your name or address to this study. Pseudonyms (fake names) will be used for all research notes, transcriptions, and publications. All records will be kept in a locked filing cabinet in the principle investigator's office, accessible only by the principle investigator. Audio files of interviews will be stored digitally using pseudonyms on a password-protected computer and will be destroyed upon transcription.

14. Mandatory Reporting

If information is revealed about child abuse or neglect, or potentially dangerous future behavior to others, the law requires that this information be reported to the proper authorities.

15. Authorization Statement

I have read each page of this paper about the study (or it was read to me). I know that being in this study is voluntary and I choose to be in this study. I know I can stop being in this study without penalty. I will get a copy of this consent form now and can get information on results of the study later if I wish.

Participant Name: _____ Date: _____

Participant Signature: _____ Time: _____

Participant Signature: _____

Consent form explained/witnessed by: _____

Printed name: _____ Signature

Date: _____ Time: _____

Appendix B: Interview Guide

Interview Guide

1. How old are you?
2. Where were you born?
3. Where did you grow up?
4. Are you married?
5. Do you have any children? How many and what are their ages?
6. Have you ever lived in the United States before? Where?
7. How long have you been living in the United States? When did you arrive?
8. Are you willing to please tell me a bit about the circumstances that led up to choosing to move to El Paso?
9. How did you come to El Paso? What was the process like?
10. Where did you live when you first arrived?
11. Did you have friends and/or family who helped you?
12. Where do you live now?
13. How do you feel about living in El Paso?
14. What do you like best about El Paso?
15. What have been the hardest things about the transition?
16. Do you consider yourself a resilient person?
17. What kind of work are you doing? What about your spouse?
18. Have you experienced any racism or mistreatment since arriving?
19. Do you feel like you have a strong support system here in El Paso?
20. Are you a member of a local church or other religious organization?
21. Do you access any community services?
22. What about healthcare?
23. Have you experienced any depression or sadness? Have you sought counseling?
24. How have your kids been adjusting?
25. Are you worried or stressed about your immigration status?
26. Do you have any plans for adjusting your status?
27. Are you interested in applying for political asylum? What have you heard about the process?
28. Do you still have family in Juárez? Do you worry about their safety?
29. For how long would you like to stay here in El Paso? Are you interested in returning to Juárez?
30. Do you feel like Juárez could change enough so you could return safely? What would need to happen?
31. Is there anything else you would like to add that I have not talked about?

Appendix C: Petition for Protection

PETITION FOR PROTECTION AND LEGAL RELIEF FOR MEXICAN NATIONALS AFFECTED BY AND FLEEING THE VIOLENCE IN MEXICO

For hundreds of years, the defining characteristic of the El Paso/Ciudad Juárez border region has been its role as host to countless immigrants who have navigated the passage to *el Norte*. In recent history, it has largely been immigrants venturing from Mexico, Central America, and beyond who have passed through this border's thresholds on their journeys to freedom and a better livelihood in the United States. While the reasons for this historical migration are multiple, of particular concern for human rights organizations has been the reality and response to refugees fleeing persecution, political repression, uncontrolled violence, and law enforcement entities that are either ineffective in their ability to protect the population or complicit in the violence directed at that population.

Responding to this reality, human rights organizations and legal advocates all along the US/Mexican border have, for decades, sought to assist individuals and families who have been the victims of violence and persecution or who possess a credible fear of becoming so. More recently, the attention and focus has been dominated by Mexico's war on drugs, the resulting breakdown in social security, and the dramatic escalation of violence that, since its initiation in 2006, has claimed the lives of at least 22,700 people and continues to threaten the livelihood of hundreds of thousands more. The pages of newspapers on both sides of the border are filled with reports of kidnappings, extortion demands, business and medical clinic closures, massacres at treatment centers and youth gatherings, and complaints of human rights violations by military and security forces.

With little confidence in the ability of the Mexican government, the Mexican military, or other local or federal law enforcement agencies to provide for their protection, tens of thousands of Mexican nationals have escaped to the United States in search of sanctuary from this violence. El Paso chief of police, Greg Allen, has estimated that during the past two years over 30,000 Mexican nationals fleeing the violence in Ciudad Juárez have settled into El Paso alone. Others place this estimate much higher.

The United Nations Convention Relating to the Status of Refugees established that individuals with a well-founded fear of persecution or violence have, as recourse, the ability to petition for political asylum in another country. As a signatory to that Convention, the United States has committed itself to providing political asylum to individuals with a credible fear of violence or persecution. Since the outbreak of drug-related violence in 2006, however, the Executive Office for Immigration Review reports that it has received 12,110 applications from Mexican nationals seeking political asylum in the United States, yet has granted political asylum to only 232 individuals - less than 2% of all Mexican applicants. By comparison, the United States received 5,879 asylum claims from Colombian nationals during this same time period and granted political asylum to 2,351 individuals - nearly 40% of all Colombian applicants.

The disparity of these figures raises grave concerns that the political asylum process is once again being politicized so as to deny credible asylum consideration to Mexican nationals fleeing

the violence in Mexico. The circumstances and statistics are eerily reminiscent of the 1980s, when refugees from Guatemala and El Salvador were being denied asylum on a wholesale basis, a reality that resulted in the *American Baptist Churches v. Thornburgh* landmark federal judicial decision that mandated the Department of Justice and the INS to completely restructure the political asylum process so as to specifically root out political bias.

Given the above figures, the vast majority of Mexican refugees are electing to forego the asylum process for fear of being detained, denied, and sent back to Mexico. Without any other means of legal relief presently being utilized to protect those fleeing the violence in Mexico, these refugees are instead forced to live in hiding and continued fear. Without employment authorization, and thus no means of legal sustenance, contemporary Mexican refugees possess little to no financial resources and the ever-present risk of being “discovered” and deported back into the very nightmare they originally fled.

In light of this reality, this Petition for Protection is being issued and the demands made that the Obama Administration, the Department of Homeland Security, and the Department of Justice:

- Authorize an independent investigation (*e.g.* the Government Accountability Office) of the political asylum application process vis-à-vis Mexican nationals fleeing the violence in Mexico.
- Restore integrity and credibility to the political asylum application process to ensure that political asylum applicants fleeing the violence in Mexico receive an unbiased and credible review of their claims of well-founded fear of persecution. And ensure that the adjudication of every asylum seeker’s case be conducted on an individualized and nondiscriminatory basis in a manner consistent with existing law.
- Ensure that credible fear interviews with qualified asylum officers be conducted in a timely manner for Mexican nationals presenting as asylum seekers at ports of entry, and upon issuance of a determination of credible fear, that the new ICE Asylum Parole Policy be applied to those detained individuals in a just and fair manner. Mexican nationality must not be taken into consideration as a reason to continue detention and deny parole.
- For Mexican nationals deemed not to have met the criteria for political asylum, grant relief and protection through the use of existing avenues available in law and regulation, including, but not limited to, Temporary Protected Status, withholding of removal, delayed enforced departure, humanitarian paroles, stays of removal, and deferred adjudication.
- Recognize that the United States’ and Mexico’s decision to place their respective efforts to combat drug trafficking within the context of a *war on drugs* has had serious violent and destabilizing consequences for many parts of Mexico, especially along border regions, and, as is true in all wars, that the violence and ensuing destabilization continues to create casualties, killed and wounded, human rights abuses, and new waves of refugees who flee and are legitimately in need of protection and assistance.

In the face of unprecedented conditions in Mexico with a violence destroying the lives and livelihood of incredible numbers of individuals and families, we, the undersigned organizations and individuals, issue this Petition for Protection with a sense of urgency and in an effort to help bring about concrete legal relief and human support and assistance to victims of the violence in Mexico arriving in the United States.

NAMES OF SIGNATORIES AND ORGANIZATIONAL AFFILIATIONS:

Appendix D: Annunciation House Statement from August 13, 2013

PRESS CONFERENCE STATEMENT RELEASED BY ANNUNCIATION HOUSE ON AUGUST 13, 2013

For thirty-five years, Annunciation House has offered hospitality to the poor in migration. Our guest population has evolved, but one theme remains constant: the threatened continue to seek protection in the United States.

Those who seek asylum have the greatest urgency in seeking protection. Asylum, a legal vehicle for those whose very lives are at risk, ideally protects those who articulate a “well-founded fear of persecution” and are thus “unwilling and unable to return to their home country.”

The basic right to life, and thus the right to seek asylum, is enumerated in The Universal Declaration of Human Rights. Yet, this fundamental right is being lost in translation when applied on the border. For many immigrants without legal status in the U.S., the first point of contact to accessing the judicial process may happen when the immigrant presents at a U.S. Port of Entry or is detained by Border Patrol after entering without inspection. Denying immigrants expressing fear for their lives a Credible or Reasonable Fear Interview leaves the individual isolated from the court system and violates both international and domestic law. We are profoundly concerned about the denial of the rights of asylum seekers.

Today we expose specific instances of attempts to intimidate asylum seekers at Ports of Entry as well as the criminalization of immigrants because they continue to pursue their asylum claim. We go public with these abuses out of a profound concern that these specific cases may be emblematic of systemic practices that in the end deny individuals, who may already have suffered horrific losses, the fundamental right to seek protection.

To this end, we call for the following:

1. That at the moment an individual expresses fear – those who speak about the killings of their family or threats made to their lives or the lives of their families – he or she categorically be processed for a Credible or Reasonable Fear Interview.
2. That Credible or Reasonable Fear Interviews be conducted by an Asylum Officer of the USCIS and not agents with ICE, CBP, or Border Patrol.

The asylum process is predicated on Credible and Reasonable Fear interviews. These interviews establish the validity of the persecution claim and catalyze the court process in which a decision can be adjudicated. The law is clear. A person is automatically guaranteed the right to a Credible Fear Interview the moment fear is expressed. The USCIS manual states:

“If a CBP Officer determines that the arriving individual is subject to expedited removal, the CBP Officer is required by procedure to notify the individual about the expedited removal process, and take a sworn statement concerning the individual’s admissibility. When taking the sworn statement, the CBP Officer is required by procedure to read a statement³⁰ explaining the right to seek protection in the United States and is also required by procedure to ask the individual a set of questions³¹ to determine whether the individual fears return to his or her country and is seeking protection in the United States. The CBP Officer records the answer to each question on the form.” (USCIS Chapter 5).

3. Cease the criminal prosecution of individuals who were denied Credible or Reasonable Fear Interviews and removed or who were intimidated into signing volunteer departures and then re-present at Ports of Entry or who attempt to enter without inspection.
4. We cite two examples that are emblematic of this type of abuse. Both Manses Cano Bonilla and Rosa Hilda Carrera have suffered undue duress, all while simply trying to seek asylum. Both Mr. Cano and Ms. Carrera expressed fear but were ignored and returned to their home country. Each reentered, again articulating fear. Both were then criminally charged in Federal Court and convicted for entering without inspection. They are now convicted felons even though both were found to have valid asylum claims by Asylum Officers. The implications of a felony conviction on an individual’s record are horrendous. They become ineligible for asylum relief and must seek Withholding of Removal or relief under the Convention Against Torture. They become ineligible for bond and must pursue their relief from detention, a process that can take from many months to years.
5. We specifically demand that in the cases of both Mr. Cano and Mrs. Carrera, they be released on parole, released on recognizance, or at an absolute minimum, they be allowed to post a reasonable bond so that they can be released from detention and may continue to work with their attorneys in pursuit of immigration relief. The ability to release both of these individuals is categorically within the authority of ICE. It is particularly disconcerting that once a mistake has been made in how an individual was processed, as was the case for both Mr. Cano and Ms. Carrera, it is incredibly difficult to get ICE to rectify that mistake.

We fear that the process of branding asylum seekers as convicted felons, and thus making them ineligible for release, is utilized as a strategy to make detainees' lives so unbearable that they finally withdraw their petition for asylum and sign a deportation order in an attempt to end their suffering.

6. Finally, and most importantly, we explicitly call on Customs and Border Patrol at Ports of Entry (POE) to guarantee that the practice by some officers of intimidating and threatening families seeking asylum ceases. We demand that officers end the pattern of telling parents that they will be locked up for long periods of time, that their children will be separated from them and locked up in separate detention facilities, or that they will be sent to different geographical areas in the U.S. We call on CBP to ensure the credible training of officers in the processing of individuals expressing fear at Ports of Entry and a more viable supervision of line officers so as to guarantee that individuals expressing fear are scheduled for Credible Fear Interviews.

Vita

Taylor Kristine Levy was born and raised in Denver, Colorado. She attended the University of Colorado at Boulder until 2008 when she was awarded a Bachelor of Arts degree in International Affairs & Sociology with a minor in Geography and certificates in Peace & Conflict Studies and the Study & Practice of Leadership. Taylor relocated to El Paso, Texas in 2009. She worked for three years as a full-time volunteer at Annunciation House, a migrant house of hospitality located eleven blocks from the U.S.-Mexico border, and continues to volunteer with the organization. In April 2014, she became a Fully Accredited Representative in front of the Board of Immigration Appeals and currently works at Las Americas Immigrant Advocacy Center representing low-income clients in front of U.S. Citizenship and Immigration Services and the Executive Office of Immigration Review. Taylor is passionate about social justice, immigrant rights, and creating a more equitable society. She can be reached at taylorklevy@gmail.com

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El Paso, TX 79902

This thesis/dissertation was typed by Taylor Kristine Levy

EXHIBIT 4

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

DONALD TRUMP in his official
capacity as President of the United States,
et al.,

Defendants.

NO. 2:18-cv-00939-MJP

DECLARATION OF TAYLOR
LEVY IN SUPPORT OF THE
STATE OF WASHINGTON

I, Taylor Levy, declare as follows:

1. I am over the age of 18 and have personal knowledge of all the facts stated herein.

2. I am the Legal Coordinator for Annunciation House, a charitable nonprofit in the El Paso-Juarez border community. I have worked and volunteered with Annunciation House for almost nine years, and been in my current position since January 2017. I am a Fully Accredited Representative, which is an alternative accreditation that allows me to represent clients in immigration proceedings before the Executive Office of Immigration Review (Immigration Court). I frequently represent clients in Immigration Court who are seeking relief

1 from removal through asylum, withholding of removal, cancellation of removal under the
2 provisions of the Violence Against Women Act, and other forms of immigration-related relief.

3 I have also recently graduated from law school.

4 3. I have been working on immigration issues along our Southwestern border for
5 much of my career. For example, in the summer 2014, we began seeing a migration surge of
6 asylum seekers along our border communities. At that time, I first worked with Annunciation
7 House to coordinate an emergency humanitarian response to large groups of asylum-seeking
8 family units released on recognizance by Immigration and Customs Enforcement (ICE) in the
9 El Paso area. In August 2014, I changed roles to become part of the emergency pro bono
10 immigration legal team through Las Americas Immigrant Advocacy Center, providing
11 representation to asylum-seeking mothers detained with their children in Artesia, New Mexico.
12 I spent approximately five months in this role, traveling from El Paso to Artesia three days per
13 week.

14 4. The El Paso and Ciudad Juarez metropolitan area where I work is the biggest
15 border community in the world. The combined population of both cities is close to 3 million
16 people. El Paso and Ciudad Juarez are one of the main Southwestern border entry points into
17 the United States. Through my work, legal training, and physical proximity, I am familiar with
18 the conditions in our border community and interact daily with immigrants who have entered
19 the United States through the El Paso ports of entry.

20 5. Annunciation House is an independent organization rooting in Catholic social
21 teaching that accompanies the migrant, homeless, and economically vulnerable peoples of the
22 border region through hospitality, advocacy, and education. From its beginnings,
23 Annunciation House has sought to serve the most vulnerable people in our community.
24 Migrants and refugees, who often cannot receive services from most established social
25 agencies, have become the primary focus of our work over the years. Aside from our Executive
26 Director and me, Annunciation House operates with an all-volunteer staff.

1 6. Annunciation House has been located in El Paso/Ciudad Juarez since 1978, and
2 it operates three houses of hospitality for migrants and refugees. Apart from our general
3 population of guests, we also typically receive and serve 10,000-15,000 immigrants a year as
4 they are released from ICE custody. Many of these people travel on to other points in the
5 United States within a day or so, to stay with family as their immigration cases proceed.

6 7. **Annunciation House** is the entry point for most of our guests. It hosts guests
7 with short-to mid-term needs, who stay for weeks to months. These range from people who
8 have come to the US seeking work, to those who have fled violence and extortion in their home
9 countries, to undocumented families living in El Paso who have come upon financial hardship.

10 8. **Casa Vides** is a longer-term house of hospitality primarily for guests with
11 ongoing needs, such as political asylum cases or other immigration proceedings, or medical
12 situations. Casa Vides also provides hospitality to a number of Mexican nationals, widows of
13 U.S. citizens, who must spend a certain amount of time in the U.S. each year to collect the
14 Social Security benefits to which they are entitled.

15 9. Additionally, since 2014, Annunciation House has overseen approximately one
16 dozen different “overflow shelters” that serve our very short-term guests that have just been
17 released from ICE custody. The overflow shelters are primarily located in churches and
18 community centers, and they operate on a rotating basis depending on current needs and
19 volunteer availability. The guests in these overflow shelters typically stay just 1-3 days, long
20 enough to address their basic needs and connect with family or friends elsewhere in the U.S.
21 These overflow shelters have high turnover and unpredictable numbers, with the guest
22 population entirely dependent on ICE’s release schedule each week.

23 10. In the summer and fall of 2017, I began to see a significant increase in clients
24 that had suffered family separation in the El Paso area, meaning that parents were arriving at
25 the border with their children but being separated and detained by immigration officials for
26 long periods of time without reunification. Other advocates in our community reported similar

1 increasing separations during this time. This increase was later confirmed to be due to a shift
2 in Department of Homeland Security (DHS) policy.

3 11. Specifically, Annunciation House is a member of the Borderland Immigration
4 Council, a coalition of immigration attorneys and advocates. On Oct. 24, 2017, the Borderland
5 Immigration Council met with government officials in El Paso about immigration. It is my
6 understanding that representatives from Customs and Border Protection (CBP), ICE, and DHS
7 were present at that meeting and that they claimed that the new CBP policy was to separate
8 children over 10 from their parents when they were taken into custody.

9 12. During this time, I worked directly with two women (B. and J.), who had been
10 separated from their children soon after entering the country. Both women were being detained
11 in the El Paso Service Processing Center after having been separated from their minor children
12 and charged criminally with illegal entry after having been apprehended in the El Paso area.

13 13. I began visiting J. first in the late fall of 2017, after she made multiple calls and
14 sent letters to Annunciation House requesting assistance. I met with her for several months in
15 detention while attempting to place her case with alternate counsel due to a lack of capacity
16 within my own workload. I spoke about her case with various attorneys working with national
17 organizations as I sought counsel. I visited J in detention numerous times for several months,
18 including on Christmas morning; she was always despondent. I spoke to her son's case workers
19 and legal team in Chicago and kept them informed of my ongoing efforts to assist J.

20 14. In January 2018, I was finally successful in securing immigration legal
21 representation for J through a joint partnership between Linda Rivas of Las Americas
22 Immigrant Advocacy Center and Innovation Law Lab. I then stopped working on the case. I
23 know that she ultimately became one of the named plaintiffs in a lawsuit in the Southern
24 District of California seeking reunification.

25 15. In April 2018, J was granted a bond from an Immigration Judge and began
26 living at Annunciation House. J has lived at Annunciation House since that time. It took more

1 than two months for J to be reunited with her son, who was being detained in Chicago, even
2 with the assistance of Annunciation House, Las Americas, and the ACLU.

3 16. In approximately January 2018, I also began assisting with the case of B,
4 another woman who had been separated from her minor child in the fall of 2017 after being
5 criminally prosecuted for illegal entry following apprehension in the El Paso sector. I began
6 working on her case as an unpaid “on-the-ground” consultant for her immigration lawyers from
7 ALDEA-The People’s Justice Center, an organization headquartered out of Pennsylvania. I
8 visited with B in detention and consulted with her attorneys. B was eventually granted an
9 immigration bond in March 2018 and came to stay at Annunciation House. She has since
10 reunited with her family outside of El Paso.

11 17. Following B’s release from detention, on March 12, 2018, Annunciation House
12 held a press conference to decry the practice of family separation. The press conference
13 included the Annunciation House Director, Ruben Garcia; an Assistant Federal Public
14 Defender, Sergio Garcia (B’s criminal attorney); Christina Garcia from Las Americas
15 Immigrant Advocacy Center; private immigration attorney and member of the Borderland
16 Immigration Council Eduardo Beckett; B; and myself.

17 18. Following the Press Conference, a journalist, Angela Kocherga, from the
18 Albuquerque Journal reached out to DHS for comment. The following was published in that
19 article: “DHS does not currently have a policy of separating women and children,” said Tyler
20 Houlton, acting DHS press secretary in an emailed statement. “However, we retain the
21 authority to do so in certain circumstances – particularly to protect a child from potential
22 smuggling and trafficking activities.” See [https://www.abqjournal.com/1145759/advocates-
23 decry-immigration-tactic.html](https://www.abqjournal.com/1145759/advocates-decry-immigration-tactic.html). I also read other articles in the press reporting similar
24 statements denying family separation from DHS spokespersons.

25 19. I am aware that on or about May 7, 2018, the press reported on an internal DHS
26 memo that confirmed that DHS had piloted a secret test of the family separation policy in the

1 El Paso area during July–November 2017. These news reports confirmed what I had observed:
2 that DHS was intentionally separating families as they entered at the El Paso border as a
3 deterrent to future immigrants. These news reports coincided with Attorney General Sessions’
4 formal announcement of the “Zero Tolerance” border prosecutions policy, which effectively
5 mandated family separation along the entire border. See
6 [https://www.texasmonthly.com/news/homeland-security-promises-to-prosecute-100-percent-](https://www.texasmonthly.com/news/homeland-security-promises-to-prosecute-100-percent-of-illegal-immigration-cases/)
7 [of-illegal-immigration-cases/](https://www.texasmonthly.com/news/homeland-security-promises-to-prosecute-100-percent-of-illegal-immigration-cases/)

8 20. After the announcement, I began to hear reports from other border areas that
9 CBP and ICE were systematically turning asylum seekers away from ports of entry in other
10 Southwestern border communities. I initially dismissed these reports as arising from a few
11 individual CBP officers who were acting unlawfully, as I did not see a similar pattern in our
12 El Paso community. While as early as the fall of 2016, I had heard some anecdotal reports of
13 “metering”—a term that is frequently used to describe techniques to slow the number of asylum
14 applicants who enter at any one time – at El Paso points of entry, I believed that these were
15 isolated incidents.

16 21. During a press event in May 2018, I responded to a reporter’s question by
17 stating my belief that local ICE and CBP officers were not refusing to accept asylum seekers
18 in our area. At that point, a nun from our community who was sitting in the audience raised
19 her hand and offered that she had observed such refusals on the Paso del Norte, El Paso’s main
20 port of entry. That week, Annunciation House received a noticeable smaller number of ICE
21 releases. Because of the week of lower client numbers, coupled with the reports from
22 colleagues in other areas, increasing rumors in our community, and the nun’s remarks, I
23 decided to observe for myself what was occurring at the Paso del Norte.

24 22. On May 25, 2018, at approximately 9:30 a.m., I went to the Paso del Norte
25 alone to observe. The Paso del Norte is the main bridge into El Paso from Mexico, and to the
26 best of my knowledge, it sees more than 10,000 pedestrians crossing per day, traveling between

1 the two countries. When I arrived that morning, there were CBP officers stationed near the
2 middle of the bridge—where the border line is—but actually standing in a shady spot 5-10 feet
3 onto U.S. soil. I observed them for approximately two hours, including during a few apparent
4 shift changes when different CBP agents relieved the agents stationed at the middle of the
5 bridge.

6 23. During those two hours, I watched the CBP officers conduct “random”
7 identification checks of people crossing the middle point of the bridge. The officers did not
8 appear to have a system (e.g., every ten people) for the checks; instead, to my observation, they
9 primarily stopped those entrants who appeared to be Central American, particularly shorter,
10 darker skinned people. During that time, I watched them turn away two people. I then
11 approached those two people to ask what had happened; neither identified themselves as
12 asylum-seekers. One was seeking assistance with obtaining medical records and the other said
13 that he was simply waiting for a friend and had accidentally walked too far on the bridge.

14 24. At around 11:30 that morning, I watched a short, dark skinned man with a child
15 approach the border and cross the middle of the bridge at the border line and into the United
16 States. The CBP officers stopped the man. While I could not initially hear what they were
17 saying, I watched them gesture to him to go back. As I watched, the CBP officer gestured
18 forcefully again three times to the man to turn back and cross the border back into Mexico. I
19 heard the CBP agent say to the man, “para alla” (“go there”), while gesturing forcefully
20 towards Mexico. The man finally turned back.

21 25. When the man crossed back across the border line back into Mexico, I stopped
22 him and introduced myself. He began shaking and crying. He told me that he was fleeing
23 violence in Guatemala with his six-year-old son and that he had come to request asylum. As I
24 had observed, he was prevented from presenting his claim by the CBP officers who he said
25 told him to go away and that he cannot seek asylum. We stood and spoke for a while about
26 what had happened and his intentions to seek asylum. The man was very afraid to return to

1 Mexico or to Guatemala. After this discussion, I offered to accompany him if he wanted to
2 enter again to present his asylum claim.

3 26. Together, the three of us began walking back across the middle point of the
4 Paso del Norte Bridge. As we passed the border line at the middle of the bridge, and came into
5 the United States, the same CBP officers stopped us. "Didn't we already tell you to go back?"
6 one of them said to the man. They once again asserted that he could not come in to the United
7 States.

8 27. I explained to the CBP officers that I was accompanying the man and his son in
9 their attempt to lawfully assert a claim for asylum. Our conversation escalated, and the CBP
10 officers called on their radio, saying "we have some noncompliance here," "we need a
11 supervisor," and requesting additional support. Shortly thereafter, additional officers arrived,
12 for a total of the two original CBP officers and four supervisors. They repeatedly told the man
13 in my presence that he could not enter and claim asylum, that he and his child had to "wait
14 until there was space" and similar statements.

15 28. During the course of our conversation, the CBP agents, including supervisors,
16 made the following statements to me or in my presence: "We have orders not to let anybody
17 in. As soon as we have room, yea." "We have an order." "This is a policy across the border."
18 "There is no room for them right now. You can wait in line. Once there is room they can come
19 in." "They can wait until we have room for them." "It's an order from Sessions."

20 29. After I protested that the refusal was unlawful and that the man was already on
21 American soil, the CBP officers eventually relented and allowed the man and his son to proceed
22 to have their asylum claim entered for processing.

23 30. After this incident, the two men I believe to be CBP supervisors pulled me aside
24 and said, approximately, "we're all good now, right? We are being told to do this. We have
25 bosses too."
26

1 31. Two days later, the man and his son were released from ICE custody pending
2 resolution of their asylum claims. I believe that had I not been present and willing to directly
3 advocate for their right to present their claims at the port of entry, that CBP officers would
4 have continued to deny them entry until they either gave up or attempted to enter elsewhere.

5 32. This experience was very upsetting on a personal level, as someone who has
6 dedicated her work to immigrant communities and the law. I had only just recently graduated
7 from law school a few days earlier and was shocked to hear CBP agents refusing to allow this
8 young man and his small child to be processed properly in accordance with the law. It was
9 especially infuriating to be told by the agents that there was no space to process these people
10 when I knew personally from my work with Annunciation House that this was simply not true.
11 Regardless, even if there was an actual lack of capacity at the bridge, the Immigration and
12 Nationality Act and U.S. treaty obligations do not allow agents to reject asylum-seekers for
13 alleged lack of capacity, *especially* when already standing on American soil.

14 33. About a week later, on May 30, 2018, I returned to the Paso del Norte with
15 others, including the Executive Director of Annunciation House, Ruben Garcia, and a local
16 reporter Bob Moore. Again, we went with the express purpose of observing whether CBP
17 officers were refusing to allow asylum seekers to enter the country.

18 34. We observed a group of about 15 Guatemalan refugees who had reportedly
19 spent the night on the bridge after having been turned away the day before. We spoke with
20 them, and confirmed that all were seeking asylum and had been turned away from the border
21 multiple times. Many members of the group were fathers traveling with their children, but
22 there was also one mother with a three year old child and several unaccompanied minors.

23 35. After hearing their stories of being turned away, we decided to accompany the
24 mother and one of the unaccompanied minors, a teenage girl, as they tried again to present
25 themselves at the port of entry.
26

1 36. Again we crossed the center of the bridge, over the border and onto U.S. soil.
2 CBP officers stopped us, and told us and the women that there was “no space” and that they
3 would have to come back some other time. In response to my protests that refusing an asylum
4 applicant on U.S. soil is unlawful, again the officers called for a supervisor to assist with
5 “noncompliers”.

6 37. When the supervising officer arrived with other CPB officers, he asserted that
7 the CBP was not “turning people away,” but that they were not allowing people to cross until
8 there was space. As we continued to discuss, one of the officers who was carrying a large gun
9 moved to stand very near the mother with her three-year-old son. I observed her to be
10 frightened and intimidated by his behavior, which I believe to have been intentional. The man,
11 who was not wearing a name tag or other identification, then deliberately discharged his Taser
12 at the ground right in front of us.

13 38. After more discussion, the CPB officers finally agreed to accept the women for
14 asylum processing; once again, this seemed to occur in part because I pointed out that we were
15 already standing on U.S. soil. Before we escorted them to the processing area, we saw one of
16 the fathers and two other boys from the group standing on the U.S. side of the border. We
17 explained to them that they did not have to leave, and were entitled to have their asylum
18 applications heard. We left to accompany the other women to the processing area, leaving the
19 other asylum-seekers behind. I did not return later to the bridge myself, but heard from Ruben
20 Garcia and another Annunciation House volunteer that when they returned approximately an
21 hour later with food and water, they could not find anyone else from the group.

22 39. Bob Moore, who was present, reported on these events. *See* Bob Moore, *Border*
23 *Agents are Using a New Weapon Against Asylum Seekers*, Texas Monthly (June 2, 2018),
24 *available at* [https://www.texasmonthly.com/politics/immigrant-advocates-question-legality-](https://www.texasmonthly.com/politics/immigrant-advocates-question-legality-of-latest-federal-tactics/)
25 [of-latest-federal-tactics/](https://www.texasmonthly.com/politics/immigrant-advocates-question-legality-of-latest-federal-tactics/), attached hereto as **Exhibit A**. I read the article at the time it was
26

1 published, and both then and now I believe it to be an accurate recording of the events that he
2 describes.

3 40. On or about June 20, 2018, I again went to Paso del Norte Port of Entry to
4 observe and accompany asylum-seekers with Ruben Garcia. While I was walking across the
5 bridge, I once again observed CBP officers stationed at the center of the bridge and checking
6 documentation.

7 41. We crossed into Mexico and met up with two families of asylum-seekers who
8 had previously been denied entry by agents stationed at the middle of the bridge. Annunciation
9 House had become aware of these families through our contacts with nongovernmental
10 humanitarian organizations in Ciudad Juarez. The two families were Mexican asylum-seekers
11 with small children and they had agreed to allow the press to document the process of trying
12 to seek asylum at the Paso del Norte Port of Entry.

13 42. There were approximately 30 reporters who joined us as we accompanied the
14 two families across the bridge. At the middle point of the bridge, CBP agents once again turned
15 us away, stating that they had no space. Several news outlets have published reports and video
16 of the encounter. The agents did tell us that we could wait until there was space, and the two
17 families were eventually permitted to cross the border onto U.S. soil and be processed as
18 asylum-seekers.

19 43. Since the formal announcement of DHS' family separation policy,
20 Annunciation house has seen a great number of separated parents. Many of these parents report
21 that it was only when they had been turned away at the port of entry – sometimes multiple
22 times – that they attempted to cross elsewhere and were prosecuted for unlawful entry.

23 44. For example, on June 29, 2018, I interviewed a young woman from Guatemala
24 who was recently released from ICE custody after paying an immigration bond. She has not
25 seen her 3-year-old daughter in more than 2 weeks. This young woman explained to me that
26 she spent 2 days and 2 nights on the Paso del Norte Port of Entry with her 3-year-old trying to

1 present herself for asylum-processing. She told me that she was turned away by the agents at
2 the middle of the bridge several different times during those two days. Finally, someone
3 walking on the bridge suggested that she instead try walking against pedestrian traffic on the
4 other side of the bridge to present herself that way. Out of desperation—after having spent 2
5 days in the hot sun on the bridge with her 3-year-old—this young woman decided to follow
6 the man’s advice. She crossed the bridge horizontally and began walking against the pedestrian
7 traffic leaving the U.S; this was in broad daylight. She was quickly apprehended by CBP agents
8 and charged with unlawful entry even though she was still on the bridge, just walking in the
9 wrong direction. She was then forcibly separated from her daughter.

10 45. On June 30, 2018, I interviewed a man from Honduras who is currently detained
11 in the El Paso area after having been separated from his 3-year-old son since approximately
12 May 25, 2018. This man told me about attempting to cross the Paso del Norte Port of Entry
13 three times before eventually deciding to enter irregularly. This man told me that during his
14 first attempt, he was not stopped at the middle of the bridge and actually made it all the way to
15 building at the end of the U.S. side of the bridge where he waited in line and presented himself
16 for asylum to a CBP agent. The CBP agent ordered him to leave the building, saying they had
17 “orders from Washington” to not allow anyone else in. The man left the building to take his 3-
18 year-old son to the public restrooms right outside; he then returned from the bathroom and got
19 on his knees in front of the CBP agent and begged to be allowed in for asylum processing. The
20 CBP agent yelled at him and told him to get up and leave, while putting his hand on his gun
21 menacingly. The man left. A few hours later, he decided to try and cross again, this time being
22 turned away by CBP agents near the middle of the bridge, but several feet onto U.S. soil. The
23 next day, he tried to cross the bridge once again, but was turned away this time by a Mexican
24 official who was standing near the bridge and told him to leave or her would call Mexican
25 immigration. It was only then that this man decided to attempt to cross the border irregularly.
26

1 46. When ICE releases separated parents from custody here in El Paso, the parents
2 are transported to our facility by bus or by van and dropped off with a 1-800 number for the
3 Office of Refugee Resettlement (ORR) to call to try to locate their children. These mothers
4 and fathers have almost no information about when they will be reunited with their children,
5 and they arrive here terrified and shaken by their experience.

6 47. For example, on last Sunday, June 24, 2018, we received 32 parents who had
7 been separated from their children. These parents arrived at Annunciation House absolutely
8 despondent. The youngest separated child in the group of parents was only 4 years old, while
9 the average age was 10 years old. The average length of separation was 25 days and the max
10 was 40 days. Ninety-one percent of the parents said that they had never once spoken with their
11 child since separation (though the majority said that their friends or family had been contacted
12 by their children's social workers). Five of the parents reported that no one in their families
13 had heard from the children since separation—they had absolutely no idea about their
14 locations. It took Annunciation House volunteers four days and numerous phone calls to
15 random social workers of other parents to find the location of one of these children; during
16 those four days, we never received a call from ORR despite multiple calls to the ORR 1-800
17 number.

18 48. In my experience, ORR generally requires sponsor families who want to host
19 an unaccompanied minor to complete a series of procedural checks. These include criminal
20 background checks, fingerprinting, sometimes a blood test, and detailed financial information.
21 ORR frequently requires a sponsor family to pay for the cost of airfare for the child and a
22 roundtrip ticket for an ORR companion to accompany the child. A true and correct copy of
23 ORR's Family Reunification Packet is attached hereto as **Exhibit B**.

24 49. The separated mothers and fathers that have arrived at Annunciation house
25 recently are struggling to navigate ORR's reunification paperwork. They are being treated as
26 new ORR sponsors – subject to a host of paperwork and procedural hoops – rather than the

1 acknowledged parents of their children. Their social workers are insisting that they would
2 need to file all the Family Reunification paperwork and come up with airfare for their children
3 and ORR escorts before they would see their children again. All of these parents are deeply
4 worried about the ORR process taking too long and being overly cumbersome, especially given
5 their emotional states and long periods of separation.

6 50. As such, the majority of these parents have decided to travel to their family and
7 friends in other cities across the U.S. Annunciation House is maintaining contact with these
8 parents and attempting to match them with pro bono legal counsel in their receiving
9 communities. We are also attempting to help them navigate the complex ORR bureaucracy.

10 51. At least two parents have chosen to remain in El Paso while we attempt to
11 reunite them with their minor children (all three of whom are under the age of 10). In the case
12 of these two parents, their minor children are in ORR custody *in El Paso*. However, both
13 parents were originally told by their children's social workers that it was impossible for them
14 to reunited with their children while living at our shelter. I was able to speak to both of these
15 social workers on Friday, June 29, and they told me that they were asking their supervisors
16 about reunification at our shelter. We are currently assisting them with the standard ORR
17 reunification packet, but this seems to be an unnecessary bureaucratic burden—as of today,
18 these two parents have been living at our shelter for an entire week, but they do not have their
19 children back, even though they are in ORR custody just a few minutes away.

20 52. On Wednesday, June 27, 2018, seven separated mothers arrived at
21 Annunciation house after being released by ICE from three separate jails. These mothers had
22 been told by CBP that they were on their way to be reunited with their children *immediately*;
23 they all believed that their children were already at our shelter waiting for them. When they
24 arrived and realized that their children were not there, they were heartbroken. I personally
25 observed the pain and trauma that they experienced in that moment.
26

1 53. When I interviewed one mother than evening and explained the ORR process,
2 she began to sob, shaking uncontrollably. She said she had stayed strong for approximately
3 thirty days away from her child, but that having her hope dashed that she was going to be
4 reunited with her child that day was simply too much for her to take. I spent close to an hour
5 with her before she was able to stop sobbing.

6 54. As I explained above, I have been working with the asylum-seeking population
7 in the El Paso area for approximately nine years. I have dedicated my work to this community
8 and have encountered literally thousands of asylum-seeking men, women, and children. I have
9 borne witness to countless stories of rape, torture, and murder. Despite all of this, I have never
10 been as emotionally impacted by anything as intensely as I have been working with these
11 mothers and fathers as they desperately struggle to reunite with their minor children. I simply
12 cannot believe that my government could have done this to these people.

13 I declare under penalty of perjury under the laws of the State of Washington and the
14 United States of America that the foregoing is true and correct.

15
16 DATED this first day of July, 2018 at El Paso, Texas, United States.

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TAYLOR LEVY

EXHIBIT 5



[Home](#) [About](#) ▾ [Outreach](#) ▾ [House News](#) [Volunteer](#)

[Contact](#) [Donate](#)

Border Awareness Experience

The Border Awareness Experience (BAE) is an immersion experience meant to raise consciousness about the issues facing the border, such as immigration, economic development, human rights, and social justice. Annunciation House developed the BAE program in the early 1990s to facilitate face-to-face encounters between participants and people and groups on both sides of the border, and to educate North Americans about our roles and responsibilities in today's globalized world. More than being an informational tour, the BAE seeks to immerse participants in the border culture and realities of the many people and groups that live and work here. BAE participants stay in our houses of hospitality and eat with our guests; this communal living is as much a part of the experience as the people and groups that participants meet and the places they visit.

What is a typical day on a B.A.E?

A typical day may include:

- Visiting the US Border Patrol
- Listening to the stories of migrants and refugees
- Touring a maquiladora
- Meeting human rights activist
- Staying in a migrant shelter

More Background

Annunciation House is a Catholic organization that accompanies the migrant, homeless, and economically vulnerable peoples of the border region through hospitality, advocacy, and education. We have been operating houses of hospitality for migrants and refugees in El Paso and Ciudad Juarez since 1978. We have an all-volunteer staff who place themselves among the poor in migration so as transform their understanding of what constitutes more just relationships between peoples, countries, and economies.

The US/Mexico border is a unique area where the ‘Developed World’ meets the ‘Developing World’. It is a region where multiple factors (social, political, economic, cultural, environmental) come into play. The El Paso and Ciudad Juarez metropolitan area is the biggest border community in the world. The combined population of both cities is close to 3 million people. Since 1964, Juarez has experienced enormous population growth due to the influx of maquiladora factories. These factories have provided jobs, but also caused various social problems that afflict the city. El Paso and Ciudad Juarez are also one of the main entry points into the US for undocumented workers and drugs. The border is worth understanding for its own intrinsic value, but perhaps more importantly, we can learn much by seeing the border as a microcosm of today’s globalized economy.

Contact Us

Quick Facts

1

All participants, regardless of faith, backgrounds, and beliefs, are welcome.

2

The typical trip lasts 5-10 days.

3

Cost is \$90 per person per day, which includes lodging, meals, and all activities.

4

Accommodation is dormitory style.

5

Three meals are served each day; food is simple but filling.

6

US citizens need a passport or original birth certificate.

7

Non-US citizens need correct documentation or visas to cross the borders.

8

Daily reflections and debriefings are an integral part of the B.A.E.

9

Spanish not required since translation will be provided





Get Involved

Annunciation House is run entirely by volunteers who commit themselves to an experience of transformative service and solidarity. Some of our volunteers are local community members, while others come for a time to both live and work in our houses of hospitality. Volunteers form a close-knit community: besides the common ground of living and working together, they meet every morning for reflection; take time off together each month to relax and have fun; and often

form friendships that last for life. Read on to learn about the different ways to volunteer with us.

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EXHIBIT 6

ANNUNCIATION HOUSE, INC.,) IN THE DISTRICT COURT
)
 Plaintiff/Counter-Defendant,))
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 v.)
) EL PASO COUNTY, TEXAS
 KEN PAXTON, in his official)
 Capacity as Texas Attorney)
 General,)
)
 Defendant/Counter-Plaintiff.) 205TH JUDICIAL DISTRICT

ORAL AND VIDEOTAPED DEPOSITION OF

MARY LOUISE BULL

APRIL 17, 2024

ORAL AND VIDEOTAPED DEPOSITION of MARY LOUISE BULL, produced as a witness at the instance of the DEFENDANT/ COUNTER-PLAINTIFF, and duly sworn, was taken in the above-styled and numbered cause on the 17th day of April, 2024, from 10:06 a.m. to 1:22 p.m., at the Office of Texas Rio Grande Legal Aid, 1331 Texas Avenue, El Paso, Texas, pursuant to the Texas Rules of Civil Procedure.

Reported by:

Iris L. Leos, CSR, RPR

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A P P E A R A N C E S

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THE VIDEOGRAPHER:

Mr. Rod Velarde

ALSO PRESENT:

Mr. Ruben Garcia, observer
Mr. Cesar Rivera, observer

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I N D E X

WITNESS	PAGE
MARY LOUISE BULL Examination by Mr. Farquharson	4
Reporter's Certification	115
Corrections and Signature	119

E X H I B I T S

NO.	DESCRIPTION	PAGE
Exhibit 1	Office of the Attorney General Consumer Protection Division Request to Examine.	75

1 THE VIDEOGRAPHER: Today's date is April
2 17th, 2024. The time is 10:06 a.m. This is the video
3 deposition of Mary Bull. In the matter of Annunciation
4 House, Inc., versus Ken Paxton, et al., Case Number
5 2024DCV0616.

6 Counsel, please introduce yourselves, after
7 which the court reporter will swear in the witness.

8 We're on the record.

9 MR. FARQUHARSON: This is Rob Farquharson,
10 here on behalf of the Office of the Attorney General.

11 MR. WESEVICH: Jerome Wesevich and Peter
12 McGraw, Texas RioGrande Legal Aid, on behalf of
13 Annunciation House.

14 MR. FULLER: Levi Fuller here on behalf of
15 the Attorney General.

16 MARY LOUISE BULL,
17 having been first duly sworn, testified as follows:

18 EXAMINATION

19 BY MR. FARQUHARSON:

20 **Q. Ms. Bull, my name is Rob Farquharson. As I**
21 **just said, I am here on behalf of the Office of the**
22 **Attorney General. Do you understand who I am and who I**
23 **represent?**

24 **A. Yes.**

25 **Q. And would you please say your full name for the**

1 court reporter?

2 A. Mary Louise Bull.

3 Q. And what is your date of birth?

4 A. [REDACTED]

5 Q. Have you ever gone by any other names?

6 A. No.

7 Q. Do you live here in El Paso?

8 A. Yes.

9 Q. Tell me about your educational background.

10 A. So I went to Saginaw Valley State University,
11 graduated in the class of 2012, and studied sociology.

12 Q. Any school after that?

13 A. No.

14 Q. Have you ever been deposed before?

15 A. No.

16 Q. Have you ever been a party to a lawsuit?

17 A. No.

18 Q. And just very briefly, your attorney may have
19 already gone over this with you, but as you could see,
20 we have a court reporter here who is taking down
21 everything that anybody in this room says. And I
22 just -- to lay, kind of, a foundation for -- to make her
23 job easier, a couple of basic ground rules. And that
24 is, the first one is, try to keep your responses verbal.
25 Uh-huhs and huh-uhs do not translate well on paper.

1 And the other thing that can sometimes
2 arise is you might know where I'm going with a question;
3 I might know where you're going with an answer, and we
4 have a tendency to try to, kind of, redirect one another
5 and jump in. So let's just try to do our best to not
6 talk over one another and not interrupt one another. Is
7 that okay?

8 A. Yes.

9 Q. Okay. My objective today is not going to be to
10 confuse you. I want to be sure that you understand
11 every question that I ask you. And so, if I confuse
12 you, will you please ask me to clarify my question?

13 A. Yes.

14 Q. And you understand that today's questions and
15 your answers are under oath, and subject to the
16 penalties of perjury?

17 A. Yes.

18 Q. Please don't take offense of this question. I
19 ask it of everybody. But are you under the influence of
20 any alcohol, drugs or other intoxicants today?

21 A. No.

22 Q. Is there any other reason why you might not be
23 able to provide truthful testimony today?

24 A. Yes.

25 Q. Not including your attorney, have you discussed

1 today's deposition or your testimony with anybody else?

2 A. Yes.

3 Q. Who else have you spoken with?

4 A. My boss, Ruben.

5 Q. Is that Ruben Garcia?

6 A. Yes.

7 Q. Anybody other than Mr. Garcia?

8 A. Yes.

9 Q. Who else?

10 A. A -- one of my friends, Brinkly.

11 Q. And what is that person's name?

12 A. Brinkly Johnson.

13 Q. Brinkly Johnson. Does Brinkly live here in
14 El Paso, as well?

15 A. No.

16 Q. Where does Brinkly live?

17 A. San Diego, California.

18 Q. So I assume that was a phone conversation?

19 A. Yes.

20 Q. And when did that conversation take place?

21 A. In the -- I think last week.

22 Q. How did -- how did it come up?

23 A. I mentioned that that was something that I was
24 going to have to do.

25 Q. And did you guys discuss the kind of underlying

1 **issues that you were going to be deposed about?**

2 A. Not really, no.

3 **Q. Well, what all was said?**

4 A. I just wanted to get feedback about, like, my
5 reasons for being here, to make -- to make sure it made
6 sense.

7 **Q. What did you verbalize as your reasons for**
8 **being here?**

9 A. Is the question -- are you asking what reasons
10 I'm to be here in this room, or the reasons to be --

11 **Q. I'm just trying to get as good an understanding**
12 **as I can of the contents of the conversation. And so,**
13 **whatever you verbalize to her, whatever she said back to**
14 **you, that's what I'm interested in.**

15 A. I spoke about my motivations for being at
16 Annunciation House, and why I've stayed for the length
17 of time that I've stayed. And she just listened.

18 **Q. What -- what -- what are those motivations?**
19 **What did you tell her?**

20 A. Like I mentioned, I studied sociology in
21 university. And growing up I had kind of a sense of my
22 privilege as someone who had a good education, who had
23 both of her parents, lived in a middle class household
24 that I didn't understand why other people around my
25 country and my town, or around the world didn't have the

1 same privileges that I did. So as I was grappling with
2 that growing up and then studying sociology at the
3 university, I began trying to think of how -- where do I
4 want to go, like what kind of career do I want to have?
5 Also, I had worked full time, so I wanted to spend some
6 time volunteering to give back.

7 I visited Annunciation House in 2011,
8 and -- as part of an alternative spring break. And at
9 that point, I hadn't known yet what I wanted to do. But
10 when I toured the house, I got a sense of this is a
11 place that I could come and -- and give back to, as well
12 as as I spoke to, like, lawyers about how the system of
13 getting a visa here, and how difficult that is, having a
14 meeting with -- I don't know if it was Las Americas or
15 at that time DMRS (phonetic).

16 And then, also meeting farm workers and
17 hearing stories about how they come here to -- to work
18 and to pick our produce. But, like, get treated
19 pretty -- pretty badly and don't get breaks and don't
20 get paid well. So all of that kind of led me to study
21 the relationship between the U.S. and Latin America,
22 especially. And all of that kind of made me realize
23 once I came here how much my country affects other
24 countries south of the United States. And wanting to
25 understand how do I function in my country, how do I

1 relate to that, and how do I, I guess, justify my place.

2 And so, as I've been at Annunciation House,
3 I've been able to help people have basic dignity, basic
4 rights, somewhere to sleep, clothing, food. And I
5 think -- and get -- having a sense of belonging, as
6 well. Like, one of the things that I believe in -- is
7 that everyone has this desire to love and be loved. And
8 I think that we're able to foster that at Annunciation
9 House, and that's something that from my -- that time
10 and what kind of keeps me here is being able to be a
11 part of a community that offers dignity to the people
12 that -- that we serve.

13 **Q. Thank you for that. Is that the extent of what**
14 **you told to -- was it Bradley?**

15 A. Brinkly.

16 **Q. Brinkly?**

17 A. Yes.

18 **Q. Did Mrs. Brinkly give you any feedback on that?**

19 A. Just that it sounded good, that -- yeah.

20 **Q. Okay.**

21 A. She didn't really -- I -- I guess like I said
22 she mostly was there to listen.

23 **Q. Yeah. That's what good friends are for?**

24 A. Yeah.

25 **Q. Is that -- so that was the full extent of**

1 you-all's conversation?

2 A. Yes.

3 Q. And what about your conversation with

4 Mr. Garcia?

5 A. I guess, I didn't necessarily, like, go into
6 depth about what was going to be said. I think I just
7 said, "Oh, this is something that is part of what we
8 have to do with being served."

9 Q. Was there more than one conversation?

10 A. I can't recall.

11 Q. When did -- when did you learn that you were
12 going to be deposed today?

13 A. I want to say maybe last Tuesday.

14 Q. Okay.

15 A. I can't recall the day.

16 THE REPORTER: I need you to speak up.

17 THE WITNESS: Yes.

18 Q. (BY MR. FARQUHARSON) Roughly a week ago?

19 A. Yes.

20 Q. Okay. And I guess, just to try to jog your
21 memory, outside of talking about this case, how many
22 times have you spoken with Ms. -- Mr. Garcia over the
23 last week?

24 A. I would say a handful of times, maybe four,
25 four times.

1 Q. Okay.

2 A. Five times.

3 Q. And as you can recall today, only about -- only
4 one of those was about this case?

5 A. Yes.

6 Q. About how long did you guys speak?

7 A. I can't recall.

8 Q. More than five minutes?

9 A. No.

10 Q. So very cursory conversation?

11 A. Yes.

12 Q. Okay. Anybody else that you've spoken with
13 about today's deposition?

14 A. Yes. My sister.

15 Q. What is your sister's name?

16 A. Erica Bull.

17 Q. And where does your sister live?

18 A. In Michigan.

19 Q. When did you speak with her?

20 A. I want to say it was a -- the following day.

21 So maybe Wednesday or Thursday.

22 Q. The day after you received notice that you were
23 going to be deposed?

24 A. Yes.

25 Q. And how long did you speak?

1 A. I believe I spoke maybe five -- like, five
2 minutes.

3 **Q. And that --**

4 A. Kind of -

5 **Q. I'm sorry. Go ahead?**

6 A. I think I just explained that -- that it was
7 going to -- that it was going to happen.

8 **Q. Did you give your -- give her any sort of
9 background?**

10 A. At that time, no.

11 **Q. Did she ask for background?**

12 A. I guess she asked -- no. Yeah.

13 **Q. So you just said, "I'm going to be deposed,"
14 and she didn't ask any follow-up questions?**

15 A. What does deposition mean?

16 **Q. Okay. I may have already asked you this, but
17 that was a phone conversation?**

18 A. Yes.

19 **Q. Did you speak with anybody else?**

20 A. I also mentioned it to my dad.

21 **Q. And does -- was that a phone conversation?**

22 A. Yes.

23 **Q. What's your dad's name?**

24 A. William Bull.

25 **Q. Is he in Michigan, as well?**

1 A. Yes.

2 **Q. And what did you tell him?**

3 A. That I was going to give a deposition.

4 **Q. Did you tell him the circumstances?**

5 A. No.

6 **Q. Did he ask about the circumstances?**

7 A. He is familiar that this is happening, so at
8 the time -- like, at the time that I told him, no.

9 **Q. Is he familiar because you told him?**

10 A. Yes.

11 **Q. What did you tell him?**

12 A. I told him about the original RTE that was
13 served.

14 **Q. What did you say?**

15 A. I said that the Attorney General was serving an
16 RTE to Annunciation House.

17 **Q. Anything else? Anything beyond that?**

18 A. I can't really recall a conversation, because
19 it was really a while ago. A year and a half ago.

20 **Q. Did he know what an RTE was?**

21 A. No.

22 **Q. Did you-all talk about that?**

23 A. Briefly, from what I understood.

24 **Q. What did you tell him?**

25 A. That that right -- it's a right to examine, and

1 that they were asking for the documents that we provide,
2 I guess, and the documents, I guess provided to us.

3 **Q. Did you say anything else about it?**

4 A. I think I went over the documents -- "I said,
5 this is what we do," and so...

6 **Q. Did you talk to him about Annunciation House's**
7 **position with respect to the RTE?**

8 A. Yes.

9 **Q. What did you tell him?**

10 A. That -- I guess, no. Let me rephrase. I
11 didn't ask -- I didn't tell him what Annunciation
12 House's stance was. It was more what I thought was
13 happening.

14 **Q. And what did you say?**

15 A. Basically, that I didn't understand the
16 whole -- like, what -- what was being looked at, like
17 the documents that we have, what -- what was it that
18 they were going to find.

19 **Q. So your dad, William Bull; your sister Erica**
20 **Bull; your friend, Brinkly Johnson; Mr. Garcia. Anybody**
21 **else?**

22 A. No.

23 **Q. And with any of these people, did you discuss**
24 **what Annunciation House's defenses were in this**
25 **lawsuit -- or defenses were to the RTE? Excuse me.**

1 A. I -- yes.

2 **Q. What --**

3 A. I guess, what I explained was, it's, I think,
4 what was -- what was already said, what was said in
5 Ruben's deposition and the testimony that he gave.

6 **Q. What was that?**

7 A. Um --

8 **Q. And I'm specifically asking about the**
9 **conversations. I'm not talking about his testimony.**

10 A. Okay. That, because of, like, freedom of
11 religion, the First and Fourth Amendment, that that
12 wasn't something that we necessarily were going to --
13 and HIPAA, that we were going to just hand over
14 documents that had people's personal information on it,
15 unless the Judge, of course, said we had to.

16 **Q. Anything else?**

17 A. No.

18 **Q. Okay. So have we just covered the full extent**
19 **of your conversations with others about today's**
20 **deposition, and your testimony?**

21 A. Yes.

22 **Q. Did you review any documents or materials in**
23 **preparation for today?**

24 A. Yes.

25 **Q. What did you review?**

1 A. The privilege log. And I did see, briefly, the
2 lawsuit, I think, that we filed this week, that we would
3 have filed.

4 **Q. Are you referencing a second amended petition,**
5 **if you remember?**

6 A. I -- I don't know what that is.

7 **Q. Okay. That's fair. Anything else?**

8 A. No.

9 **Q. And when did you review those documents?**

10 A. Yesterday.

11 **Q. And the privilege log, did you just review the**
12 **log or did you review any -- any of the documents that**
13 **it reflects?**

14 A. Just the log.

15 **Q. And did you say yesterday?**

16 A. Yes.

17 **Q. Without discussing the content of the**
18 **conversations, have you met with your attorney in**
19 **preparation for today?**

20 A. Yes.

21 **Q. When was that?**

22 A. Yesterday.

23 **Q. And for how long?**

24 A. An hour.

25 **Q. Were you -- you might have already covered**

1 this. Am I correct that you were present at the
2 temporary injunction hearing in this case on March 7th,
3 where Mr. Garcia testified?

4 A. Yes. I was outside the courthouse.

5 Q. Okay. So you did not attend to witness his
6 testimony?

7 A. No.

8 Q. Have you reviewed the testimony that he
9 provided on that day, in preparation for today's
10 deposition?

11 A. Yes, I reviewed the -- I read the -- the
12 testimony.

13 Q. The transcript?

14 A. Uh-huh.

15 Q. When did you read that?

16 A. Yesterday.

17 Q. Are there any other documents that you have
18 reviewed in preparation for today?

19 A. No.

20 Q. For simplicity sake, when I say "Annunciation
21 House" today, can we agree that, unless I say otherwise,
22 I am referencing all of Annunciation House's facilities?
23 That includes, Annunciation House, Casa Vida, Casa Papa
24 Francisco, Casa Teresa, Casa Rita Steinhagen, and Holy
25 Family? Is that fair?

1 A. Yes.

2 Q. Did I miss any?

3 A. No.

4 Q. Aside from Annunciation House, can you tell me
5 about your other community involvement in the El Paso
6 area?

7 A. I can't say that I have very much community
8 involvement out of Annunciation.

9 Q. Work can be busy?

10 A. Yeah.

11 Q. Are you associated with any particular church
12 here in El Paso?

13 A. No.

14 Q. Do you regularly attend any religious services?

15 A. No.

16 Q. Do you have any social media accounts?

17 A. Yes.

18 Q. What social media platforms?

19 A. Facebook, Instagram, a Snapchat account, if
20 that...

21 Q. Yes, I think it is. Any others?

22 A. No.

23 Q. On Facebook, is your name listed as Mary Bull?

24 A. Yes.

25 Q. And do you know what your user name is on

1 **Instagram or Snapchat?**

2 A. On Instagram, it's Mari Luisa. I -- on
3 Snapchat, I think it's just Mary.

4 **Q. Can you say the one on Instagram again?**

5 A. Mari Luisa.

6 **Q. What is your current phone number?**

7 A. (915) 474-1613.

8 **Q. Do you have any other phone numbers?**

9 A. No.

10 **Q. And is that a personal cell phone or a work**
11 **phone?**

12 A. That's a personal cell phone.

13 **Q. Is that the -- the phone that you used to call**
14 **Mr. Garcia on the day that you were served with your RTE**
15 **that is the subject of this lawsuit?**

16 A. Yes.

17 **Q. This is going to sound backwards, but I'm going**
18 **to try to kind of get more into the weeds here now, and**
19 **I want to do it with a clean record.**

20 **Are you employed?**

21 A. I --

22 **Q. It's not a trick question. So --**

23 A. What is the definition of being employed as
24 opposed to being a volunteer?

25 **Q. Well, I guess, to me, and I think to most**

1 people it would just be, Are you being paid?

2 A. Yes.

3 Q. And who are you employed by?

4 A. Annunciation House, Inc.

5 Q. How, long have you been employed by

6 Annunciation House?

7 A. In May, it will be 12 years.

8 Q. So 2012 to 2024, and that is since you
9 graduated college, right?

10 A. Correct.

11 Q. Any breaks in your employment at Annunciation
12 House?

13 A. No.

14 Q. You mentioned that you had a full-time job
15 prior to Annunciation House?

16 A. (Moving head up and down.)

17 Q. And you also came directly out of college, so
18 did you have a full-time job before college or while you
19 were in college?

20 A. I had both. Both.

21 Q. Okay.

22 A. Yes.

23 Q. What were they?

24 A. At first, in high school, I was -- I guess, it
25 wasn't full-time. It sometimes approached full-time,

1 but I was a server at an assisted living center, serving
2 food. And then, I was a tutor at, like, a tutoring
3 center.

4 **Q. Okay.**

5 A. And then, I also was a research assistant for
6 one of my professors at university. And then, the final
7 job that I held was at a domestic violence shelter.

8 **Q. In Michigan?**

9 A. Yes.

10 **Q. Okay. So did you -- did you just give me those**
11 **in kind of -- in chronological order?**

12 A. Yes.

13 **Q. Domestic violence shelter being the latest?**

14 A. Yes.

15 **Q. And when you addressed the domestic violence**
16 **shelter, but the other three, those were in Michigan, as**
17 **well?**

18 A. Yes.

19 **Q. What was the name of the domestic violence**
20 **shelter?**

21 A. Underground Railroad.

22 **Q. And the research assistant position, what was**
23 **the, I guess, subject matter expertise of the professor**
24 **that you worked for?**

25 A. Sociology.

1 Q. Do you know why we're here today?

2 A. Yes.

3 Q. And what is your standing of why --
4 understanding of why we are here today?

5 A. You are deposing me in regards to the right to
6 exam, serving us with the right to examine.

7 Q. And -- and I -- I don't intend to trick you
8 here. I just want to kind of lay the groundwork for
9 your testimony. What do you understand that you will be
10 testifying about today?

11 MR. WESEVICH: Objection, calls for a legal
12 conclusion.

13 Q. (BY MR. FARQUHARSON) So one thing that we
14 didn't address at the beginning is, through the course
15 of today's deposition, your attorney may make some
16 objections. Ordinarily, you will still answer the
17 question, unless he instructs you to do otherwise. And
18 if that occurs, then that is between you and him. But
19 here he has not done that, and so you can continue to
20 answer the question.

21 A. What was the question again?

22 Q. What do you understand that you will be
23 testifying about today?

24 A. The documents that Annunciation House keeps.

25 Q. You said that -- I want to backtrack a little

1 bit to, you mentioned your introduction to Annunciation
2 House first happened in 2011. I think you said an
3 alternative spring break. What is an alternative spring
4 break?

5 A. In university, they offer week-long -- and it
6 could be spring and it could be other breaks. They
7 offer a week-long experience to go somewhere and serve
8 and learn about something else while you're on break.

9 Q. Okay. I wish my school did that. I don't
10 recall that.

11 A. Yeah.

12 Q. And what was it that drew -- what was it that
13 drew you to El Paso, specifically?

14 A. I was minoring in Spanish and was really
15 interested in learning Spanish, as well as -- I wanted
16 to serve somewhere, and I -- it was a little
17 intimidating to leave and go somewhere I've never been.
18 So I'd seen the house that I'd be serving at and had a
19 basic understanding of what it was that I was doing and
20 those were honestly the two big reasons that I came
21 here.

22 Q. And that -- that house was not Annunciation
23 House; am I right?

24 A. The house that I visited?

25 Q. Correct.

1 A. At that time, I toured Annunciation House, 1003
2 San Antonio.

3 **Q. But when you -- when you were coming, you**
4 **weren't coming to stay at Annunciation House at that**
5 **time. You were introduced to them along the way during**
6 **your visit?**

7 A. That's correct.

8 **Q. Where were you staying?**

9 A. Oh, gosh, what's it called? It was a house on
10 the other side of the freeway. I think it was on
11 Florence. And at the time, it had a name. I don't
12 remember. It doesn't exist anymore.

13 **Q. Okay. Is it a -- was it a nonprofit?**

14 A. No.

15 **Q. Is it -- or has it ever been, to your**
16 **knowledge, associated with Annunciation House?**

17 A. To my knowledge, no.

18 **Q. Was it a Catholic organization?**

19 A. No.

20 **Q. What did it -- what -- what were the services**
21 **that it provided?**

22 A. My understanding is, it wasn't an organization
23 at all. So it didn't provide services.

24 **Q. Okay. So it was purely a boarding place,**
25 **essentially, for students?**

1 A. That's correct.

2 Q. Did -- when you came on that trip, did you come
3 to serve or to go to a specific nonprofit or a specific
4 business?

5 A. No.

6 Q. What is Annunciation House?

7 A. We're a house of hospitality for migrants.

8 Q. And it's specifically created to cater to
9 undocumented migrants; is that right?

10 MR. WESEVICH: Objection.

11 I'll instruct the witness not to answer the
12 question.

13 And I'll explain. We have asserted --
14 Annunciation House has asserted its right to
15 precompliance review. And the fact -- we -- we've had
16 to initiate a lawsuit to assert the right to
17 precompliance review. We have not received that review,
18 and the fact that we have asserted our right to
19 precompliance review does not allow the Attorney General
20 to conduct further investigation into Annunciation House
21 without precom -- precompliance review.

22 So as a matter of First Amendment, and
23 Fourth Amendment law, as well, as the Texas Rules of
24 Civil Procedure, we -- I -- I would instruct the witness
25 not to answer the question.

1 When I instruct the witness not to answer a
2 question during this deposition, I rely on that basis
3 for doing so, unless I state otherwise. If
4 Mr. Farquharson wishes to put on the record why he
5 believes that his question goes to the lawfulness of the
6 request to examine, that was served on Annunciation
7 House, he can do that, and I may permit the witness to
8 answer the question. And he can at least make a record
9 for the Court to decide whether his questions are going
10 beyond the lawfulness of the request to examine, which
11 in our view is the only matter that can be going to in
12 this deposition.

13 MR. FARQUHARSON: And am I understanding
14 your objection correctly as a relevance objection.

15 MR. WESEVICH: No.

16 MR. FARQUHARSON: Okay. Well, I guess,
17 without limiting everything you just said, am I
18 understanding it is a relevance objection.

19 MR. WESEVICH: I don't understand what you
20 just said.

21 MR. FARQUHARSON: Okay. Texas Rule of
22 Civil Procedure 199.5(f), I'll quote directly: An
23 attorney may instruct a witness not to answer a question
24 during an oral deposition only if necessary to preserve
25 a privilege; comply with a court order or these rules;

1 or to protect a witness from an abusive question.

2 What is the basis under Rule 199.5(f) that
3 you are instructing the witness not to answer the
4 question?

5 MR. WESEVICH: The privilege under the
6 First Amendment and the Fourth Amendment, as well as the
7 need to recess the deposition to get a court order
8 regarding the scope of the deposition. That's an --
9 that is an allowable basis for refusing to answer, which
10 we offered to do in an email to you before we commenced
11 this process. And so, if -- so that -- so all the --
12 all those three reasons are within the rule that you
13 just quoted.

14 MR. FARQUHARSON: So you said the First
15 Amendment, the Fourth Amendment and what was your third
16 basis?

17 MR. WESEVICH: The need to recess the
18 deposition to get a court order, as to the scope of
19 proper questioning.

20 MR. FARQUHARSON: So the First and Fourth
21 Amendment --

22 MR. WESEVICH: And then also compliance
23 with the Court's order of -- of March the 10th,
24 regarding our discovery, that this matter of the
25 lawfulness of the -- of the -- of the request to examine

1 is going to be determined based on the Rules of Civil
2 Procedure.

3 MR. FARQUHARSON: And how is it that you
4 contend that the First and Fourth Amendments create a
5 privilege to the question of whether or not Annunciation
6 House is specifically created to cater to undocumented
7 migrants?

8 MR. WESEVICH: Because this is a question
9 that is directed to investigate what Annunciation House
10 does. It's not a question that -- that's aimed at, Is
11 the request to examine a lawful action by the Attorney
12 General. That -- in any kind of investigation into
13 Annunciation House that goes beyond the lawfulness of
14 the RTE is -- we have a right to precompliance review
15 under the Fourth Amendment of that kind of
16 investigation. We have not had that.

17 MR. FARQUHARSON: And your contention is
18 that -- that there is a privilege under the -- under the
19 First and Fourth Amendment into -- that prevents any
20 examination of Annunciation House's operations; is that
21 correct?

22 MR. WESEVICH: Correct.

23 MR. FARQUHARSON: I want to point out two
24 things, Mr. Wesevich. The second amended petition that
25 was filed yesterday accuses the Attorney General's

1 office of making un -- quote, unfounded allegations of
2 criminal conduct. So, number one, the question of
3 whether or not the allegations are founded is now in
4 dispute, as raised by you and Annunciation House.

5 The second is that you have asked to take a
6 corporate representative deposition of the Office of the
7 Attorney General, and among the grounds that you seek to
8 question are all grounds for and reasons why OAG decided
9 to investigate Annunciation House, that's item C, and
10 item D: All Texas statutes, regulations, or other laws
11 that OAG is investigating Annunciation House for
12 violating.

13 So point being here that if that -- if --
14 if those items, which I thought were agreed on are not
15 relevant and are not going to be subject to this
16 deposition, I find it difficult to understand how they
17 would be allowable in a deposition of a Attorney General
18 corporate representative.

19 MR. WESEVICH: Our questions go to whether
20 you can lawfully investigate Annunciation House.

21 MR. FARQUHARSON: I just read the items.

22 MR. WESEVICH: Right. Your questions go to
23 what does the investigation reveal. Ours are
24 preliminary. We are -- we want the question decided,
25 Can you investigate Annunciation House. We want that

1 decided before you actually conduct the investigation.

2 That's the -- that's the dis -- distinction.

3 MR. FARQUHARSON: So should we remove this
4 topic that you would like to depose a corporate
5 representative on regarding all grounds for the OAG's
6 investigation?

7 MR. WESEVICH: By no means.

8 MR. FARQUHARSON: Okay. So, then we need
9 to address that here today.

10 MR. WESEVICH: Disagree.

11 MR. FARQUHARSON: Okay. Well, we will
12 proceed for now. You can make your objections and
13 instructions not to answer, and we will go from there.

14 I'm going to --

15 **Q. (BY MR. FARQUHARSON) Ms. Bull, when we say an**
16 **"undocumented migrant," what do you understand that to**
17 **mean?**

18 MR. WESEVICH: Objection, calls for a legal
19 conclusion.

20 **Q. (BY MR. FARQUHARSON) You can still answer.**

21 A. I imagine you are assuming that that person has
22 not been processed by immigration.

23 **Q. Well, I don't necessarily only mean it limited**
24 **to me. What -- what do you define as an undocumented**
25 **migrant?**

1 MR. WESEVICH: Same objection.

2 A. Someone who's not been processed by
3 immigration.

4 Q. (BY MR. FARQUHARSON) And are -- when you say
5 immigration, there, you're referencing, kind of, any
6 federal authority who can process an immigrant?

7 MR. WESEVICH: Same objection.

8 A. I would refer to ICE and USCIS Border Patrol
9 and CBP.

10 Q. (BY MR. FARQUHARSON) I'm not great with
11 acronyms, so you -- CBP, who's that?

12 A. The Customs and Border Protection.

13 Q. And USCIS, who is that?

14 A. They are the agency that processes visa
15 applications.

16 Q. There was one more. Well, do you know what
17 USCIS stands for?

18 A. United -- United States customs -- no. I
19 forget the I.

20 Q. Something that starts with that. Do you know
21 what ICE stands for?

22 A. Yes.

23 Q. What does it stand for?

24 A. Immigration and Customs Enforcement.

25 Q. Based on your recollection of reviewing

1 **Mr. Garcia's March 7th, 2024, testimony, do you recall**
2 **him testifying that Annunciation House accepts**
3 **undocumented immigrants?**

4 MR. WESEVICH: Objection.

5 I'll ask you not to answer the question.

6 MR. FARQUHARSON: And what is the basis
7 upon which you're instructing the witness not to answer
8 the question?

9 MR. WESEVICH: It's the same one that I
10 just described.

11 MR. FARQUHARSON: Which is?

12 MR. WESEVICH: It's in the record
13 already.

14 MR. FARQUHARSON: So you're not going to
15 state the basis for your objection?

16 MR. WESEVICH: I did state the basis for my
17 objection. I said it applies, unless I state another
18 reason. The same one that I stated before is the same
19 one that applies.

20 MR. FARQUHARSON: And you mean your lengthy
21 objection where I followed up and asked if it was a
22 relevance objection and you said it was not? I just
23 want to make sure you and I are on the same page.

24 MR. WESEVICH: Yes, sir.

25 MR. FARQUHARSON: Okay. So why don't we --

1 if there's a way we can reference back, that unless I --
2 unless I ask you to state the basis of your objection,
3 and you provide a different basis, then that will be the
4 basis upon which you are relying; is that fair?

5 MR. WESEVICH: That's what I said. I said
6 that.

7 MR. FARQUHARSON: Okay.

8 Q. (BY MR. FARQUHARSON) Ms. Bull, is it your
9 understanding that if a person enters the country
10 through a port of entry, that person would be quote,
11 unquote, documented?

12 MR. WESEVICH: Objection, legal
13 conclusion.

14 A. They would be processed by immigration, if
15 someone enters through a port of entry.

16 Q. (BY MR. FARQUHARSON) And that means that they
17 would be documented?

18 A. By documented, it means they're processed by
19 immigration, yes.

20 Q. And I just mean the common usage. I'm not
21 trying to nail you down to technical terminology; is
22 that right?

23 A. Yes.

24 Q. Are you familiar with ICE's alternative
25 detention program?

1 A. Yes.

2 Q. Am I correct that Annunciation House accepts
3 immigrants that are released through that program?

4 MR. WESEVICH: Objection.

5 I instruct you not to answer that question.

6 MR. FARQUHARSON: And what is the basis of
7 your objection?

8 MR. WESEVICH: It's the same as
9 described.

10 We're going to need to take a little break.
11 Five minutes? Do you-all need more?

12 THE VIDEOGRAPHER: The time is 10:49 a.m.
13 We're off the record.

14 (Recess taken.)

15 THE VIDEOGRAPHER: I am recording. The
16 time is 11:01 a.m. We're back on the record.

17 MR. FARQUHARSON: Mr. Wesevich, for clarity
18 of the record, why don't we reference the First and
19 Fourth Amendment objection that you stated as a running
20 objection. Is that -- does that sound, like, fair?

21 MR. WESEVICH: Yes.

22 MR. FARQUHARSON: That way -- I don't want
23 to make you have to put a paragraph on each time, so, I
24 was just hoping we can have an agreement there.

25 MR. WESEVICH: Yes, sir.

1 **Q. (BY MR. FARQUHARSON) Ms. Bull, when we left**
2 **off, I asked if I was correct that Annunciation House**
3 **accepts immigrants that are released through the**
4 **alternative to detention program?**

5 MR. WESEVICH: And I instruct you not to
6 answer the question.

7 MR. FARQUHARSON: And the basis of your
8 objection?

9 MR. WESEVICH: It's the same.

10 MR. FARQUHARSON: The running objection?

11 MR. WESEVICH: Yes.

12 **Q. (BY MR. FARQUHARSON) How are you familiar with**
13 **the alternative detention program?**

14 MR. WESEVICH: Objection, same running
15 objection.

16 Please don't answer the question.

17 **Q. (BY MR. FARQUHARSON) Ms. Bull, are you**
18 **familiar with the term "got away"?**

19 MR. WESEVICH: Objection.

20 Please don't answer the question.

21 Mr. Farquharson, if you have
22 unobjectionable questions that you want to cover, why
23 don't you go ahead and do those. Because we're -- we're
24 obviously going to have to go to the Court about this --
25 this distinction between the right to investigate and

1 the investigation itself. We're obviously going to need
2 the -- the Court to look at that dispute that we have.
3 I -- I -- I'm not inclined to sit here to -- and waste
4 everybody's time and have you harass this witness over
5 trying to conduct an investigation.

6 MR. FARQUHARSON: What have I done to
7 harass the witness? I think I've been very polite.

8 MR. WESEVICH: You are polite and I
9 appreciate that. I agree with polite --

10 MR. FARQUHARSON: Why did you say I'm
11 harassing the witness, how -- in what respect have I
12 done that?

13 MR. WESEVICH: By trying to get her -- by
14 trying to conduct an investigation -- conduct your
15 investigation in the deposition, asking the same
16 question in different ways that she's already been
17 instructed not to answer.

18 So, please, if you have -- if you have
19 items that relate to the lawfulness of the RTE, then
20 please go ahead and ask those, and we can -- and then we
21 can submit our dispute to the Court and that sounds like
22 the most efficient way to pursue this.

23 MR. FARQUHARSON: Am I incorrect that your
24 petition that was filed yesterday alleged that we made
25 baseless allegations pertaining to the operation of

1 Annunciation House?

2 MR. WESEVICH: You are correct. That is --
3 that is accurate.

4 MR. FARQUHARSON: And you don't think
5 that -- that the voracity of the -- of the statements by
6 our office, whether or not those were truthfulness,
7 whether or not they were founded, you don't think that's
8 an issue in this case?

9 MR. WESEVICH: It's an issue in the --
10 right, it is an issue as to whether the AG had the right
11 to investigate.

12 MR. FARQUHARSON: But you're not going to
13 allow the witness to answer the questions about whether
14 or not the AG was right?

15 MR. WESEVICH: That's correct. We've
16 already been over this.

17 I'm sorry? What was --

18 MR. FARQUHARSON: Well, my --

19 MR. WESEVICH: It's really -- you know,
20 we're talking about different timelines here. We're
21 talking about what the Attorney General knew, that its
22 basis was for doing what it did. That's what's disputed
23 in the lawsuit. The -- the issue is not what -- how
24 Annunciation House operates. Those are two -- two
25 distinct things. That's what we -- that's our -- I know

1 that you disagree but that's our view --

2 MR. FARQUHARSON: Well, and -- and I don't
3 think actually we disagree on that point. I think the
4 Attorney General allegations pertain to actions leading
5 up to February 7th. My questions, I've not -- I've not
6 changed the time period. They pertain -- I mean, the
7 most recent question, I simply asked the witness how --
8 I think my question was how she knew a term or whether
9 she knew a term. And I don't understand how -- how
10 you're raising a time objection to that. It -- it
11 doesn't make sense to me. I'll tell you this, you have
12 said that I should ask my non-objectionable questions.
13 I'm asking questions that I -- I believe are
14 permissible. I'm -- I think the best practice here will
15 be to -- for us to go ahead and put those on the record.
16 You can proceed as -- as you believe is appropriate.
17 And, you know, where you think you need to make an
18 objection, you can make your objection. I'll ask my
19 questions.

20 But as -- as I mentioned, you want to ask
21 our question -- ask our witness about these same issues.
22 You've made allegations about these issues, and yet
23 you're not going to allow us to ask a witness about
24 these questions? I think that's improper. I'm think --
25 I'm not asking questions that I believe are

1 inappropriate for this deposition. So, if it's okay I'd
2 like to proceed with questioning the witness.

3 MR. WESEVICH: Please do.

4 Q. (BY MR. FARQUHARSON) Ms. Bull, would
5 Annunciation House accept a, quote, "got away" as a
6 guest in its shelters?

7 MR. WESEVICH: Object, running objection.

8 Please don't answer the question.

9 Q. (BY MR. FARQUHARSON) Do you know if any "got
10 aways" have ever sought shelter at Annunciation House?

11 MR. WESEVICH: Objection, running
12 objection.

13 Please don't answer the question.

14 Q. (BY MR. FARQUHARSON) Has Annunciation House
15 ever taken in a "got away"?

16 MR. WESEVICH: Running objection.

17 Please don't answer the question.

18 Q. (BY MR. FARQUHARSON) Are you aware of any
19 other border shelters that will take undocumented
20 walk-ins in?

21 MR. WESEVICH: I'm sorry. I didn't hear
22 the question. I apologize.

23 Q. (BY MR. FARQUHARSON) Are you aware of any
24 other border shelters that will take in undocumented
25 migrants who walk in?

1 MR. WESEVICH: Objection, running
2 objection.

3 Please don't answer the question.

4 And if we're going to step through these, I
5 think we're done.

6 MR. FARQUHARSON: I -- I'd like to -- if
7 it's okay, continue my questioning. I'd like to ask her
8 about her role at Annunciation House, get some
9 background information about her role there.

10 MR. WESEVICH: Okay. You can try that --
11 that line.

12 **Q. (BY MR. FARQUHARSON) Ms. Bull, you've been at**
13 **Annunciation House for 12 years; am I correct?**

14 A. Yes. In May it will be 12 years. In May it
15 will be 12 years.

16 **Q. I'm sorry for speaking over you.**

17 A. It's okay.

18 **Q. What is your title at Annunciation House?**

19 A. House coordinator.

20 **Q. And I think you said that's a paid position?**

21 A. No.

22 **Q. Are you saying it's not necessarily paid, or --**
23 **because I think you said you get paid?**

24 A. Yes. So volunteers get a stipend while
25 they're -- whatever position they're in.

1 Q. Okay. All volunteers, full-time volunteers?

2 A. All full-time volunteers.

3 Q. How long have you been the house coordinator at
4 Annunciation House?

5 A. It would be 11 years, in May.

6 Q. Okay. So only one year where you were not the
7 house coordinator. During that year, did you have any
8 other title?

9 A. Yes.

10 Q. What was your title then?

11 A. Border awareness coordinator.

12 Q. What was your role in that capacity?

13 A. I led groups of students on week-long -- up to
14 a week-long experience learning about the border.

15 Q. Did they stay at Annunciation House?

16 A. Usually, yes, they do.

17 Q. As a -- as a volunteer with Annunciation House,
18 have you received any sort of specific training
19 associated with your roles that you've held at
20 Annunciation House?

21 A. Yes.

22 Q. What training?

23 MR. WESEVICH: Objection, running
24 objection.

25 I instruct you not to answer the question.

1 **Q. (BY MR. FARQUHARSON) What are your duties and**
2 **responsibilities as the house coordinator at**
3 **Annunciation House?**

4 A. I oversee the operation of the house, which
5 includes house maintenance problems, vol- -- training
6 volunteers on shifts, and overseeing the -- yeah, the
7 main function of the house, to make sure any rules that
8 we have in place are being abided by.

9 **Q. Are you responsible for admitting guests as the**
10 **house coordinator?**

11 MR. WESEVICH: Objection, running
12 objection.

13 We'll instruct you not to answer.

14 **Q. (BY MR. FARQUHARSON) And when -- when -- for**
15 **clarity sake, as the house coordinator, are you re- --**
16 **for the items you just listed, are you responsible just**
17 **for the Annunciation House property, or are you**
18 **responsible for all the Annunciation House facilities?**

19 A. Just the Annunciation House --

20 **Q. Okay.**

21 A. -- property.

22 **Q. Are you responsible as the house coordinator**
23 **for coordinating guest travel?**

24 MR. WESEVICH: Objection, running
25 objection.

1 Q. (BY MR. FARQUHARSON) Are you responsible
2 for -- as the house coordinator of Annunciation House,
3 are you responsible for recordkeeping?

4 A. Yes. To oversee the -- that that happens, as
5 needed.

6 Q. (BY MR. FARQUHARSON) So you oversee the
7 creation of records?

8 A. Yes.

9 Q. And you also oversee the storage and
10 maintenance of those records?

11 A. Yes.

12 Q. What about -- are you responsible for fund
13 raising in any capacity?

14 MR. WESEVICH: Objection.

15 Instruct you not to answer the question.

16 MR. FARQUHARSON: On the basis of the
17 running objection?

18 MR. WESEVICH: Always.

19 Q. (BY MR. FARQUHARSON) And are you responsible
20 for any sort of grant applications?

21 MR. WESEVICH: Objection.

22 Instruct you not to answer.

23 Q. (BY MR. FARQUHARSON) Are you responsible for
24 coordinating any -- any services with -- any immigration
25 services with other nonprofits?

1 MR. WESEVICH: Objection.

2 I will instruct you not to answer.

3 Okay. I think we're done. I mean, we just
4 need to get a protective order that will set out the
5 terms --

6 MR. FARQUHARSON: Is there a reason you
7 didn't move for a protective order ahead of today?

8 MR. MCGRAW: If I can speak? Because I
9 didn't know what questions you were going to ask. It
10 seems like the appropriate way to handle it is to allow
11 you to conduct the deposition if you have permissible
12 questions.

13 MR. FARQUHARSON: And I apologize that I
14 started to interrupt. I'm only trying to ask about
15 questions that -- that are on the list that you guys
16 have provided. And -- and so I think that's -- that's
17 where -- that's where I'm having a difficult time
18 understanding is you-all said those are relevant. And
19 so if you thought we couldn't also ask about them you
20 should have sought a protective order ahead of today.

21 MR. WESEVICH: Well, I mean, you can argue
22 that or --

23 MR. FARQUHARSON: And-- if you don't mind,
24 I'd like to -- I've got some that I think --

25 MR. WESEVICH: And if you need -- if you

1 need a few minutes to go through and, because we have
2 this distinction, we're -- we're going to have -- and
3 the Court needs to decide this. But if you want to take
4 a few minutes and go through and see which questions
5 don't go to how does Annunciation House operate and
6 conducting -- actually conducting your investigation
7 that have to do with the legality of the RTE, you can --
8 you can ask those.

9 MR. FARQUHARSON: I don't -- based -- I'm
10 going to go based on my last line of questioning,
11 pertaining to records.

12 **Q. (BY MR. FARQUHARSON) Ms. Bull, when an**
13 **immigrant shows up at Annunciation House, what records**
14 **are created?**

15 MR. WESEVICH: Um, go ahead -- okay.

16 MR. MCGRAW: Assert the running objection
17 to that question. Instruct the witness not to answer.
18 Thank you.

19 **Q. (BY MR. FARQUHARSON) When a -- when an**
20 **immigrant arrives at Annunciation House, do they**
21 **complete intake paperwork?**

22 MR. WESEVICH: Objection.

23 We'll instruct you not to answer.

24 A. I did have something to add, that I mentioned
25 to the first -- when you were asking me about who I told

1 about the deposition. I did have another person. I
2 want to make sure that...

3 MR. FARQUHARSON: Okay.

4 Q. (BY MR. FARQUHARSON) Okay. Yeah. Thank you.

5 Who was that?

6 A. Stephanie Blakeman (phonetic).

7 Q. And who is Stephanie Blakeman?

8 A. She is a full-time volunteer.

9 Q. At Annunciation House?

10 A. Yes.

11 Q. Thank you.

12 MR. WESEVICH: Well --

13 MR. FARQUHARSON: I'm sorry?

14 MR. WESEVICH: Can you just have -- can we
15 just have a second here?

16 MR. MCGRAW: I think maybe we should go
17 off -- go off the record and take a two-minute break.

18 MR. FARQUHARSON: Okay.

19 THE VIDEOGRAPHER: The time is 11:17 a.m.
20 We're off the record.

21 (Recess taken.)

22 THE VIDEOGRAPHER: The time is 11:19 a.m.
23 We're back on the record.

24 MR. WESEVICH: Okay. We're going to
25 withdraw our objection to your question about what

1 documents are created when a guest comes into
2 Annunciation House, and we'll permit her to answer that
3 question.

4 MR. FARQUHARSON: Okay.

5 Q. (BY MR. FARQUHARSON) Ms. Bull, when an
6 immigrant shows up at Annunciation House, what records
7 are created?

8 A. We have an intake form that includes their name
9 and basic information.

10 Q. What sort of basic information?

11 A. Birth date, country of origin, gender and age.

12 Q. Anything else?

13 A. The alien number, A number.

14 Q. Does that document include any medical
15 information?

16 A. Yes. So on the backside, we also have
17 information about whether they fell from the wall, or --
18 or are in some kind of -- some kind of medical
19 situation.

20 Q. Is it a one-page document?

21 A. Yes.

22 Q. Front and back?

23 A. Yes.

24 Q. Does it -- does it include or request any
25 religious information?

1 A. No.

2 **Q. What other forms are created when an immigrant**
3 **arrives at Annunciation House?**

4 A. We have a travel slip, is what we call it, that
5 we use for when they move -- when they have a sponsor to
6 go to.

7 **Q. And what information would be on the travel**
8 **slip?**

9 A. The name -- the names of their children, the --
10 the person's name, the sponsor's name, the sponsor's
11 information, what room they stay in, in the house.

12 **Q. Okay.**

13 A. And their travel information, if it's an
14 airline, what day they leave, and what time they leave.

15 **Q. What is a sponsor, so I can understand that?**

16 A. How we -- it's someone who's receiving or
17 helping pay for the ticket for the guest to move in.

18 **Q. How -- do they arrive with sponsors? Or how is**
19 **that?**

20 MR. WESEVICH: Running objection.

21 I'll instruct you not to answer.

22 **Q. (BY MR. FARQUHARSON) What -- okay. Intake**
23 **form, I think you said we've exhaustedly covered the**
24 **information that's on the intake form, correct?**

25 A. It also includes the date they arrive.

1 Q. Does it include, like do you guys circle back
2 to that and then add the date that they left, or
3 anything like that?

4 A. Yes.

5 Q. Is that document uploaded to any sort of
6 cloud-based or system?

7 A. We have spreadsheets that have information, but
8 depending on our volunteer capacity, some may be entered
9 into the system, and some may not be.

10 Q. So the intake forms are not, kind of, kept --
11 they're not categorically scanned and uploaded?

12 A. That's correct.

13 Q. What is the retention period on those
14 documents?

15 A. Once we input them into the computer, we would
16 dispose of the documents after that, and it would --
17 yeah.

18 Q. Am I correct that there is a heavy backlog in
19 the inputting of that data?

20 A. Yes.

21 Q. About how long of a backlog?

22 A. Can I clarify what -- I'm -- that I'm just
23 referring to Annunciation House, and my role at
24 Annunciation House, and not the other houses.

25 Q. Do you understand the other Annunciation

1 Houses, just asking based on your own personal
2 knowledge, do you understand those houses to have a
3 materially different situation going on?

4 A. No. I just wouldn't be able to answer how the
5 backlog of the other houses. I'm not familiar.

6 Q. But -- but again, only based on your personal
7 knowledge, do you understand the other -- the other
8 houses to have a backlog?

9 A. Yes.

10 Q. So for Annunciation House, how far backlogged
11 are you?

12 A. I would say, I believe it's about a year.

13 Q. Okay.

14 A. A year and a half.

15 Q. So from the date that the request to examine
16 was served, which I think we can agree was February
17 7th -- February 7th, 2024, the records that -- we can
18 expect that you still have physical copies, going back
19 to February 2023?

20 A. Yes.

21 MR. FARQUHARSON: And for the record, I think
22 counsel, we already agreed that those were going to be
23 frozen, in terms of preservation. None of those will be
24 destroyed, even if they're uploaded; is that correct?

25 MR. WESEVICH: You can ask her whether

1 she's been instructed as to that.

2 MR. FARQUHARSON: Okay.

3 Q. (BY MR. FARQUHARSON) I'll ask you.

4 A. Can you repeat the question to me?

5 Q. Are you under the understanding that as a --
6 while this case is ongoing, you had agreed to preserve
7 and not destroy any of the -- of the physical intake
8 records, or any of the intake records, whatsoever,
9 that -- that are subject to the RTE, during the pendency
10 of this lawsuit?

11 A. Yes. That's correct. We were told not to
12 destroy anything.

13 Q. Are those records at Annunciation House?

14 A. Yes, that's -- the ones that I'm referring to
15 are at Annunciation House.

16 Q. Well, let's -- let's finish going through this,
17 and then I'll add some follow-up questions. So intake
18 form, travel slip, what else? You have a guest intake
19 spreadsheet, is my understanding, that -- that the
20 intake form is used as the -- the form from which you
21 input into the excel spreadsheet; is that correct?

22 A. That's correct.

23 Q. Does the spreadsheet contain any additional
24 information beyond the intake form?

25 A. Just the departure -- departure date. To

1 clarify, the departure date has its own little slip, as
2 well.

3 **Q. Is there any information on -- on the intake**
4 **form that is required to -- that a guest must provide in**
5 **order to be admitted into Annunciation House?**

6 A. We would --

7 MR. WESEVICH: Objection.

8 I'll instruct you not to answer.

9 **Q. (BY MR. FARQUHARSON) Can a guest leave on**
10 **their intake form -- can they leave the Alien ID number**
11 **portion blank?**

12 MR. WESEVICH: I will assert the running
13 objection and instruct her not to answer.

14 **Q. (BY MR. FARQUHARSON) Intake form, travel slip.**
15 **What other documents am I missing?**

16 A. In regards to?

17 **Q. Documents that are created when an immigrant**
18 **arrives at Annunciation House, or stays at Annunciation**
19 **House?**

20 A. If we have a guest who has medication, we would
21 have a medication log, as well.

22 **Q. Okay. What is in the medication log?**

23 A. It includes what injuries they have and what
24 medications, the names of medications they're taking.
25 And when they take those medications, dates and times.

1 **Q. Does it contain a log of administration of**
2 **those medications?**

3 A. It includes the date and time of when the guest
4 took the medications.

5 **Q. How do you get that information?**

6 MR. WESEVICH: Objection, running
7 objection.

8 We'll instruct you not to answer.

9 **Q. (BY MR. FARQUHARSON) Does a guest have to have**
10 **their medicine administered to them by Annunciation**
11 **House?**

12 MR. WESEVICH: Objection, running
13 objection.

14 And instruct you not to answer.

15 **Q. (BY MR. FARQUHARSON) Are there any other**
16 **documents that we have not covered, yet, that are**
17 **associated with an immigrant's stay, arrival or**
18 **departure at Annunciation House?**

19 A. Nothing else is created, however, there's
20 our -- the -- the rules that we read to -- or they read
21 to them. And it's just one form.

22 **Q. What are -- what are the contents of that**
23 **document?**

24 A. It --

25 MR. WESEVICH: Objection.

1 I'll instruct you not to answer.

2 Q. (BY MR. FARQUHARSON) Is there -- can guests
3 communicate with Annunciation House through that rule
4 form?

5 MR. WESEVICH: Uh --

6 A. I don't know -- the question.

7 MR. WESEVICH: Objection, yes.

8 Q. (BY MR. FARQUHARSON) Do you accept messaging
9 from your guests through the rule form?

10 MR. WESEVICH: Objection, vague.

11 A. No.

12 Q. (BY MR. FARQUHARSON) Are there rules relating
13 to religious practices in the rule form?

14 A. No.

15 Q. Is the rule form customized to specific guests?

16 A. No. It -- I guess, there's different
17 languages, but it all says the same thing.

18 Q. What languages?

19 A. English, Spanish.

20 Q. And going back to the medication log, you said
21 that it includes the medication that the guests are
22 taking, the injuries associated with that medication,
23 the time and date of the administration. Is there
24 anything else on the medication log?

25 A. The name of the guest, and to clarify, it's

1 just the -- the time that the guests access the
2 medication, and not administered.

3 **Q. Each time the guest accesses medication, that**
4 **is logged in the medication log?**

5 A. Correct.

6 **Q. Is the medication associated with religious**
7 **purposes?**

8 A. No.

9 **Q. And the medication logs, are those paper logs**
10 **or how are those logs kept?**

11 A. They're paper.

12 **Q. And what is the retention period for those**
13 **documents?**

14 A. We have -- as far as I'm aware, we've not
15 gotten rid of any of them.

16 **Q. Since you've been there?**

17 A. Since we started creating the documents,
18 correct.

19 **Q. When did you start creating that document?**

20 A. In 2021.

21 **Q. Intake form, travel slip, medication log. Any**
22 **other records that are associated with the arrival,**
23 **stay, or departure of immigrants at Annunciation House?**

24 A. That's what I remember that we've -- that we
25 keep.

1 **Q. The intake form, is this -- is all the**
2 **information gathered in the intake form based on**
3 **self-reporting from immigrants, from guests?**

4 MR. WESEVICH: Okay. I'll object and
5 instruct you not to answer.

6 MR. FARQUHARSON: On the basis of the
7 running objection?

8 MR. WESEVICH: Yes, sir.

9 **Q. (BY MR. FARQUHARSON) Are there any special**
10 **records kept that pertain to guests who arrive in**
11 **familial units?**

12 A. No.

13 **Q. Do you maintain any records of identification**
14 **for guests?**

15 MR. WESEVICH: Objection, asked and
16 answered.

17 **Q. (BY MR. FARQUHARSON) You can answer the**
18 **question.**

19 A. I would repeat, the intake form is what we give
20 to everyone -- or we fill out for everyone.

21 **Q. So I mean photo IDs. Any sort of photo IDs**
22 **from your guests?**

23 A. No.

24 **Q. Any sort of passport or visa records?**

25 A. No.

1 **Q. Any sort of records pertaining to processing by**
2 **the agencies we mentioned earlier today?**

3 MR. WESEVICH: Objection, running
4 objection.

5 We'll instruct you not to answer --

6 Oh, can you restate the question again?
7 Can you restate that, and let me think about that one a
8 second?

9 **Q. (BY MR. FARQUHARSON) Do you maintain or create**
10 **any records pertaining to a guest's processing by the**
11 **agencies that we discussed earlier today? And by**
12 **"those," I mean ICE, CBP, USCIS and there might have**
13 **been one more that you mentioned?**

14 MR. WESEVICH: You can answer.

15 A. Can you repeat the question again? Sorry.

16 **Q. (BY MR. FARQUHARSON) Do you maintain or create**
17 **any records pertaining to a guest's processing by the**
18 **agencies that we have referenced as being capable of**
19 **processing immigrants, ICE, CBP, USCIS and I believe**
20 **there was one more that you referenced?**

21 A. Can I clarify, you're asking whether we take
22 photos or copies of those documents, or whether we note
23 them off?

24 **Q. Both.**

25 A. We don't keep any copies, and unless there was

1 a -- a -- I don't -- I don't think we -- on occasion, we
2 write if someone was referred to us by the hospital.
3 But other than that, I can't think of why we would write
4 the documents that they have.

5 Q. So you don't track whether or not they present
6 them to you?

7 A. Correct.

8 Q. Do you give --

9 MR. MCGRAW: Wait. I'm sorry. I've got to
10 take a break just to run to the restroom, real quick.
11 Is that okay? I can wait, I guess. If you're on a line
12 of questioning, I can wait.

13 MR. FARQUHARSON: No. We can take a quick
14 break.

15 THE VIDEOGRAPHER: The time is 11:38 a.m.
16 We're off the record.

17 (Recess taken.)

18 THE VIDEOGRAPHER: The time is 11:43 a.m.
19 We're back on the record.

20 Q. (BY MR. FARQUHARSON) I can't recall whether or
21 not we rounded this out.

22 The medication log, the travel slip, and
23 the intake form. Are there any other documents that are
24 created with -- or that are created or maintained by
25 Annunciation House when an immigrant arrives or stays at

1 **Annunciation House?**

2 A. I think those are -- those are the ones that --
3 the ones we went over are the ones that we created.

4 **Q. Okay. Are there any daily logs of -- that**
5 **identify the guests of Annunciation House?**

6 MR. WESEVICH: Objection, vague.

7 A. Can you repeat the question?

8 **Q. (BY MR. FARQUHARSON) Are there any daily logs**
9 **that identify the guests of Annunciation House?**

10 A. Yes.

11 MR. WESEVICH: Same objection.

12 Go ahead.

13 A. Yes.

14 **Q. (BY MR. FARQUHARSON) What do those logs**
15 **contain?**

16 A. When someone is on shift at Annunciation House,
17 who's in charge of the house at the time, they write
18 what maybe happened, for example, what did we eat for
19 lunch or dinner. And on occasion, it might talk about
20 something that happened during the -- on the shift, that
21 could identify a guest.

22 **Q. So they don't necessarily include the names of**
23 **the guests? So they might, but they don't necessarily?**

24 A. That's correct.

25 **Q. Do the -- do those logs contain any other**

1 **information?**

2 A. They would include the date and the person --
3 the person's first name who -- who was writing the
4 notes.

5 **Q. So the date, the person making the log, and any**
6 **notable occurrences from the day?**

7 A. That's correct.

8 **Q. Would it include the number of guests that are**
9 **staying at Annunciation House on any given day?**

10 A. Some volunteers write how many arrivals there
11 are, but that doesn't -- that's not always the case.

12 **Q. Does Annunciation House track the number of --**
13 **have a record that tracks the number of guests that are**
14 **staying at -- on a given day?**

15 A. Yes. Our volunteers at the end of the night
16 send a text message to Ruben that says how many people
17 are in the house.

18 **Q. On a daily basis?**

19 A. Yes.

20 **Q. Do you -- do you have personal knowledge of**
21 **what Ruben does with that information?**

22 MR. WESEVICH: Objection, running
23 objection.

24 We'll instruct you not to answer.

25 **Q. (BY MR. FARQUHARSON) So other than a text**

1 message, you as the house coordinator at Annunciation
2 House, don't keep a log of the number of guests that
3 stay at Annunciation House on a given day; am I correct?

4 A. That's correct.

5 Q. And you are not aware of any holistic document
6 that addresses the number of guests that stay at
7 Annunciation House on a given day?

8 MR. WESEVICH: Objection, misstates the
9 testimony.

10 Q. (BY MR. FARQUHARSON) You can answer the
11 question.

12 A. Aside from, perhaps, the spreadsheet where we
13 put every -- every person who's in the house. We
14 already went over this, that would have the arrival date
15 and the departure date.

16 Q. Does that spreadsheet auto-populate the number
17 of people that are staying on any given day, based on
18 arrival and departure date?

19 A. No.

20 Q. Do you keep a log of the guests that are fed at
21 Annunciation House on any given day? Do you need me to
22 repeat the question?

23 A. No. We don't keep track of who's eating and
24 who's not eating at Annunciation House.

25 Q. Do you keep track of the number of meals that

1 are served?

2 A. No.

3 Q. And so there's no record, whether daily,
4 weekly, monthly, am I correct?

5 A. That's correct.

6 Q. Other than the documents that we've discussed,
7 the intake form, the travel slip, the medication log,
8 the daily log, are there -- are there any compilations
9 or summaries or documents that are kind of created out
10 of the information you collect in those materials?

11 A. To clarify, you're asking whether I, as the
12 house coordinator, gather -- create a document with that
13 information?

14 Q. I'm asking whether -- I'm not asking whether or
15 not you create it. I'm asking whether or not in your
16 role as the house coordinator at Annunciation House you
17 are aware of the existence of -- of such documents?

18 A. No.

19 Q. Does Annunciation House give any documents or
20 materials to its guests when they check in, or when they
21 arrive?

22 A. That would just be the rule sheet. And
23 sometimes the guest takes it, but we don't require them
24 to physically take it.

25 Q. Do you give them any other materials?

1 A. No.

2 Q. Do you give them any materials pertaining to
3 the presentation of asylum claims?

4 MR. WESEVICH: Objection.

5 We'll instruct you not to answer.

6 MR. FARQUHARSON: Just so we can be -- you
7 and I can be on the same page. I think that question is
8 logically consumed in the earlier question. So I'm just
9 being more specific to an unobjected to question.

10 MR. WESEVICH: I will withdraw my
11 objection, and I agree with you. And I'll withdraw the
12 objection.

13 Go ahead.

14 MR. FARQUHARSON: Thank you.

15 A. Can you repeat the question?

16 Q. (BY MR. FARQUHARSON) Do you give your guests
17 any materials pertaining to the presentation of asylum
18 claims?

19 A. No.

20 Q. And I -- when I say "you," I mean Annunciation
21 House, the house that you're in charge of. Same answer?

22 A. That's still correct.

23 Q. Do you give them any other immigration-related
24 resources?

25 A. Not across the board, no.

1 **Q. Why the caveat?**

2 A. I -- in our -- in our rule sheet, it says you
3 should access -- you can go to a legal aid office in
4 El Paso. That would be an example of them being able to
5 access that information on their own.

6 **Q. Does it identify where they can go?**

7 A. In the rule sheet, no.

8 **Q. Anything else?**

9 A. No.

10 **Q. So we've gotten into the contents of the rule**
11 **sheet. And so I'm -- what else is in the rule sheet?**

12 A. The hours of the house, the hours of the meals,
13 the basic rules around respect of property and other
14 guests in the house that we can have -- that we may have
15 soap, shampoo, items like that, that if they need, they
16 can ask for. And then, reasons that they may be asked
17 to leave.

18 **Q. What are the reasons they might be asked to**
19 **leave?**

20 A. If we -- we are -- we prohibit drinking and
21 drugs, violence, and not respecting the hours of the
22 house.

23 **Q. Are guests checked for those prohibitive**
24 **materials at all when they enter the Annunciation House?**

25 MR. WESEVICH: Objection.

1 I'll instruct you not to answer.

2 MR. FARQUHARSON: And, Jerry, you've
3 asserted the Fourth Amendment privilege, which goes to a
4 reasonable expectation of privacy. And I think whether
5 or not the guests have a reasonable expectation of
6 privacy at Annunciation House is directly related to
7 whether or not they are searched.

8 MR. WESEVICH: You can argue it.

9 MR. FARQUHARSON: So you maintain your
10 objection and instruct her --

11 MR. WESEVICH: Yes, sir.

12 **Q. (BY MR. FARQUHARSON) What -- what other**
13 **information is in the rules?**

14 A. It mentions that if they have a need to speak
15 to a lawyer they can ask one of us to help them look
16 that up, as well as medical assistance.

17 **Q. Are there internal documents upon which the**
18 **Annunciation House volunteers rely to make those**
19 **referrals?**

20 A. There is written down the two legal aid offices
21 that are pro -- pro bono, that are free, and offer
22 discounts to our guests.

23 **Q. What are those?**

24 A. Las Americas and Estrella Del Paso.

25 **Q. Does it have any resources for an immigrant who**

1 might be outside or going outside of El Paso, for
2 example, further south on the Texas border?

3 MR. WESEVICH: Objection -- objection,
4 vague.

5 A. No.

6 Q. (BY MR. FARQUHARSON) And -- and to make sure
7 my enunciation is clear, not further south of the border
8 but on the border, so in Texas?

9 A. That's correct. We --

10 Q. Same answer?

11 A. Yeah.

12 Q. Do the rules state that there are any other
13 resources they can ask -- that your guests can ask
14 volunteers about?

15 A. No.

16 Q. Do you have any sort of a written contract with
17 your guests?

18 A. No.

19 Q. Do you ever receive medical records from your
20 guests?

21 A. Yes.

22 Q. What medical records might you receive?

23 A. Discharge paperwork.

24 Q. Anything else?

25 A. Maybe a prescription that they're asking us to

1 help them fill.

2 Q. Do your rules offer to connect them with a
3 doctor, if need be?

4 A. Yes.

5 Q. Any other medical records you might receive?

6 A. No.

7 Q. Approximately what percentage of your guests
8 provide Annunciation House with these types of medical
9 records?

10 MR. WESEVICH: Objection -- go ahead, and
11 I'll withdraw.

12 Go ahead.

13 A. I can't say there's a percentage. If someone
14 has a medical need, they may show us the document and
15 say this is my situation.

16 Q. (BY MR. FARQUHARSON) Would you say that that's
17 more than -- more or less than 20 percent of your
18 guests?

19 MR. WESEVICH: Objection, speculation --
20 calls for speculation. Sorry.

21 A. I couldn't say how many people that have
22 medical issues compared to how many people don't.

23 Q. (BY MR. FARQUHARSON) More -- well, I'm not
24 asking about that. I'm asking about the number of
25 guests that present the medical records to Annunciation

1 **House. Does that change your answer?**

2 A. No. It varies each week how many people we
3 might get that has a medical need --

4 **Q. Can you think of a week where more than 50**
5 **percent of your guests provided you with medical**
6 **records?**

7 A. No.

8 **Q. Can you think of a week where more than 25**
9 **percent of your guests provided you with medical**
10 **records?**

11 A. I mean, I can't say. I can't say for sure. I
12 know we have had a week where we had quite a few.

13 **Q. And I -- I'm not --**

14 A. I can't say it's 25 percent.

15 **Q. I'm not trying to nail you down on a specific**
16 **percentage. I'm just trying to get a general idea of**
17 **about how many guests are providing these records. Can**
18 **you give me an overall kind of -- again, not going to**
19 **lock you to it, just a general idea?**

20 A. I guess to clarify, over what time frame are we
21 talking about?

22 **Q. Well, I mean, that's why I'm really asking for**
23 **like an average. I'm not asking for any specific day.**

24 A. It really varies, depending on how many people
25 get -- cover that and ask if we can take somebody from

1 the hospital.

2 Q. Okay. But you don't recall it being more than
3 50 percent?

4 A. That's correct.

5 Q. Does Annunciation House provide any health-care
6 services?

7 MR. WESEVICH: Objection.

8 I'll instruct you not to answer.

9 MR. FARQUHARSON: Jerry, you raised HIPAA
10 as an objection and claim in this case. So I'm entitled
11 to know whether or not Annunciation House is even
12 subject to HIPAA.

13 MR. WESEVICH: HIPAA involves -- we can't
14 give health information on records. We're talking --
15 always talking about records, right. Your question
16 didn't go to records.

17 MR. FARQUHARSON: It goes to an objection
18 that you have raised and only certain entities are
19 subject to HIPAA. So are -- are you waiving your HIPAA
20 objection?

21 MR. WESEVICH: No.

22 MR. FARQUHARSON: Okay. Then, will you
23 allow the answer -- the witness to answer the question?

24 MR. WESEVICH: No.

25 MR. FARQUHARSON: What is the basis of your

1 objection?

2 MR. WESEVICH: The running objection.

3 MR. FARQUHARSON: So you're making a HIPAA
4 objection, but you will not allow me to ask questions
5 that go to whether or not Annunciation House is subject
6 to HIPAA; am I correct?

7 MR. WESEVICH: I've stated our position.
8 You can argue otherwise. Go ahead.

9 **Q. (BY MR. FARQUHARSON) Do you know how many**
10 **guests are at Annunciation House today?**

11 MR. WESEVICH: Objection.

12 I'll instruct you not to answer the
13 question.

14 MR. FARQUHARSON: Jerry, you have stated
15 that guests are fearful and not staying at Annunciation
16 House. That is in your amended petition that was served
17 yesterday. So are you going to withdraw that
18 allegation?

19 MR. WESEVICH: No.

20 MR. FARQUHARSON: Okay. Will you allow the
21 ans -- the witness to answer the question?

22 MR. WESEVICH: No.

23 MR. FARQUHARSON: What is the basis of your
24 objection?

25 MR. WESEVICH: The running objection.

1 **Q. (BY MR. FARQUHARSON) Do you know approximately**
2 **how many guests were staying at Annunciation House on**
3 **February 7th, 2024?**

4 MR. WESEVICH: I'll object based on the
5 same running objection, and I think we're done here.

6 MR. FARQUHARSON: That goes directly to the
7 number of intake forms that should exist for that day,
8 Jerry.

9 MR. WESEVICH: Very well.

10 MR. FARQUHARSON: We're not going off the
11 record.

12 **Q. (BY MR. FARQUHARSON) Once you receive the**
13 **records that we have discussed today, the intake form,**
14 **the travel slip, the medication log, the daily logs,**
15 **where do they go? Where are those records kept?**

16 A. They are in Annunciation House.

17 **Q. Where in Annunciation House?**

18 A. There should be two filing cabinets -- no,
19 three filing cabinets.

20 **Q. Where?**

21 A. There is one on the first floor -- no, there's
22 two on the first floor. And there's one in the
23 basement.

24 **Q. Okay. Are they in offices?**

25 A. No.

1 Q. Are they -- are they in any locations where
2 guests might have access to them?

3 MR. WESEVICH: Objection, vague.

4 A. The guest should not have access to them,
5 but -- yeah, they should not have access to them.

6 Q. (BY MR. FARQUHARSON) Are they -- are those
7 filing cabinets in any sleeping quarters where guests
8 might sleep?

9 A. No.

10 Q. And the records -- does Annunciation House
11 keep -- does the Annunciation House facility keep all of
12 the Annunciation House, plural facilities, records at
13 that location?

14 A. No.

15 Q. So each facility maintains its own records, to
16 your knowledge?

17 A. That's correct.

18 Q. Are those filing cabinets locked?

19 A. No.

20 Q. Are they in a room that is locked?

21 A. One is.

22 Q. Is it the basement one?

23 A. Yes.

24 Q. Are there specific records -- the -- are -- do
25 the filing cabinets contain specific records? Like, are

1 **there -- is one filing cabinet for intake forms, the**
2 **other for travel slips? Or how are they divided?**

3 A. One is specifically with the intake forms. And
4 the other one has one -- has one that has, like, the
5 rule sheet, and copies of the rule sheet. And where the
6 shift notebooks go.

7 **Q. And then, that's the third one, is shift**
8 **notebooks?**

9 A. No. Those are the two that are -- those are
10 two of them.

11 **Q. Those are the two that are upstairs?**

12 A. Uh-huh.

13 **Q. And what does the basement one contain?**

14 A. That one has documents prior to 2020.

15 **Q. Okay. Given that you-all are not destroying**
16 **physical records right now, have you had to add a filing**
17 **cabinet upstairs, or anything like that? Or what are**
18 **you doing with the overload?**

19 A. Can you ask one -- one of the question -- one
20 question, so I know which one to answer?

21 **Q. Of course. Given that you're not destroying**
22 **physical records right now, am I correct that you have**
23 **an overload of documents that you're keeping?**

24 MR. WESEVICH: Objection, vague.

25 A. I -- we -- I don't -- I wouldn't consider it,

1 yet, an overload.

2 Q. (BY MR. FARQUHARSON) Okay. So the filing
3 cabinets aren't full, yet?

4 A. That's correct.

5 Q. How much space do you have left in them?

6 A. I -- I -- the one drawer that I'm using for
7 recent people is getting full. I can't say if I'll be
8 able to put any more in.

9 Q. And that's one of the upstairs' cabinets?

10 A. Yes.

11 Q. I'm tendering to your counsel a document that
12 I'm marking as Exhibit 1. I'll give them an opportunity
13 to look at it, and then I'll ask you to review it.

14 (Exhibit marked, Exhibit 1)

15 Q. (BY MR. FARQUHARSON) You can just say so, once
16 you've had a chance to review it.

17 A. Okay.

18 Q. Is that a true and correct copy of the RTE that
19 was served to you on February 7th, 2024?

20 A. It looks to be so.

21 Q. And you were the Annunciation House
22 representative that was personally served with that,
23 correct?

24 A. That's correct.

25 Q. Where was it served?

1 A. Outside the front door at Annunciation House.

2 Q. Do you recall what you were doing immediately
3 prior to being served with the RTE?

4 MR. WESEVICH: Objection.

5 I'll instruct you not to answer.

6 MR. FARQUHARSON: Is that the running
7 objection?

8 MR. WESEVICH: Yes, sir.

9 Q. (BY MR. FARQUHARSON) In the weeks and months
10 since Annunciation House received the RTE, have you
11 participated in any efforts to identify responsive
12 records?

13 A. Can you repeat the question?

14 Q. In the weeks and months since you've received
15 the RTE, have you participated in any efforts to
16 identify responsive records?

17 A. What do you mean by responsive?

18 Q. So Exhibit 1 in front of you, on the page 7
19 lists eight categories of documents. In the time since
20 you received -- since Annunciation House received the
21 RTE, have you participated in any efforts to identify
22 what documents Annunciation House maintains and which
23 are responsive to one of these eight categories?

24 A. Yes, I'm familiar with -- I know where these --
25 yeah. Yes.

1 Q. What efforts have you participated in?

2 A. Identifying what some of what you're asking
3 means.

4 Q. And what is -- what was your role in that?

5 MR. WESEVICH: I -- I would make an
6 attorney/client privilege objection, to ask you not to
7 answer anything that has to do with discussions that you
8 and I had about the document in question.

9 Q. (BY MR. FARQUHARSON) Yeah. So to be perfectly
10 clear, I don't want to know what you -- what you talk --
11 you said to your lawyer, your lawyer said to you. I
12 just want to know what your role was, what you
13 physically did, looked for, that type of thing.

14 A. I guess, I don't understand the question.

15 Q. That's -- that's fair. So let me back up. The
16 document -- or the filing cabinet in the basement of
17 Annunciation House has records that pertain to pre-2020.

18 A. (Moving head up and down).

19 Q. I assume that your -- the -- the forms that
20 Annunciation House has kept over the years are not --
21 have not been uniform every single year, that might have
22 changed over time. So is it -- have you participated in
23 going down to the basement, looking in that filing
24 cabinet and seeing if any of the documents in that
25 filing cabinet are responsible -- are responsive to one

1 **of these eight categories of documents?**

2 A. So the question is that -- specific, did I look
3 in the filing cabinet in the basement for these
4 documents?

5 **Q. That is an example of the type of conduct that**
6 **I'm asking about.**

7 A. I guess, what my role -- I know where all of
8 these documents are. I don't know -- I didn't
9 necessarily do anything.

10 **Q. So you didn't review the documents in the**
11 **filing cabinet after receiving this RTE?**

12 A. That's correct.

13 **Q. Do you know the total number of documents at**
14 **Annunciation House that are responsive to this RTE?**

15 MR. WESEVICH: Objection, calls for
16 speculation, vague.

17 A. I guess, to clarify, is the question, like, the
18 form that gets filled out, or the one that's already
19 filled out?

20 **Q. (BY MR. FARQUHARSON) So that's not my**
21 **question.**

22 **My question is, this document asks for**
23 **eight categories of documents from Annunciation House.**
24 **My question is, in attempting to comply with this or**
25 **preparing to comply with this, are -- do you know the**

1 total number of documents that exist at Annunciation
2 House and are responsive to this?

3 MR. WESEVICH: Objection, calls for
4 speculation and vague.

5 A. Yeah, I -- I wouldn't -- I'm understanding the
6 question now, and I wouldn't know how many.

7 Q. (BY MR. FARQUHARSON) Is there a person at
8 Annunciation House, your facility, that is more familiar
9 with the records that your specific facility keeps, than
10 you?

11 A. No.

12 Q. Is there a -- is there a specific person, other
13 than your attorneys, who have reviewed the rec -- the
14 records at Annunciation House to identify how many
15 documents are responsive to one of these eight
16 categories?

17 MR. WESEVICH: Objection, foundation.

18 A. No.

19 Q. (BY MR. FARQUHARSON) In the time between when
20 Annunciation House was served with the RTE and the time
21 that it obtained a temporary restraining order, were any
22 attempts made to comply with the RTE?

23 A. Yes.

24 Q. What attempts were made?

25 A. I guess, identifying the documents that you're

1 asking for.

2 Q. Okay. But you've just told me other that --
3 other than your attorneys, neither you nor anybody
4 you're aware of reviewed those documents. So what
5 attempts are you referencing?

6 A. Knowing where these documents are for when --
7 if we do, in fact, turn them over, waiting on the
8 Judge's -- the Court's decision, we know where they are
9 to be able to turn them over.

10 Q. Was there a factual reason why you couldn't
11 have given those documents or made them available to the
12 attorneys general -- Assistant Attorneys General on
13 February 7th, 2024?

14 MR. WESEVICH: Objection, calls for a legal
15 conclusion.

16 A. My understanding was we needed to talk to our
17 lawyer, and that's what we've done.

18 Q. (BY MR. FARQUHARSON) Okay.

19 A. And it's not my decision to turn them over,
20 so...

21 Q. So the reason that -- that they have not been
22 produced pertains to law; it does not pertain to
23 Annunciation House -- Annunciation Houses' inability to
24 produce those documents?

25 MR. WESEVICH: Objection, lack of

1 foundation in testimony, misstates the testimony.

2 A. I would say when you ask me to turn something
3 over, I would need time to find where those documents
4 are and to make sure they're the right documents.

5 Q. (BY MR. FARQUHARSON) You didn't know that
6 those documents were kept in the three filing cabinets
7 we've discussed on February 7th 2024?

8 A. I -- I guess, try -- I didn't know all of the
9 documents that you were referring to. So that would be
10 something that the lawyer would have to -- to determine,
11 what documents does all of this refer to, so...

12 Q. But you knew what documents were in those three
13 filing cabinets?

14 A. That's correct.

15 Q. And there was no physical impediment to you
16 giving those to the Assistant Attorneys General that
17 were present and served you with the RTE?

18 A. It -- it wasn't my decision to -- that's in
19 charge of Annunciation House. It's not my decision
20 to -- to turn these documents over.

21 Q. Exactly. And I'm not talking about
22 decision-making. I'm not talking about the law. I'm
23 only talking about a physical impediment that prohibited
24 you from making those records available to the Assistant
25 Attorneys General?

1 A. Physical impediment, no.

2 Q. You could have given them to the Assistant
3 Attorneys General on that day?

4 A. No, I could not have.

5 Q. Factually?

6 A. Physically, yes.

7 Q. What is the first thing that you did after
8 receiving the RTE?

9 MR. WESEVICH: Objection.

10 I'll instruct you not to answer, based on
11 the running objection.

12 Q. (BY MR. FARQUHARSON) In the time since you
13 were served with the RTE, have you spoken to anybody
14 about the Attorney General's investigation, or the
15 documents that are sought, other than your attorneys and
16 other than the people we discussed at the beginning of
17 this deposition about the Attorney General's
18 investigation or the RTE?

19 A. Can I clarify if the question is stating did I
20 -- have I mentioned that this exists, that the lawsuit
21 exists, or specifics about the lawsuit?

22 Q. Have you had -- well, I think that if -- have
23 you had any mentions? Have -- yeah. Let's go there
24 first.

25 A. Yes.

1 Q. About how many times?

2 A. I would say not more than ten.

3 Q. Okay. And are the people we discussed earlier
4 included within those ten people?

5 A. Yes.

6 Q. And I -- I guess I -- I jumped to a conclusion
7 that there was ten people and not just ten instances.
8 You were referencing ten people that you mentioned it
9 to; am I right?

10 A. No. I don't -- I wouldn't be able to say how
11 many people. Yeah, I'd say ten instances.

12 Q. Why would you not be able to say the number of
13 people?

14 A. In, like, a group setting, someone might ask,
15 "What's going on?" And that came up.

16 Q. Have you mentioned it in more than one group
17 setting?

18 A. Not that I recall.

19 Q. What group setting are you referencing?

20 A. When we had to -- when we -- when we started
21 having a security guard outside of the house, I told the
22 people in the house why that person was outside.

23 Q. When did you start having a security guard
24 outside the house?

25 A. I would say at least -- within a week after the

1 serving of the RT- -- no, maybe two weeks.

2 **Q. And the people that you were explaining that to**
3 **was guests of Annunciation House?**

4 A. That's correct.

5 **Q. Was -- were there any -- was anybody present**
6 **who was not a guest of Annunciation House?**

7 A. Yes.

8 **Q. Okay. What -- so what were the contents of**
9 **that conversation? What all did you say?**

10 A. From what I recall, I said that we were given
11 this documentation to -- or that there's this legal
12 situation happening, and that one of the things that
13 we're going to do to -- is to have the security guard,
14 to make sure people are safe inside the house.

15 **Q. Were any questions raised?**

16 A. No.

17 **Q. Did you say anything else?**

18 A. Let me think. I mean, I -- I can't remember.
19 I can speculate on what I remember that I would have
20 said, but I don't know if I actually said it.

21 **Q. Why? Is there something in particular that**
22 **you're thinking that you would speculate to?**

23 A. I guess, in assuring the guests that we're here
24 to -- to protect them, and that nothing has changed.

25 **Q. Did you disclose in that conversation anything**

1 about the arguments you were making or anything about
2 your conversations with your lawyers?

3 A. No.

4 Q. Did you tell the guests or any of the people
5 there what arguments were being made, and how
6 Annunciation House was dealing with this, from a legal
7 standpoint?

8 A. No.

9 Q. Do you recall what time of day that
10 conversation occurred?

11 A. No.

12 Q. Was it light outside?

13 A. I think so.

14 Q. And this might be relevant to your ability to
15 answer that question.

16 A. Right.

17 Q. Do you live at Annunciation House?

18 A. Not -- it's not my official address, no.

19 Q. Okay.

20 (Cesar left deposition.)

21 Q. (BY MR. FARQUHARSON) So you don't know whether
22 it was morning or evening when you had that
23 conversation?

24 A. No.

25 Q. When you say it's not your official address,

1 **what does that mean?**

2 A. I am at Annunciation House the majority of my
3 days, and I would consider myself -- and I sleep there
4 on some nights, that I work there, part -- part time.

5 **Q. During that conversation, did any of the guests**
6 **say that they were going to leave because of this?**

7 A. Not within the conversation I had with them,
8 no.

9 **Q. What did you do on February 7th, 2024, after**
10 **you got off the phone with Mr. Garcia?**

11 MR. WESEVICH: Objection, running
12 objection.

13 I'll instruct you not to answer.

14 **Q. (BY MR. FARQUHARSON) Who is the first person**
15 **that you contacted after you spoke with Mr. Garcia?**

16 MR. WESEVICH: Objection, running
17 objection.

18 We'll instruct you not to answer.

19 **Q. (BY MR. FARQUHARSON) I'm going to go back to**
20 **Exhibit 1, the RTE, on page 7. If you'll walk with me**
21 **through these eight categories.**

22 **We've talked about that there were some**
23 **documents that were in the filing cabinets that could**
24 **have been provided to the Assistant Attorneys General.**
25 **But let's start off with item one: Documents sufficient**

1 to show all referrals within the relevant time period.

2 And I believe it's document at -- on the
3 first page of Exhibit -- Attachment A. So it's the one,
4 two, third page says: Unless otherwise noted, the
5 request in this RTE, required production of documents,
6 from January 1, 2022, to the date this RTE is received
7 herein called the relevant time period.

8 So, again, request number 1: Documents
9 sufficient to show all referrals within the relevant
10 time period.

11 Did documents fitting that description
12 exist at Annunciation House on February 7th, 2024?

13 MR. WESEVICH: Objection, vague,
14 unintelligible.

15 Q. (BY MR. FARQUHARSON) If the question -- if you
16 don't understand the question, please feel free to say
17 so, and I'll rephrase the question.

18 A. Can you repeat the question?

19 Q. During the relevant time period that Exhibit
20 Number 1 defines, which is from January 1, 2022, to the
21 date of service, did documents sufficient to show all
22 referrals exist at Annunciation House on February 7th,
23 2024?

24 MR. WESEVICH: And my objection is the lack
25 of foundation. It's not been established that she

1 understands what this means, that she understands what
2 item 1 means.

3 A. No.

4 Q. (BY MR. FARQUHARSON) What about item number 2:
5 Documents sufficient to show -- sufficient to show all
6 services that you provide to aliens, whether present in
7 the United States legally or illegally.

8 Did any documents meeting that description
9 exist at Annunciation House on February 7th, 2024?

10 A. Yes.

11 Q. Item number 3: Documents sufficient to
12 identify all facilities in Texas under your control or
13 operating at your behest.

14 Did documents meeting that description
15 exist at Annunciation House on February 7, 2024?

16 A. As I -- I wouldn't know what document that
17 refers to.

18 Q. Okay. What about category 4: All applications
19 for humanitarian relief funding submitted by
20 organization through the emergency food and shelter
21 program.

22 Did documents meeting that description
23 exist at Annunciation House on February 7th, 2024?

24 MR. WESEVICH: And I would -- objection. I
25 would object to vague, because it's not clear what you

1 mean by "Annunciation House." Are you talking about
2 1003 East San Antonio, or are you talking about in --
3 within the organization, totally?

4 MR. FARQUHARSON: Thank you. Happy to
5 clarify that.

6 Q. (BY MR. FARQUHARSON) I'm only referencing
7 documents that existed at the facility where you are the
8 house coordinator.

9 A. No.

10 Q. Category 5: All underlying documentation
11 supporting your applications for humanitarian relief
12 funding under the EF -- EFSP, including all
13 documentation that you are required to maintain under
14 that program. Did documents meeting that description
15 exist at Annunciation House where you were the house
16 coordinator on February 7, 2024?

17 A. No.

18 Q. Category 6 says: All documents provided by
19 individual aliens as a part of your intake process. Did
20 documents meeting that description exist at Annunciation
21 House on February 7th, 2024? Again, Annunciation House
22 only being the facility where you were the house
23 coordinator.

24 A. To clarify, your -- you're asking about
25 documents that -- that -- that guests give us to keep?

1 Q. Uh-huh.

2 A. In this time frame?

3 Q. Correct.

4 A. No.

5 Q. Do you -- you don't think that the medical
6 records that we discussed a few moments ago would fall
7 under that description?

8 A. We don't keep those documents.

9 Q. Okay. You -- I -- did I mishear you earlier
10 when you said that sometimes guests would give you
11 discharge paperwork and prescriptions?

12 A. I guess, to clarify, they show them to us. We
13 don't keep them.

14 Q. Okay.

15 A. Not across the board.

16 Q. Not across the board?

17 A. (Moving head up and down.)

18 Q. So there are instances where you keep them?

19 A. There have been.

20 Q. Okay. So my question then remains.

21 Do documents fitting that description
22 exist -- did they exist at Annunciation House on
23 February 7, 2024?

24 A. Yes. I -- yeah.

25 Q. Category 7: All documents provided to

1 individual aliens as a part of your intake process. Did
2 documents fitting that description exist at Annunciation
3 House where you were the house coordinator on February
4 7, 2024?

5 A. Yes.

6 Q. And category 8: All logs identifying aliens to
7 whom you have provided services in the relevant time
8 period. Did documents meeting that description exist at
9 Annunciation House where you were the house coordinator
10 on February 7, 2024?

11 A. Yes.

12 Q. You mentioned a minute ago that you had a
13 conversation about the Attorney General's investigation
14 in a group setting and that there were people there who
15 were not you, were not guests. Who were those people?

16 A. I don't remember who was there, but they would
17 have been other volunteers at the time who -- who
18 happened to be in the room.

19 Q. Do you remember about the date of that
20 conversation, or how far after the RTE, maybe, it was?

21 A. It would have been maybe the day -- it was
22 probably the day after the security guard started
23 working.

24 Q. Have we covered what day the security guard
25 started working?

1 A. I believe I said -- I want to say it was maybe
2 two weeks after the original RTE was served.

3 **Q. Okay. Did any specific incident occur at**
4 **Annunciation House that required the security guard's**
5 **presence?**

6 A. I believe it was after the Attorney General
7 publicly announced that they were doing this.

8 **Q. What happened?**

9 A. After that? We -- we received phone calls,
10 threatening phone calls.

11 **Q. Did you personally receive them?**

12 A. Yes.

13 **Q. About how many?**

14 A. I think I might have only received two.

15 **Q. Are you aware --**

16 A. Myself.

17 **Q. Are you aware of any others that were received**
18 **at your facility?**

19 A. Yes.

20 **Q. How many?**

21 A. I would say between 15 to 20. I would say at
22 least 20, yeah.

23 **Q. The calls that you're personally aware of and**
24 **personally participated in, were there any threats of**
25 **violence?**

1 A. The ones that I took myself?

2 Q. Uh-huh.

3 A. And talk to? Violence, no.

4 Q. Are you aware of any of the calls or how many
5 of the calls you're aware of that threatened violence?

6 THE VIDEOGRAPHER: Before you answer, can
7 you move your hair?

8 THE WITNESS: Oh, sorry.

9 THE VIDEOGRAPHER: Thank you.

10 A. I can't recall. I know at least -- I would say
11 at least two. And then, there were others that were
12 insinuating, because they were asking, where were we
13 located? They specifically asked what our address was.

14 Q. (BY MR. FARQUHARSON) But you -- you weren't on
15 the phone calls?

16 A. Exactly.

17 Q. The two that specifically had violence, who
18 received those phone calls on behalf of the Annunciation
19 House?

20 A. I can't recall. I know -- I -- yeah, I can't.

21 Q. Did you notify Mr. Garcia?

22 A. He's aware, yes.

23 Q. Well, did you notify him after -- after you
24 learned of the calls?

25 A. I notified him that we were receiving phone

1 calls, and some of them were violence.

2 **Q. Threatened violence? Did you text him that?**

3 A. I -- I'm sure I have, at least once.

4 **Q. Okay. Would you be willing to provide us with**
5 **that text message, and would you be willing to provide**
6 **us with the phone records from the phone numbers that**
7 **threatened violence? Would you be willing to give those**
8 **to the Attorney General's office?**

9 MR. WESEVICH: Objection.

10 I would instruct you not to answer that
11 question.

12 MR. FARQUHARSON: What's -- not
13 Annunciation House's text messages, it's her text
14 message. So unless you're representing her in her
15 personal capacity, what's the basis of your --

16 MR. WESEVICH: I'm representing her in her
17 personal capacity.

18 MR. FARQUHARSON: Oh, okay.

19 **Q. (BY MR. FARQUHARSON) Has your attorney**
20 **informed you of the conflicts of interest rules**
21 **pertaining to professional legal representation in**
22 **Texas?**

23 MR. WESEVICH: Objection, attorney/client
24 privilege.

25 Don't answer that question.

1 Q. (BY MR. FARQUHARSON) So you're unwilling to
2 give us the records of the phone calls that threatened
3 violence against Annunciation House?

4 MR. WESEVICH: Objection, misstates the
5 testimony.

6 A. I don't have permission to give you any -- it
7 has to go through my boss.

8 Q. (BY MR. FARQUHARSON) Okay. But you're willing
9 to give them to us?

10 A. If my boss says I have -- that he's giving me
11 permission and the Court says that they're giving us
12 permission, or saying that that's what we have to do,
13 then that would be what we would do.

14 Q. He's in the room. Mr. Garcia is in the room
15 right now? Do you want to ask him?

16 A. I --

17 MR. WESEVICH: Objection.

18 I'm going to again, instruct you not to
19 answer the question.

20 MR. FARQUHARSON: I'm simply asking for the
21 records of threatening calls so that the Attorney
22 General's office can look into these threats of violence
23 against Annunciation House.

24 MR. WESEVICH: Yeah, just -- just send a
25 request.

1 MR. FARQUHARSON: I'm making it right
2 now.

3 MR. WESEVICH: Just send it to me.

4 MR. FARQUHARSON: And -- I mean, I'm -- I'm
5 asking a line of questioning to her. She said that if
6 her boss gives her permission. Her boss is in the room
7 and I'm asking, would -- could you ask Mr. Garcia
8 whether or not you can give us those records?

9 MR. WESEVICH: You can send a request.

10 MR. FARQUHARSON: I'm making the request
11 right now.

12 MR. WESEVICH: I understand. We'll comply
13 with the rules of discovery.

14 MR. FARQUHARSON: So is the answer yes or
15 no?

16 MR. WESEVICH: The answer is I will
17 respond.

18 MR. FARQUHARSON: Is there an instruction
19 not to answer, or an objection on the table?

20 MR. WESEVICH: An instruction not to
21 answer.

22 MR. FARQUHARSON: On what basis?

23 MR. WESEVICH: On the same running
24 objection.

25 MR. FARQUHARSON: Okay. Well, that -- that

1 makes no sense. Because you are making freedom of
2 expression, freedom of association, religious objections
3 on the basis of threats of violence. We are trying to
4 look into those threats of violence and you're telling
5 me that you will not allow the answer -- the witness to
6 answer my question?

7 MR. WESEVICH: I'm not -- I didn't say yes
8 or no about whether we would provide the documents. I
9 said that we would -- that they will respond through me
10 to that kind of a question.

11 MR. FARQUHARSON: You instructed the
12 witness not to answer. That's what we're discussing
13 right now. You instructed the witness not to answer and
14 I'm asking you the basis upon which you're instructing
15 the witness not to answer.

16 MR. WESEVICH: The basis is that you're
17 trying to conduct an investigation here.

18 MR. FARQUHARSON: I'm simply asking about
19 the allegations that you have made, the claims and
20 defenses that you have raised. The privileges you have
21 raised, pertaining to freedom of association and threats
22 of violence against Annunciation House, and you won't
23 allow -- you're not going to allow the witness to answer
24 my question?

25 MR. WESEVICH: Okay. What is the question?

1 Restate the question again.

2 Q. (BY MR. FARQUHARSON) Ms. Bull, can you --
3 Mr. Garcia is in the room. Can you ask him whether or
4 not you can produce the phone records pertaining to the
5 threatening phone calls that Annunciation House has
6 received to the Attorney General's office?

7 For the record, right now, opposing counsel
8 is speaking to Mr. Garcia, has just turned to him to
9 instruct him on, I assume, how he's going to answer the
10 question.

11 MR. MCGRAW: Just to clarify the record, I
12 haven't spoken to Mr. Garcia yet. I did turn to speak
13 to him, but I haven't said anything.

14 MR. WESEVICH: Fine. Ask -- you can -- you
15 can ask Mr. Garcia the question. Go ahead. You can ask
16 Mr. Garcia that question. Go ahead.

17 A. You're asking -- so the question is, can I ask
18 him?

19 Q. (BY MR. FARQUHARSON) Would you be willing to
20 ask him right here?

21 A. I would -- I don't know if it's -- if that's --
22 is this an appropriate time to --

23 Q. Can you do it?

24 A. I can ask him. Yes, I can.

25 Q. Thank you.

1 A. You want me to ask him?

2 **Q. Yes, please.**

3 THE WITNESS: Ruben, if we were able to
4 produce these documents, the -- what we have that's
5 recorded from these phone calls, would we be able to
6 hand them over?

7 MR. GARCIA: Mary, I'm not going to answer
8 the question. I'm not the subject of this deposition,
9 and I'm not going to become involved. I haven't been
10 sworn in. I will not allow myself to be sworn in, and I
11 won't participate in this deposition at all.

12 **Q. (BY MR. FARQUHARSON) The phone calls, you**
13 **said, "recorded." Are the calls recorded?**

14 A. No.

15 MR. FARQUHARSON: Could we take a
16 five-minute break?

17 MR. WESEVICH: Yes, sir.

18 THE VIDEOGRAPHER: The time is 12:52 p.m.
19 We're off the record.

20 (Recess taken.)

21 THE VIDEOGRAPHER: The time is 1:00 p.m.
22 We're back on the record.

23 **Q. (BY MR. FARQUHARSON) Ms. Bull, I understand**
24 **that Annunciation House is a Catholic organization. But**
25 **in terms of the faith of its employees and volunteers,**

1 am I correct that only about half identify as religious?

2 MR. WESEVICH: Objection, foundation.

3 A. I would say, yeah, half would identify with a
4 religion.

5 Q. (BY MR. FARQUHARSON) And the other half would
6 just -- would just identify as -- in your terms,
7 spiritual?

8 A. That's correct.

9 Q. And you made that statement, a statement to
10 that effect last year on a Jesuit border podcast. Do
11 you remember that?

12 A. Yes.

13 Q. You said in terms of faith, probably only about
14 half, maybe, are religious in a particular way. But I
15 would say all of us are spiritual.

16 Do you recall that?

17 A. Yes.

18 Q. Among the folks at Annunciation House that are
19 religious, can you tell me about what, if any,
20 sincerely-held religious beliefs they share?

21 MR. WESEVICH: Objection, calls for
22 speculation, and -- and lack of foundation.

23 Q. (BY MR. FARQUHARSON) Only to the extent that
24 you might know.

25 A. What do you mean by "share"?

1 **Q. So similar beliefs shared among them?**

2 A. I would say we all share similar beliefs.
3 It -- it just is defined differently. But it's the
4 same --

5 **Q. What are -- what are the shared beliefs?**

6 A. Human -- the right to human dignity, the right
7 to safety, treat your neighbor as your -- yourself.
8 Treat others as you would want to be treated.

9 **Q. Anything else?**

10 A. I think those are the main ones.

11 **Q. And in practical terms, based on your personal**
12 **knowledge, how does Annunciation House pursue its**
13 **religious mission?**

14 A. I would say that we practice what the gospel --
15 that I am aware of, what the gospel is preaching, which
16 is to relay the seven commandments, I believe is how
17 many there are.

18 **Q. Seven commandments, what --**

19 A. From my understanding, it's clothe people who
20 need -- like clothes, feeding people who are hungry,
21 taking care of someone when they're sick, visiting me if
22 I'm incarcerated, I think is one of them. I can't say
23 all of them. I -- I'm still new to Catholicism. So I
24 know that's one of the seven commandments are to take
25 care of each other.

1 Q. And I didn't want to ask you, but you've
2 revealed that you're new to Catholicism. So you -- you
3 are -- that's your belief system. You are Catholic?

4 A. No. I would -- wouldn't say that. I don't
5 subscribe to a specific religion, but I understand the
6 other -- other religions.

7 Q. And when you say you don't subscribe to a
8 particular religion, are you saying you don't subscribe
9 to a particular denomination of Christianity or you
10 don't subscribe to a particular religion, at large?

11 A. I would say I don't -- there isn't a name for
12 what I -- what my belief system is.

13 Q. Okay. Does Annunciation House have any
14 employees or volunteers that are former guests?

15 MR. WESEVICH: Go ahead and answer.

16 A. Like, at this moment or during?

17 Q. (BY MR. FARQUHARSON) Or yeah, during your
18 tenure?

19 A. Yes.

20 Q. How many?

21 A. Can you repeat what the question was, just so I
22 understand.

23 Q. Does Annunciation House have any employees or
24 volunteers that are former guests?

25 A. Yes. And you're asking how many over the

1 12-year period?

2 **Q. Roughly. 12 years is a long time. Let's pare**
3 **it back to the last two years?**

4 A. The last years? I would say a handful, but I'd
5 like to clarify that to be a volunteer, someone might
6 volunteer to do something particular, like I'll cook the
7 meals. How do we define someone as a volunteer might
8 vary. So that -- to me, it would be impossible to --

9 **Q. That's a good point.**

10 A. Employees, maybe I would say, oh, gosh, maybe a
11 handful, maybe.

12 **Q. Is there -- so you bring up a good point. Is**
13 **there a formal volunteer application process?**

14 A. Yes.

15 **Q. So I'm only talking about the folks that have**
16 **been through that. Does that change your answer?**

17 A. Uh-huh. Gosh. That I'm aware of, none of --
18 no former guests have actually filled out a volunteer
19 application to become a full-blown volunteer.

20 **Q. Why not?**

21 A. I would -- I -- I wouldn't know why someone
22 wouldn't want to, you know, come back and volunteer.

23 **Q. Why do you require it of some people and not**
24 **other people?**

25 A. Require what?

1 **Q. The application.**

2 A. I guess, kind of going back to what it means to
3 be a volunteer, we have year-long volunteers, interns
4 for ten weeks, and two-week volunteers. There's
5 different applications for that.

6 **Q. Can you tell me about the housing that**
7 **Annunciation House offers?**

8 MR. WESEVICH: Objection, vague.

9 A. My -- my house?

10 **Q. (BY MR. FARQUHARSON) Yes.**

11 A. The one that I'm overseeing?

12 **Q. Right.**

13 A. I guess what -- what do you -- what is -- what
14 is the question?

15 **Q. Yeah. Let me rephrase. Because I want to ask**
16 **you -- Annunciation House at large, unless it's**
17 **materially different from Annunciation House, from your**
18 **facility. Does that make sense?**

19 A. So can you repeat the first question? So --
20 because I understand the second question. The second
21 part of the question is, in general, what does
22 Annunciation House provide.

23 **Q. Yeah. What's the housing that it offers,**
24 **generally asking about that?**

25 A. The housing, in terms of if -- is it a dorm

1 space, a -- a room, a hotel room?

2 **Q. Sleeping space?**

3 A. Sleeping space.

4 MR. WESEVICH: Objection, form.

5 I'll instruct you not to answer.

6 MR. FARQUHARSON: On?

7 MR. WESEVICH: Running objection.

8 **Q. (BY MR. FARQUHARSON) How many guests can**

9 **Annunciation House house?**

10 MR. WESEVICH: Objection.

11 Don't answer, running objection.

12 **Q. (BY MR. FARQUHARSON) How many guests does**

13 **Annunciation House have today?**

14 MR. WESEVICH: Same objection, running
15 objection.

16 Don't answer that.

17 **Q. (BY MR. FARQUHARSON) Who completes the intake**

18 **sheets at Annunciation House? Is it -- is it volunteers**

19 **and staff or the guests themselves when they arrive?**

20 A. That varies, but usually the volunteers on
21 shift.

22 **Q. What does it vary? Like, what's the factor?**

23 MR. WESEVICH: Objection, running
24 objection.

25 Don't answer.

1 **Q. (BY MR. FARQUHARSON) Are guests required to**
2 **participate in religious services while they're at your**
3 **facilities?**

4 A. No.

5 **Q. What religious services are offered to them?**

6 A. When someone -- when a priest or a religious
7 person offers to give mass, we allow that.

8 **Q. Is that weekly?**

9 A. It depends on who's available. So, no.

10 **Q. What is the longest period you can recall where**
11 **a mass was not offered to your guests?**

12 A. I would say -- I can only really recall maybe
13 the last two years. So in the terms of the last two
14 years, maybe nine months, ten months.

15 **Q. Does Annunciation House offer confessions to**
16 **its guests?**

17 A. No.

18 **Q. Does Annunciation House offer baptisms to its**
19 **guests?**

20 A. Can you clarify the question in regards to who
21 you're referring to as Annunciation House?

22 **Q. The -- well, if you know -- you -- I'd love for**
23 **you to answer, if you know the practices outside your**
24 **facility. I'm specifically talking about the practices**
25 **at your facility, where you're the house coordinator.**

1 **Do guests at your facility, are baptisms made available**
2 **to them?**

3 A. Not by anyone that works in the houses, no.

4 **Q. Do you offer communion to your guests?**

5 A. If a priest is -- does mass, they would offer
6 communion.

7 **Q. Okay. Does Annunciation House make efforts to**
8 **religiously convert its guests to Catholicism?**

9 A. No.

10 **Q. Are you familiar with the term "evangelism"?**

11 A. Yes.

12 **Q. And does Annunciation House practice any -- any**
13 **efforts of evangelism towards its guests?**

14 A. No.

15 **Q. What are the requirements for admission into**
16 **Annunciation House?**

17 MR. WESEVICH: Objection.

18 And I'll instruct you not to answer.

19 MR. FARQUHARSON: On the basis of the
20 running objection?

21 MR. WESEVICH: Yes.

22 **Q. (BY MR. FARQUHARSON) What are the sleeping**
23 **arrangements at Annunciation House?**

24 MR. WESEVICH: Running objection.

25 I instruct you not to answer.

1 MR. FARQUHARSON: I believe this goes to
2 the guest expectations of privacy. If that changes your
3 objection or allows the witness to answer.

4 MR. WESEVICH: It does not change the
5 objection or the instruction.

6 Q. (BY MR. FARQUHARSON) What are the bathroom and
7 shower facilities, what's that arrangement at
8 Annunciation House?

9 MR. WESEVICH: Running objection.
10 Instruct you not to answer.

11 Q. (BY MR. FARQUHARSON) You mentioned that
12 Annunciation House has a curfew. How do you track who
13 enters and exits the facility?

14 MR. WESEVICH: Running obstruction. I'll
15 instruct you not to answer I think --

16 MR. FARQUHARSON: Do you have a sign-in
17 sheet.

18 MR. WESEVICH: We're done. I'm sorry?
19 We're not going to harass the witness.

20 MR. FARQUHARSON: I'm not trying to harass.
21 What did I do to harass her?

22 MR. WESEVICH: You keep asking
23 investigatory questions and we're not going to sit here
24 all day to go through that.

25 MR. FARQUHARSON: This question goes to the

1 recordkeeping. I'm asking, do you maintain a sign-in or
2 sign-out sheet when a person enters or exits the
3 facility?

4 MR. WESEVICH: Go ahead.

5 A. At Annunciation House, no, we do not.

6 **Q. (BY MR. FARQUHARSON) How do you track who is**
7 **entering and who is exiting?**

8 MR. WESEVICH: Objection, running
9 objection.

10 Don't answer the question.

11 Are you done, or are you --

12 MR. FARQUHARSON: I mean, I think I have a
13 number of relevant questions. It's clear to me that we
14 disagree on that.

15 MR. WESEVICH: Correct, we do.

16 MR. FARQUHARSON: So --

17 MR. WESEVICH: I think we -- I think the
18 Judge has enough of a record to distinguish to see our
19 disagreement. Don't you?

20 MR. FARQUHARSON: It would be my preference
21 for us to continue with the deposition. But --

22 MR. WESEVICH: I'm not willing to continue
23 the deposition if all we're doing is these investigative
24 questions. If you've got questions that go to the
25 lawfulness of the RTE. I'm happy to proceed.

1 MR. FARQUHARSON: And so what you're saying
2 is, I cannot ask questions that go to any other issue in
3 this lawsuit, including your second amended petition
4 which was served yesterday, the only thing that can be
5 raised is the RTE?

6 MR. WESEVICH: The lawfulness of the RTE,
7 yes. And I would also add that the second amended
8 petition only goes to the lawfulness of the RTE.

9 MR. FARQUHARSON: Great. Well, then the
10 question -- the accusations that the Attorney General's
11 office made baseless allegations go to the lawfulness of
12 the RTE.

13 MR. WESEVICH: Correct. The Attorney
14 General has -- has no basis for making the allegations.
15 You're not here to get your basis. That's the
16 difference. That's our difference right there.

17 MR. FARQUHARSON: So your position is that
18 that the Court must accept your allegation as true and
19 we get no opportunity to rebut your allegations?

20 MR. WESEVICH: As of the time that the
21 Attorney General served the RTE. The Attorney General
22 had no basis. And it -- that is not -- that is not
23 addressed or fixed by you coming here today to try to
24 get your basis.

25 MR. FARQUHARSON: Okay.

1 MR. WESEVICH: That's our disagreement.
2 You can't come here to get your basis for what you did
3 on September 7th. That's our agreement.

4 MR. FARQUHARSON: But you think you are
5 allowed to ask our corporate representative those exact
6 same questions?

7 MR. WESEVICH: Yes, I do.

8 MR. FARQUHARSON: And you're going to end
9 this deposition and not allow me to ask questions about
10 that, about the same subjects that are in your -- in
11 your request for a corporate rep deposition of the
12 office of the Attorney General?

13 MR. WESEVICH: But they're not the same
14 questions. They're distinct questions.

15 MR. FARQUHARSON: Same topic.

16 MR. WESEVICH: I'm asking you what your
17 basis was, and you're saying, Well, I didn't have one,
18 but now I can come to see if I can get one. And that's
19 what we disagree about.

20 MR. FARQUHARSON: So you will not allow me
21 to ask questions about the topics that you are going to
22 ask the corporate rep --

23 MR. WESEVICH: That -- that
24 mischaracterizes what our disagreement is.

25 MR. FARQUHARSON: That's what I understand

1 to be the disagreement.

2 MR. WESEVICH: Well, I guess the Judge is
3 just going to have to decide it, then.

4 MR. FARQUHARSON: So you're ending the
5 deposition?

6 MR. WESEVICH: Yeah. I mean -- I see that
7 you have nothing else related to the RTE. I do have a
8 few questions that I want to ask to get on the record.

9 MR. FARQUHARSON: No. If you're ending the
10 deposition, then we're ending the deposition, and if
11 you're not, then I'm going to continue with my
12 questioning.

13 MR. WESEVICH: Do you have any other
14 questions that address the lawfulness of the RTE?

15 MR. FARQUHARSON: Based on your description
16 of the second amended petition, only going to the
17 lawfulness of the RTE, I absolutely believe that I
18 have questions that pertain to the lawfulness of the
19 RTE.

20 MR. WESEVICH: Okay. Try one or two of
21 them, and let's see if they fly.

22 **Q. (BY MR. FARQUHARSON) Do particular medical**
23 **facilities ever send records to Annunciation House?**

24 A. No.

25 **Q. You've never received medical records from**

1 **University Medical Center?**

2 A. Received in what way?

3 Q. Being sent by University Medical Center or a
4 physician or medical provider associated with that
5 medical center?

6 A. To me, directly?

7 Q. Yes.

8 A. No.

9 Q. Have you had guests who were patients of that
10 medical center?

11 A. Which medical center?

12 Q. University Medical Center.

13 A. Yes.

14 Q. Are you familiar with a medical center by the
15 name of Del Sol Medical Center?

16 A. Yes.

17 Q. Have you had guests who were patients of that
18 medical center?

19 A. Yes.

20 Q. How frequently do you receive guests from those
21 two locations?

22 MR. WESEVICH: I'll instruct you not to
23 answer the question based on the running objection.

24 Q. (BY MR. FARQUHARSON) Do you maintain any sorts
25 of phones or computers that your guests can use?

1 MR. WESEVICH: I'll instruct you not to
2 answer the question, based on the running objection.

3 Okay. We are ended. Thank you very much.

4 THE VIDEOGRAPHER: So that's it?

5 This ends the deposition. The time is 1:22
6 p.m. We're off the record.

7 (Proceedings concluded.)

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NO. 2024DCV0616

1
2 ANNUNCIATION HOUSE, INC.,) IN THE DISTRICT COURT
3)
4 Plaintiff/Counter-Defendant,))
5)
6 v.) EL PASO COUNTY, TEXAS
7)
8 KEN PAXTON, in his official)
9 Capacity as Texas Attorney)
10 General,)
11)
12 Defendant/Counter-Plaintiff.) 205TH JUDICIAL DISTRICT

9 REPORTER'S CERTIFICATION
10 DEPOSITION OF MARY LOUISE BULL
11 APRIL 17, 2024

12 I, Iris L. Leos, Certified Shorthand Reporter
13 in and for the State of Texas, hereby certify to the
14 following:

15 That the witness, MARY LOUISE BULL, was duly
16 sworn by the officer and that the transcript of the oral
17 deposition is a true record of the testimony given by
18 the witness;

19 That the deposition transcript was submitted on
20 April 22, 2024 to the witness or to the
21 attorney for the witness for examination, signature and
22 return to me by May 12, 2024;

23 That the amount of time used by each party at
24 the deposition is as follows:

25 Mr. Wesevich - 0 hours, 0 minutes

1 Mr. McGraw - 0 hours, 0 minutes

2 Mr. Farquharson - 2 hours, 50 minutes

3 Mr. Fuller - 0 hours, 0 minutes

4 That pursuant to information given to the
5 deposition officer at the time said testimony was taken,
6 the following includes counsel for all parties of
7 record:

8 Mr. Wesevich, Attorney for Plaintiff/
9 Counter-Defendant

10 Mr. McGraw, Attorney for Plaintiff/
11 Counter-Defendant

12 Mr. Farquharson, Attorney for Defendant/
13 Counter-Plaintiff

14 Mr. Fuller, Attorney for Defendant/
15 Counter-Plaintiff

16 I further certify that I am neither counsel
17 for, related to, nor employed by any of the parties or
18 attorneys in the action in which this proceeding was
19 taken, and further that I am not financially or
20 otherwise interested in the outcome of the action.

21 Further certification requirements pursuant to
22 Rule 203 of TRCP will be certified to after they have
23 occurred.

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Certified to by me this 22nd day of April,
2024.



IRIS L. LEOS, Texas CSR 7568
Expiration Date: 7/31/2025
Integrity Legal Support Solutions
Firm No. 12712
9901 Brodie Lane, Suite 160-400
Austin, Texas 78748
(512) 320-8690

1 FURTHER CERTIFICATION UNDER RULE 203 TRCP

2
3 The original deposition was/was not returned to
4 the deposition officer on _____;

5 If returned, the attached Corrections and
6 Signature page contains any changes and the reasons
7 therefor;

8 If returned, the original deposition was
9 delivered to Mr. Rob Farquharson, Custodial Attorney;

10 That \$_____ is the deposition officer's
11 charges to the Defendant/ Counter-Plaintiff for
12 preparing the original deposition transcript and any
13 copies of exhibits;

14 That the deposition was delivered in accordance
15 with Rule 203.3, and that a copy of this certificate was
16 served on all parties shown herein on _____
17 and filed with the Clerk.

18 Certified to by me this ____ day of
19 _____, 2024.

20
21 _____
22 IRIS L. LEOS, Texas CSR 7568
23 Expiration Date: 7/31/2025
24 Integrity Legal Support Solutions
25 Firm No. 12712
9901 Brodie Lane, Suite 160-400
Austin, Texas 78748
(512) 320-8690

CORRECTIONS AND SIGNATURE

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1 I, MARY LOUISE BULL, have read the foregoing
2 deposition and hereby affix my signature that same is
3 true and correct, except as noted above.

4

5

6

MARY LOUISE BULL

7

THE STATE OF TEXAS)

8

COUNTY OF EL PASO)

9

10 Before me, _____, on this
11 day personally appeared MARY LOUISE BULL known to me (or
12 proved to me under oath or through _____)
13 (description of identity card or other document) to be
14 the person whose name is subscribed to the foregoing
15 instrument and acknowledged to me that they executed the
16 same for the purposes and consideration therein
17 expressed.

18 Given under my hand and seal of office this
19 _____ day of _____, 2024.

20

21

NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS

22

23 My commission expires: _____

24

25

EXHIBIT 7

CAUSE NO: 2024 dcv 0616

ANNUNCIATION HOUSE, INC.

Plaintiff,

v.

**KEN PAXTON, in his official capacity as
Texas Attorney General, and JENNIFER
COBOS, in her official capacity as
Director of Regional Operations &
Strategy for the Office of the Attorney
General**

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IN THE DISTRICT COURT

OF EL PASO COUNTY, TEXAS

205th JUDICIAL DISTRICT

I, Anthony Carter declare that,

1. I am over 21 years of age and fully competent in all respects to make this declaration. I am one of the individuals responsible for Defendant’s investigation into Plaintiff Annunciation House.
2. I am a Peace Officer employed as a Criminal Investigator with the Texas Attorney General’s Office assigned to the Human Trafficking Unit, Criminal Investigations Division. I have been a Peace Officer for over 29 years and hold a Master Peace Officer license in the State of Texas. I have extensive experience in the investigation of Homicides, and complex organized crime investigations. I have personal knowledge of the matters herein stated:
3. Four locations were identified as properties operated by Annunciation House. The first property located was 1003 San Antonio Avenue, El Paso, Texas 79901 (Location 1). Location 1 is owned by Annunciation House according to CAD records. It was identified

as a receiving site for individuals seeking assistance and was believed to be the main office of Annunciation House.

4. Secretary of State records show the Executive Director of Annunciation House as Ruben L. Garcia. A source of information observed Garcia dropping off groceries at location 1. Garcia was driving a white Toyota truck bearing TXLP- GSP-4841. This vehicle registration showed the owner as Annunciation House.
5. Location 1 showed evidence of housing of unidentified persons inside the building. A source of information identified several Hispanic individuals from adults to small children seen entering and leaving this Location 1. Source of information also observed what appeared to be bunk beds on the second-floor level of the building from the windows.
6. A source of information identified that only three individuals possessed a key allowing entry into Location 1, one individual later identified as an employee of Annunciation House, and another two unidentified women. Everyone else observed entering the building rang a doorbell before they were allowed into the building.
7. The second location identified was 815 Myrtle Avenue, El Paso Texas 79901 (Location 2). Location 2 shows to be owned by Annunciation House according to CAD records and was identified through open-source records as “Casa Teresa”. Source of information observed a clothesline in the rear of the building with laundry hanging to dry. Location 2 is believed to be a housing for individuals associated with Annunciation House.
8. The third location identified was located at 325 Leon Street, El Paso Texas 79901 (Location 3). Location 3 shows to be owned by Annunciation House according to CAD records and was identified through open-source records as “Casa Vides”. Source of information

observed clotheslines in the rear yard of the building with laundry hanging to dry. Location 3 is believed to be a housing for individuals associated with Annunciation House.

9. The fourth location identified was 5636 Frutas Avenue, El Paso Texas 79901 (Location 4). Location 4 was under renovation and is believed to not have any inhabitants currently living at this location.
10. A source of information identified members of the Annunciation House giving guidance to individuals seeking information. The staff member stated, if a person crossed the border into the United States undetected, that they Annunciation House would be able to assist them and provide shelter at their facility.
11. The staff member stated, if the person crossed the border and was placed in a shelter by immigration, then they wouldn't be able to provide any shelter. The staff member advised the best way is to enter via the Port of Entry, but that is not always ideal.
12. The staff member advised that they could offer hospitality to an undocumented/undetected person if they came to them at their facility. The staff member referred individuals to "Las Americas" for legal aid, and Diocesan Migrant Refugee Services (DMRS) for assistance as well.
13. The staff member stated again that if the person crossed over legally, that person would be placed in shelter by immigration, and they could not help because it is too complicated if the person is placed in a shelter by immigration. The staff member stated if the person comes over illegally, they work with that on a case-by-case basis.
14. The staff member also advised that they could help a person with paperwork and in the past, they had ways to help people on the other side of the border in Mexico to assist

persons in coming over, but currently do not have that available service in Mexico. I declare under penalty of perjury that the foregoing is true and correct.

Executed on this day, February 15, 2024.

/s/ Anthony Carter
Sgt. Anthony Carter
Criminal Investigations Division

EXHIBIT 8

From: [Jerome Wesevich \(ELP\)](#)
To: [Levi Fuller](#)
Cc: [Will Taylor](#)
Subject: RE: [EXTERNAL EMAIL] Request to Examine - Annunciation House
Date: Thursday, February 8, 2024 3:39:46 PM
Attachments: [2024.02.08 - exh b - email fr ag - printed and stamped.pdf](#)
[2024.02.08 - exh a - admin subpoena packet delivered to ahi - printed and stamped \(3\).pdf](#)
[2024.02.08 - original petition ahi - FINAL.pdf](#)
[2024.02.08 - TRO signed by judge dominquez.pdf](#)

Dear Messrs. Fuller and Taylor:

Annunciation House wishes to provide you the documents to which you are entitled under law. This will require study and work on our part, and unfortunately litigation as well because it is impossible to comply with your deadline, and we remain concerned about the legality of certain aspects of your request.

Consequently we found it necessary to secure the attached Temporary Restraining Order, which temporarily prevents you from making findings concerning your Request to Examine or otherwise enforcing it. I have also attached our petition and application for the TRO, with all filed exhibits, and the receipt for our bond.

To be clear, Annunciation House has always intended to comply with Texas law. We remain open to constructive dialogue with you to discern what documents you need to reassure you that Annunciation House is complying with Texas law.

[JEROME WESEVICH](#)
TEXAS RIOGRANDE LEGAL AID
1331 TEXAS AVENUE
EL PASO, TEXAS 79901
(915) 585-5120
WWW.TRLA.ORG

From: Levi Fuller <Levi.Fuller@oag.texas.gov>
Sent: Wednesday, February 7, 2024 4:17 PM
To: Jerome Wesevich (ELP) <JWESEVICH@trla.org>
Cc: Will Taylor <Will.Taylor@oag.texas.gov>
Subject: RE: [EXTERNAL EMAIL] Request to Examine - Annunciation House

Dear Mr. Wesevich,

Thank you for your email. This response serves to clarify your client's obligations under our Request to Examine.

First, our Request to Examine instructed your client to give our office **immediate** access to inspect certain specified records. Our statutory authority instructs that your client "shall immediately permit" our office to "inspect, examine, and make copies" of those records. Tex. Bus. Orgs. Code 12.152. To avoid any conceivable doubt about this matter, the courts have repeatedly held that our office's authority to inspect records under this statute is "full and unlimited and unrestricted" and may be exercised "at any time and as often as [we] may deem necessary." *Humble Oil & Refining CO. v. Daniel*, 259 S.W.2d 580, 587-88 (Tex.App. 1953); *Chesterfield Finance v. Wilson*, 328 S.W.2d

479, 481 (Tex. App. 1959) (same). Although the statute entitles us to **immediate** access, we nevertheless gave your client time today to consult internally and with its attorneys regarding our Request to Examine. But your email that you “expect” to provide a “response” “within 30 days” is not compliant with our Request to Examine. Unless your client provides us access to the specified records in its possession by **tomorrow, February 8**, we will deem it to be in non-compliance with our Request to Examine.

Granted, we recognize that your client may not physically possess every record that we are seeking to examine. Your client’s obligation to comply immediately does not request it to perform impossible feats. But it would defy credulity for at least some records to not be available. For example, our Request to Examine identified that your client must provide us access to “All logs identifying Aliens to whom [it] ha[s] provided services in the relevant time period.” Unless your client simply does not maintain such logs, then those logs are presumably available for our inspection “immediately” within the meaning of the statute and our Request to Examine. In addition, to the extent your client maintains digital files of any of the records that we are requesting to examine, we likewise assess those records to be available for our “immediate” inspection.

Second, your client should also treat this response as an instruction to **preserve all records that may relate to our Request to Examine** and to **cease any protocol for the automatic deletion of emails or backup files on its computer systems**. Please ensure that all employees and contractors of your client are aware of their obligation to preserve records.

Third, as noted above, the Office of the Attorney General will deem your client to be in non-compliance with our Request to Examine if it does not provide us access to the specified records in its possession by tomorrow, February 8. In order to facilitate our access, you may reach me at this email address.



Levi T. Fuller
Assistant Attorney General
Special Litigation and Non-Profit Enforcement
Consumer Protection Division
Office of the Attorney General of Texas
P: (512) 936-1308
Fax.: (512) 473-8301
Levi.fuller@oag.texas.gov

PRIVILEGED AND CONFIDENTIAL: This communication and any attachments are intended solely for the use of the individual or entity to which it is addressed, may be confidential and/or privileged pursuant to Government Code sections 552.101, 552.103, 552.107 and 552.111, and should not be disclosed, copied, or distributed without the express authorization of the Attorney General. If you have received this e-mail in error, immediately delete same and contact the sender.

From: Jerome Wesevich (ELP) <JWESEVICH@trla.org>

Sent: Wednesday, February 7, 2024 4:47 PM

To: Levi Fuller <Levi.Fuller@oag.texas.gov>

Subject: Request to Examine - Annunciation House

Good afternoon Mr. Fuller. My office represents Annunciation House regarding the request to examine documents that your office served on it this morning. I expect to provide its response to you within 30 days.

Respectfully,

JEROME WESEVICH
TEXAS RIOGRANDE LEGAL AID
1331 TEXAS AVENUE
EL PASO, TEXAS 79901
(915) 585-5120
WWW.TRLA.ORG

EXHIBIT 9

LAW OFFICES OF
TEXAS RIOGRANDE LEGAL AID, INC.

1331 TEXAS AVENUE
EL PASO, TEXAS 79901
(915) 585-5100



JEROME WESEVICH
GENERAL COUNSEL
JWESEVICH@TRLA.ORG
(915) 585-5120

March 3, 2024

VIA Email to levi.fuller@oag.texas.gov

Levi Fuller, Assistant Attorney General
Special Litigation and Non-Profit Enforcement
Consumer Protection Division
Office of the Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711

Re: Annunciation House, Inc.

Dear Mr. Fuller:

I represent Annunciation House, and this letter responds to the “Request to Examine” (RTE) that you personally served on February 7, 2024, in El Paso. Annunciation House maintains that the RTE is without legal or factual basis, unauthorized, improper, overreaching, and unconstitutional on its face.

Even so, attached are responsive documents, which I’ve Bates stamped Annunciation House 0001 to 0212. None of these documents are redacted. The attached documents answer RTE items 2, 3, and 4.

RTE items 5, 6, 7, and 8 seek communications between Annunciation House and its guests, to which Annunciation House has lodged objections. After the court decides whether to sustain those objections in the pending declaratory judgment action, 2024DCV0616, I will release to you all documents that the Court orders to be released. I have attached a privilege log at the end of the attached Bates stamped documents that describes the documents that Annunciation House is withholding subject to its objections.

As for RTE item 1, we cannot understand it even in light of your definition of “Referral.” Annunciation House therefore has no way of preparing a privilege log as to this item. Of course Annunciation House maintains all of its attorney-client and work product privileges.

Feel free to call if you have any questions.

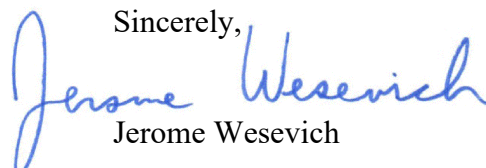
Sincerely,

Jerome Wesevich

EXHIBIT 10

ORIGINAL

REPORTER'S RECORD
TRIAL COURT CAUSE NO. 2024DCV0616
VOLUME 1 OF 1 VOLUME

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ANNUNCIATION HOUSE, INC.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	IN THE DISTRICT COURT
KEN PAXTON, IN HIS OFFICIAL	§	
CAPACITY AS TEXAS ATTORNEY	§	OF EL PASO COUNTY, TEXAS
GENERAL, and JENNIFER COBOS,	§	
IN HER OFFICIAL CAPACITY AS	§	205TH JUDICIAL DISTRICT
DIRECTOR OF REGIONAL	§	
OPERATIONS & STRATEGY FOR THE	§	
OFFICE OF THE ATTORNEY	§	
GENERAL,	§	
	§	
Defendants.	§	

TEMPORARY INJUNCTION HEARING

On the 7th day of March 2024, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable FRANCISCO X. DOMINGUEZ, Judge Presiding, held in El Paso, El Paso County, Texas.

Proceedings reported by machine shorthand.

APPEARANCES

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Mr. Jerome W. Wesevich
SBOT NO. 21193250
TEXAS RIOGRANDE LEGAL
AID, INC.
1331 Texas Ave.
El Paso, Texas 79901
(915) 585-5120
Attorney for Plaintiff

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SBOT NO. 24129238
OFFICE OF THE ATTORNEY GENERAL
OF TEXAS
P.O. Box 12548
Austin, Texas 78711
(512) 475-4656
Attorney for Defendants

Mr. Robert W. Doggett
SBOT NO. 05945650
TEXAS RIOGRANDE LEGAL
AID, INC.
4920 N. Interstate 35
Suite 100
Austin, Texas 78751
(512) 374-2725
Attorney for Plaintiff

Mr. Rob Farquharson
SBOT NO. 24100550
OFFICE OF THE ATTORNEY GENERAL
OF TEXAS
300 W. 15th St.
Austin, Texas 78701
(214) 290-8811
Attorney for Defendants

CHRONOLOGICAL INDEX
 VOLUME 1
 (TEMPORARY INJUNCTION HEARING)

	Page	Vol.
MARCH 7, 2024		
Announcements.....	4	1
Opening statement by Mr. Wesevich.....	7	1
<u>PLAINTIFF'S WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>
	<u>VOIR DIRE</u>	<u>VOL.</u>
RUBEN GARCIA	13,72	40
	--	1
Closing arguments by Mr. Wesevich.....	75	1
Closing arguments by Mr. Baasch.....	76	1
Further closing arguments by Mr. Wesevich..	80	1
Court takes ruling under advisement.....	81	1
Adjournment.....	82	1
Court reporter's certificates.....	83,84	1

<u>PLAINTIFF'S</u>				
<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>OFFERED</u>	<u>ADMITTED</u>	<u>VOL</u>
P-1	Request to Examine	74	74	1
P-2	Privilege Log	75	75	1

<u>DEFENDANTS'</u>				
<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>OFFERED</u>	<u>ADMITTED</u>	<u>VOL</u>
A	<i>New Yorker</i> article	64	--	1

1 (Called to order of the Court)

2 THE COURT: The Court calls Cause Number
3 2024DCV0616, Annunciation House, Inc. v. Ken Paxton, in
4 his official capacity as Texas Attorney General, and
5 Jennifer Cobos, in her official capacity as Director of
6 Regional Operations & Strategy for the Office of the
7 Attorney General.

8 Announcements, please.

9 MR. WESEVICH: Jerome Wesevich and
10 Robert Doggett for plaintiff, Annunciation House,
11 Your Honor.

12 MR. BAASCH: Ryan Baasch and
13 Rob Farquharson for defendant, the Attorney General
14 of Texas, Ken Paxton.

15 THE COURT: Good morning, everyone.

16 Here is what we have. I know there were
17 already the admonishments given to everybody and to the
18 public. I know this is a case that is of great
19 importance to, obviously, the parties and to the public,
20 but it's still a courtroom and there's still rules of
21 decorum, so I really -- I'm going to ask you-all to
22 abide by that.

23 As to the counsel, one of the things that
24 I want to emphasize is this: This Court is in the
25 middle of trial right now, but I've set aside the time

1 this morning to hear this case. We have two hours, and
2 I know there are a number of pending motions. I'm aware
3 of them. I've read them, and so what I want to make
4 sure we do today is be efficient.

5 So what we're going to do is, the first
6 and most important issue right now is the injunction
7 issue, so that's what we're going to take up. I believe
8 that some of the other issues -- I know there's a motion
9 to quash; I know there's a plea to the jurisdiction; I
10 know there's a motion for leave -- that need to be taken
11 up. I think that the injunction issue may resolve, or
12 at least make it easier to resolve, those issues.

13 So let's focus on the injunction. Let's
14 move forward efficiently.

15 And, Mr. Wesevich, yes, sir?

16 MR. WESEVICH: Your Honor, if I may?
17 Annunciation House believes that the motion to quash is
18 what we would begin with because it would moot all the
19 other issues if the Court grants the motion to quash,
20 and that's why we would urge the Court to take up the
21 motion to quash first. And I'm prepared to step through
22 that and to present the evidence on that.

23 The evidence is going to be very similar
24 on the motion to quash as for the temporary injunction.

25 THE COURT: Okay.

1 Well, do you have a response to that?

2 MR. BAASCH: I do, Your Honor. Thank you
3 for your time today in light of your other obligations
4 with the trial.

5 As far as the motion to quash is
6 concerned, there are a number of reasons why it can't be
7 granted. The first reason is that the Attorney
8 General's Office has been subject to a temporary
9 retraining order that is now extended to the maximum
10 period under the Rules of Civil Procedure. That's
11 28 days. Granting the motion to quash is the functional
12 equivalence of extending that temporary retraining order
13 another 45 days.

14 We would submit that if Your Honor is
15 going to do something like that, it has to be in the
16 form of a temporary injunction. It can't be in the form
17 of quashing the subpoena.

18 Another reason why the motion to quash
19 can't be granted is because the Texas Attorney General
20 Request to Examine under the Business Organization Code,
21 simply is the subject for the motions to quash. The
22 proper way to challenge is through a declaratory
23 judgment action. They've blocked the declaratory
24 judgment action. Motions to quash have heard --
25 litigation-style subpoenas in the middle of discovery,

1 they're not for pre-suit, requests to examine under the
2 Business Organization Code.

3 THE COURT: Well, as much as -- and I
4 anticipate -- here's what we're going to do. We're
5 going to hear the injunction. I think it touches on the
6 motion to quash, which is what I was saying is that I
7 think it touches on all these other issues. So let's go
8 ahead and move forward with the injunction that's set
9 for today and take it from there.

10 MR. WESEVICH: And is the Court going to
11 hear argument on the injunction, or are we proceeding
12 with witnesses, Your Honor?

13 THE COURT: I'll leave it up to you.
14 You -- I have -- as a former trial lawyer, I have
15 opinions on how you should proceed, but that's not my
16 role today, so I'll let you-all select how you want to
17 proceed.

18 MR. WESEVICH: Very, very briefly before
19 we call our first witness, Your Honor.

20 This -- when the Attorney General sent
21 three men to Annunciation House, the Attorney General
22 was not seeking documents. What the Attorney General
23 was seeking was an excuse to shut Annunciation House
24 down.

25 The evidence will show how flimsy that

1 excuse was. We're going to focus on the documents that
2 were requested. We have complied with the document
3 request that was given to us. We provide -- in the
4 response that the Attorney General filed only two days
5 ago, the Attorney General divides the requested
6 documents into two categories. We have supplied the
7 Attorney General with the documents in the Attorney
8 General's first category.

9 It's the second category that remains
10 disputed. The Attorney General requested a privilege
11 log. We provided a privilege log. Everyone knows what
12 the disputed documents are. What remains to be decided
13 is our -- our privileges to resist giving those
14 documents to the Attorney General. All -- Annunciation
15 House does not refuse to give any documents to the
16 Attorney General. All Annunciation House seeks is an
17 opportunity for this Court to rule on whether
18 Annunciation House must give the documents to the
19 Attorney General.

20 Once we have the Court's ruling, we will
21 comply with the Court's ruling. There has never been
22 any refusal to give documents to the Attorney General.
23 All we're seeking is a ruling on our constitutional
24 objections to providing documents.

25 The Supreme Court could not have been

1 clearer that the Attorney General may not punish any
2 organization for failing to provide documents until
3 there has been pre-compliance review. That has not
4 happened yet. The Court has not had an opportunity to
5 review whether this private information -- which
6 includes names, A-numbers that are assigned by the
7 federal government, birth dates, medical information,
8 legal information -- this is -- these are -- this
9 is regarding Annunciation House guests. This is the
10 information that we want the Court to review and make a
11 decision prior to us having to turn that information
12 over to the Attorney General.

13 And that is when I will -- we believe that
14 in the end, we will show the Court that we've been
15 entirely cooperative with the subpoena requests and
16 that an injunction is one appropriate procedure. There
17 are really parallel procedures. There's no authority
18 whatsoever that prevents the Court from exercising its
19 equitable jurisdiction to grant a motion to quash, which
20 is basically an extension of time. But the temporary
21 injunction does work the same way.

22 To be very, very clear, Your Honor, you
23 just heard opposing counsel stand up and say the proper
24 way to proceed is through a temporary injunction
25 proceeding. And that's fine, and we have filed those

1 papers. If that's the way the Court chooses to proceed,
2 we have no objection to that. But at the same time that
3 the Attorney General -- the opposing counsel is standing
4 up and he's telling you, "This is the proper way to
5 proceed," remember that the Attorney General also has a
6 plea to the jurisdiction pending before this Court. And
7 the Attorney General is -- at the same time he's saying,
8 "This is the way to proceed," he's also saying, "You
9 can't proceed this way. You have no jurisdiction to
10 proceed this way."

11 We believe that the Court has jurisdiction
12 to proceed either under the -- under the temporary
13 injunction path or the motion to quash path. The motion
14 to quash path is simply the simplest way to proceed.

15 Be that as it may, either way we will show
16 that we have been entirely compliant with the Request to
17 Examine. All we're seeking is the opportunity to have a
18 court make the decisions about what sensitive
19 information must be released before that information is
20 released.

21 And Your Honor will hear a lot of
22 discussion today, I would anticipate, about the timing
23 about when Annunciation House needed to have provided
24 these documents. And there's a very important fact that
25 the Court -- we would ask the Court to keep in mind when

1 it comes to the timing.

2 In the response that the Attorney General
3 filed yesterday, the Attorney General -- I'm sorry, two
4 days ago. This has been March the 5th. In that
5 response, the Attorney General admits that two years
6 ago, January 2022, is when the Governor of Texas tasked
7 the Attorney General for looking into this. That's
8 26 -- that's almost 26 months ago. It is over 26 months
9 ago. And now the Attorney General wants to come in and
10 say, "Oh, we have to have this information within days."

11 All we're asking, Judge, is a fair
12 opportunity to present the arguments that include
13 constitutional arguments; that include free exercise of
14 religion arguments; that include right of association
15 arguments that are very similar to what the -- what the
16 NAACP endured in the '60s when it was litigating against
17 attorney general in Alabama who were trying to find out
18 the membership lists so that they could discriminate
19 against people who they disagreed with. We believe that
20 this effort that the Attorney General has made here is
21 simply a -- an abuse of power to try to cut -- to stop
22 Annunciation House from doing business.

23 And we believe that that's what the
24 evidence will show, that when it comes to looking at the
25 document requests, which is all we're asking the Court

1 to do, the Court will see that we have been entirely
2 willing to comply with the law.

3 And I would begin by calling Ruben Garcia
4 to the stand.

5 THE COURT: Okay.

6 (Witness present)

7 THE BAILIFF: Watch your step, sir. Stand
8 right there and face the judge, please.

9 THE COURT: Please raise your right hand.

10 (Wherein witness sworn)

11 THE WITNESS: I do.

12 THE COURT: Okay. Go ahead and have a
13 seat right there in front of the microphone. Very
14 quickly, make sure you give us verbal responses. It's
15 real easy to get into the um-hums and ah-has, but the
16 court reporter needs actual words. Okay?

17 THE WITNESS: Thank you, Judge.

18 THE COURT: And then the other thing is,
19 especially in a case like this where I think passions
20 run high, it's real easy to start interrupting each
21 other, anticipating the question and whatnot. So it's
22 really important to let them finish and then you can
23 answer, and I'll make sure that they let you answer.
24 But she cannot write things down when two people are
25 talking at the same time. Okay?

1 THE WITNESS: Understood.

2 THE COURT: You may proceed, Mr. Wesevich.

3 RUBEN GARCIA,

4 having been first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. WESEVICH:

7 Q. Please state your name.

8 A. Ruben Garcia.

9 Q. How old are you?

10 A. Seventy-five years old.

11 Q. And do you have children?

12 A. I do.

13 Q. How many?

14 A. Five.

15 Q. What is your job?

16 A. I'm the director of Annunciation House.

17 Q. How long have you held that position?

18 A. For a little over 46 years.

19 Q. Describe what you do.

20 A. I'm the person that is responsible for the
21 overall operation of the houses of hospitality that
22 Annunciation House operates. We provide basic shelter,
23 human services to refugees that arrive at our houses.
24 I'm responsible for overseeing our stance of volunteers,
25 the operation of the buildings, et cetera.

1 Q. And could you -- who are the staff of
2 Annunciation House? Could you describe those people?

3 A. Annunciation House makes use of a tremendous
4 number of volunteers. These could include long-term
5 volunteers, individuals who make yearlong commitments to
6 volunteer with us. It could include summer interns,
7 individuals that make a ten-week commitment to come
8 during the ten-week summer period.

9 It includes short-term volunteers,
10 individuals who come for two weeks at a time. And then
11 it includes a significant number of what we refer to as
12 "community volunteers." These are individuals who live
13 in the community and assist us as time permits in a
14 variety of ways.

15 Q. And why does Annunciation House do this work?

16 A. Annunciation House was born out of a process of
17 discernment that included reflecting on the gospel
18 mandate and a desire on the part of a small group of
19 young adults to want to do something with their lives
20 that provided greater depth, meaning and a sense of
21 purpose. That led us to wanting to, in El Paso,
22 identify who might be included in that population and
23 then respond to it.

24 And we came to understand that in El Paso,
25 the refugee was one of the most vulnerable demographic

1 groups that found itself in the city of El Paso, and we
2 decided to then respond to them out of that sense of
3 gospel call.

4 Q. And when was that?

5 A. The discernment process started at -- towards
6 the end of 1976, and it went through all of 1977, and
7 then it actually was founded in February of 1978.

8 Q. Where did the building that's -- and what is
9 the address of the building that is Annunciation House?

10 A. 1003 East San Antonio.

11 Q. And where did that building come from?

12 A. The building was owned by the Catholic Diocese
13 of El Paso. The building had been lent to two different
14 organizations. We became aware that the organization
15 using the second floor was about to vacate it, and
16 that's when we asked the bishop if the bishop would be
17 willing to make the building -- the second floor
18 available to the group of volunteers that started
19 Annunciation House, and the bishop said yes. And so...

20 Q. And has -- has a relationship been maintained
21 with the Catholic Diocese since then?

22 A. It has. When the organization that was using
23 the first floor vacated, we then started using the first
24 floor as well, and so then we were using the entire
25 building. The Diocese owned the building.

1 Bishop Metzger was the bishop at the time that the
2 building was first made available to us. He was
3 succeeded by Bishop Raymundo Peña who continued making
4 the building available to us and, in fact, then offered
5 us a second building that we could use.

6 Succeeding him was Bishop Armando Ochoa.
7 After he became bishop, the Diocese made the decision to
8 sell the two buildings to Annunciation House for \$10 for
9 each building. So it basically gifted the buildings to
10 Annunciation House for its continued use with the work
11 with the refugees.

12 Q. And besides the building, has there been any
13 other relationship through the Catholic Church?

14 A. Yes. The Catholic Church includes Annunciation
15 House in the national Catholic directory. So our
16 tax-exempt status derives from the group ruling as a
17 member of the Catholic directory, and that continues to
18 the present day.

19 Q. And what about the volunteers? Is there any
20 relationship that they have to the Catholic Church?

21 A. Well, obviously, many of the volunteers are
22 motivated by their own desire to understand, you know,
23 their own life journey. Volunteers do not have to be
24 Catholics. We've had a cross-section of individuals
25 from different faiths and some that claim no faith. But

1 there isn't a direct link between the volunteers and the
2 Catholic Church.

3 Q. And are there religious services that are part
4 of life at Annunciation House?

5 A. Very much so. We have chapels in many of our
6 buildings, and we've had masses and liturgies throughout
7 the years, yes.

8 Q. Is there any relationship that Annunciation
9 House has had with the Diocese of Juarez in Mexico?

10 A. We have. There was a period during the "Remain
11 in Mexico" period where we asked -- well, even prior to
12 that, when Bishop Manuel Talamás was the bishop of
13 Mexico, of Juarez, the bishop asked if we would consider
14 opening up a house of hospitality, and we did. He made
15 available a building to us. It was a hospitality site
16 that was initially called Casa de Peregrino. It -- and
17 we operated for like maybe 12, 13 years. We eventually
18 closed it down because of a shortage of volunteers, and
19 the building went back to the Diocese.

20 During the "Remain in Mexico" period,
21 again, the Diocese made available to us their retreat
22 facility, which is located next door to Casa del
23 Migrante in Juarez, and we opened up a shelter there
24 that we named Albergue Papa Francisco, specifically for
25 families that were part of the "Remain in Mexico" policy

1 that had been implemented under the Trump
2 Administration, where individuals that were applying for
3 asylum had to remain in Mexico. And this was very, very
4 challenging because without the resources, without jobs,
5 without the money, many of them were homeless.

6 So we opened up this facility to provide
7 long-term hospitality to families. This was also during
8 the period of the pandemic, which made it truly
9 challenging to operate.

10 Q. Could you describe the categories of volunteers
11 and the numbers -- the range of numbers of each -- in
12 each category.

13 A. Well, as I mentioned, there's the long-term
14 volunteer, the volunteer that decides to come for years.
15 Sometimes those volunteers will remain, extend their
16 time. There are the summer interns. There are the
17 short-term volunteers that can come from two weeks,
18 sometimes it's four weeks, a month, two months, three
19 months, and then there are the community volunteers.

20 But right now, as a result of what we're
21 facing, we've had a couple of our long-term volunteers
22 who have chosen to leave out of a fear of risk from the
23 proceedings that Annunciation House is now facing --

24 Q. Are you talking about these proceedings?

25 A. Correct.

1 -- from concern that they could be
2 criminally liable for something.

3 And then we've got the short-term
4 volunteers, and we continue to receive short-term
5 volunteers. This Sunday, we expect to receive eight
6 short-term volunteers that will be with us from two to
7 four weeks.

8 We -- we'll expect to receive somewhere in
9 the neighborhood of five to eight summer interns from
10 May 25th to August the 4th, and there's probably
11 combined community volunteers that could be as high as
12 50.

13 Q. You had mentioned that some volunteers have
14 expressed a concern about criminal exposure; correct?

15 A. Correct.

16 Q. I'm going to show you page 5 of an opinion by
17 the United States Court of Appeals by the -- of the
18 Fifth Circuit -- that's 849 F.3d 594 -- issued
19 February 23, 2017.

20 I'm going to show it on the screen.

21 Are you able to see the screen?

22 A. My computer is not on yet.

23 Q. Okay. We're going to show -- if you'll read --
24 I'm going to -- if you can see to where I'm pointing to.

25 The opinion says: This court interprets

1 the words "harbor, shield, or conceal," which appear in
2 a federal immigration statute, to mean that something is
3 being hidden from detection.

4 And then down here it says -- at the very
5 last paragraph, it goes: There is no reasonable
6 interpretation by which merely renting housing or
7 providing social services to an illegal alien
8 constitutes harboring that person from detection.

9 Did I read that correctly?

10 A. Yes, you did.

11 Q. Is that your understanding of the law?

12 A. It is my understanding.

13 Q. So as I understand your testimony, harboring --
14 I mean, simply offering hospitality to somebody who is
15 undocumented is no crime at all?

16 A. That's my understanding.

17 Q. And that the crime would be trying to conceal
18 someone who you know is undocumented from immigration
19 authorities?

20 A. That's the way that I understand it.

21 Q. And has Annunciation House ever concealed
22 someone from immigration authorities?

23 A. We have not.

24 Q. Have immigration authorities ever come to
25 Annunciation House?

1 A. On multiple occasions.

2 Q. Yeah. I would like to step through those,
3 please.

4 Please tell us about the first one that
5 you remember.

6 A. The first one was in 1984 when Border Patrol
7 agents arrived at Annunciation House, knocked on the
8 door, and one of our guests opened the door. The guest
9 did not speak English. The Border Patrol officer did
10 not speak Spanish. The Border Patrol officer explained
11 to me that he had asked the guest if he could come in --
12 because I had asked the officer if he had a warrant and
13 there was no warrant.

14 He explained his ability to come in as a
15 result of the guest having allowed him in. I disputed
16 that with him. He says, "I believe that I have the
17 right to come in." And so Border Patrol officers then
18 came into the building, went through the entire
19 building. And it was, in fact, a raid. It evolved into
20 a raid.

21 And so that's the first time that we had
22 an encounter with Border Patrol.

23 Q. And that was when, exactly?

24 A. In 1984.

25 Q. Okay. Next?

1 A. A second time was when we found ourselves under
2 the vigilance of Border Patrol. And to tell you the
3 truth, I don't know why, except that they were around
4 the building. Night came. We have curfews in all of
5 our houses of hospitality. We ask our guests to call it
6 quits for the day at 10:00 p.m. Everybody goes to bed.
7 Lights off. Go to sleep.

8 And on this particular night, Border
9 Patrol officers were using their flashlights to point
10 inside of the building. People were very, very afraid.
11 We had refugees from Central America at that time. And
12 this went on to about 1:00 or 2:00 in the morning.

13 When it finally stopped, we thought it was
14 over. The next morning happened to be Sunday. It was
15 our practice to offer to take any refugees that wanted
16 to go to the 8:30 mass in Spanish at the Cathedral.
17 Anyone who wanted to, we would load the van and take
18 them to mass. That morning we loaded up the van.

19 A couple of volunteers drove the van to
20 St. Patrick's, and in the parking lot of the
21 St. Patrick's Cathedral, they were surrounded by Border
22 Patrol officers who then proceeded to arrest all of the
23 guests that were in the van. They did not detain the
24 volunteers that were in the van, and they took the van,
25 which subsequently was then returned back to

1 Annunciation House. That is the second time.

2 A third time occurred when one of the
3 individuals staying at Annunciation House was
4 apprehended by Border Patrol and away from Annunciation
5 House. And when they interrogated him, he let them know
6 that he was staying at Annunciation House. He let them
7 know that there were other refugees at Annunciation
8 House. They then proceeded to come to Annunciation
9 House. It was the early morning. I would say 7:00,
10 7:30. They surrounded Annunciation House. They knocked
11 on the door and they said they wanted to come in. They
12 were told that they couldn't come in.

13 I was called. I went and I spoke to the
14 officer, and he explained to me, "We picked up one of
15 the individuals staying here. He says that there are
16 other people staying here, and we want to come in and
17 check everybody who is here." And I asked him if he had
18 a warrant. He said that he did not. I said, "Then I
19 can't let you in unless you have a warrant."

20 This particular moment that happened after
21 2003 -- in February of 2003, when Border Patrol shot and
22 killed a 19-year-old guest that was staying at
23 Annunciation House almost in front of the building.

24 Tensions were extremely high as a result
25 of that shooting, and there was a lot of media coverage,

1 what have you. And one of the things that came from
2 that was a reclarification of Border Patrol policy,
3 which the Border Patrol Chief at that time made; namely,
4 because it is the policy of Border Patrol not to
5 interfere with or harass funeral homes, churches,
6 schools, clinics, social service agencies.

7 I reminded the Border Patrol officer that,
8 that morning, that his chief had clarified that Border
9 Patrol was not to harass social service agencies like
10 Annunciation House, which is doing hospitality. I
11 advised the officer to please check with his superiors.
12 I went inside, and a short while later, Border Patrol
13 officers then retreated and that was the end of that.

14 There was another occasion when two
15 unaccompanied minors, who were staying at what is now
16 referred to as Casa Franklin. This is Office of Refugee
17 Resettlement contract facility for unaccompanied minors
18 that is located in the downtown area. And two of them,
19 basically -- or three of them ran away. They just ran
20 away. They were all minors.

21 And they came to Annunciation House, and
22 we received them, and then they explained to us who they
23 were and what they had done. One of them said, "I want
24 to go back," and -- or two of them said they wanted to
25 go back and they did go back. And they told the people

1 at Franklin House that they had been at Annunciation
2 House. I then received a call from Border Patrol
3 letting me know, "We know that the third person is there
4 with you and we need to pick him up."

5 I contacted one of our attorneys and asked
6 for guidance, "How do we proceed with this?" It was
7 explained to me how to proceed. I then called Border
8 Patrol and said, "You can come and pick him up."

9 I asked the officer if it would be
10 possible for him to come in through the front door of
11 the building. It's a point -- our building is
12 triangular, and the door that we usually use is in the
13 middle of the building. I asked if he would come
14 through the front door. And if possible, if he was
15 willing to come in civilian clothing, which they said,
16 "Yeah, that's fine." And they came and we turned the
17 unaccompanied minor over to them. And that's another
18 example.

19 More recently, we've hit more interaction
20 with what is known as Homeland Security Investigation.

21 For those that are not familiar, Homeland
22 Security Investigation are the unit within the
23 Department of Homeland Security that does an awful lot
24 of the supervision of vigilance, the action against
25 traffickers -- whether it's smuggling, human

1 trafficking, et cetera.

2 And over the past couple of years, we've
3 had a steady request from them where they call us and
4 they ask us if we would be willing to accept and provide
5 hospitality to material witnesses. These are almost
6 always undocumented individuals that are a part of an
7 investigation, and it could be -- right now what comes
8 to mind is two individuals, one of them from Guatemala,
9 who had actually been sequestered, and HSI freed them
10 and asked them if they would be willing to cooperate
11 with them in a prosecution, and they said they were.

12 We got called and asked, "Can you give
13 hospitality to one of them from Guatemala?" and we said
14 yes. We've always said yes to them.

15 Something that is very interesting is that
16 Homeland Security Investigation evidently doesn't have
17 the authority to process people. So when they drop them
18 off with us, they're undocumented. And so they stay
19 with us and they're undocumented and then we kind of get
20 after them -- you know, "When are you going to go to
21 Border Patrol or ICE?" to get them processed so that
22 then they will have been processed. But until that
23 happens, they're undocumented.

24 And sometimes when they're on top of it,
25 it can happen in about four or five days; and sometimes

1 when they're not, it could be three or four weeks before
2 they're processed, and they're material witnesses.

3 Q. And has the FBI ever asked you to house
4 someone?

5 A. They have. Similar circumstance. Individuals
6 that are involved in a case, for which they have an
7 individual who is undocumented, who they need as a
8 material witness and don't know where to have him, where
9 to keep him -- or her -- and they'll ask us if we're
10 willing to provide hospitality for them, and we do.

11 And there again, because the FBI is not
12 immigration, they don't have the authority to process
13 them, and so we have to kind of poke them to get them
14 processed. But until then, they're undocumented.

15 Q. Was there a cold snap in El Paso in 2021?

16 A. There was a severe cold snap, yes.

17 Q. And were -- were refugees affected by that?

18 A. Thousands of them.

19 Q. Can you describe the response from your
20 experience?

21 A. The -- the -- there were thousands of people on
22 the streets in Juarez. Many of them came to the river
23 levee wanting to come in. They wanted to turn
24 themselves in. Some of them did come in. Some of them
25 didn't turn themselves in.

1 Then there were a couple of incidents that
2 we became aware of that were also covered in the media
3 where doors that are located on the border fence that
4 runs through the downtown area, those doors were left
5 open. It's never been clarified as to who was
6 responsible for those doors remaining open.

7 The significant part of that is that
8 through those doors, hundreds and hundreds of refugees
9 came into El Paso and they were all unprocessed. Many
10 of them had no place to go. They were on the street and
11 they started congregating around the property of Sacred
12 Heart Church. They are on Oregon Street. There were
13 hundreds of refugees that were there.

14 Sacred Heart Church provided hospitality,
15 but it was a small space for the sheer numbers. The
16 City of El Paso's Sun Metro system brought their big
17 buses that they could run their heaters to allow some of
18 them to get into the buses and be warm.

19 There was a big question about, we have
20 got to get hospitality for some of these people. We've
21 got to get them off the street. Annunciation House
22 stepped forward and we took a block of rooms at the
23 Super Lodge Motel on Dyer Street, and we opened it up to
24 begin to accept families and provide them shelter.

25 Subsequently to that, we took another

1 block of rooms at the Mesa Inn to provide hospitality
2 for some of these refugees' families there as well.

3 And we had the assistance of the Office of
4 Emergency Management in transporting the families that
5 wanted to accept the offer of hospitality in a hotel
6 room, to transport them to the hotel, because we didn't
7 have the wherewithal to transport all of these people,
8 and we were housing several hundred refugees during that
9 cold spell.

10 Q. What documents does Annunciation House maintain
11 that involve communications between guests and the
12 volunteers who run Annunciation House?

13 A. Whenever someone arrives at one of our houses
14 of hospitality, we have a simple intake form where we
15 note down name, date of birth, nationality, family
16 members, their biographical information as well.

17 And because the houses of hospitality that
18 Annunciation House operates are nonpermanent, the goal
19 is to assist people to help them if they're able to move
20 on to family, friends that are located in the United
21 States. So that also includes taking down the
22 information of what we refer to as a sponsor who can
23 receive them -- their names, their address, their phone
24 numbers, et cetera. So it's an intake form that we use.

25 We have a travel form that we also use for

1 travel arrangements for refugees that come to us who are
2 injured and whose situation is much more complicated as
3 a result of the injuries.

4 Example, people that fall off the border
5 wall that end up with broken legs or ankles or backs and
6 they come to us after they're discharged from the
7 hospital with external fixators, et cetera.

8 So there are the medical records that
9 pertain to individuals, as well as the database that we
10 keep of all the referrals of medical injuries.

11 Q. And where do the referrals for medical injuries
12 come from?

13 A. Primarily, from the hospitals -- from the
14 hospitals in El Paso.

15 Q. What kinds of -- how does the hospital -- why
16 do they call you?

17 A. Well, because we take them in. We're willing
18 to receive them by and large. We -- the individual has
19 to be within our capability medically to have them in
20 our house. There are some refugees whose injuries are
21 so severe that it is beyond the scope of our volunteers
22 to take care of them, and we don't accept them. We
23 usually refer -- we suggest to the hospital, "You're
24 going to have to refer them to a foster home." And UMC
25 is very good about doing that; the other hospitals not

1 so much.

2 Q. And what is UMC?

3 A. University Medical Center.

4 Q. And can you describe what they will tell you
5 when they call you to refer someone to you?

6 A. All individuals that we receive have to be
7 approved by myself. And so what the hospital has to
8 convey to me is the name of the individual, the age of
9 the individual, and then we get into what are the
10 injuries, what are the extent of the injuries, and what
11 is the mobility of the individual.

12 And -- to just be very nitty-gritty, is
13 the individual able to go to the bathroom by themselves?
14 Can they clean themselves after they use the bathroom?
15 Is the individual able to undress him- or herself to be
16 able to make use of a shower facility? Is the
17 individual able to transfer themselves from a wheelchair
18 onto the bed, from the bed back onto the wheelchair?
19 Can the individual transfer him- or herself from the
20 wheelchair onto the commode and from the commode back
21 onto the wheelchair?

22 Individuals who are not able to do that,
23 we are not able to receive. If they are able, even if
24 it's very slowly, et cetera, then we will receive them.

25 We want to know from the hospital what the

1 mobility is. Is this individual able to move?

2 And sometimes they're not. They're not
3 able to bear much weight, and so they're wheelchair
4 bound, but they are able to transfer and so we've taken
5 some of them who have stayed with us. And then they'll
6 stay with us, obviously, for a longer term. Everyone
7 who has a fixator is going to have to go back for
8 additional surgery to remove the fixator or stitches,
9 et cetera.

10 Q. And when the hospital calls you to refer
11 someone to you, do they tell you -- does the person at
12 the hospital tell you whether they believe that that
13 person has been processed or not processed by
14 immigration authorities?

15 A. They do. They will let me know if the
16 individual has been processed.

17 You have -- you have the -- the -- it is
18 not uncommon for someone to fall off the wall, to be in
19 an automobile accident. The ambulance arrives and
20 they're transported to a hospital before Border Patrol
21 is on the scene, and so they're never processed.

22 There have been times when we made an
23 effort to see if we can get someone who's been released
24 from the hospital processed, but that can be very, very
25 difficult to get that done.

1 Q. Okay. I want to go back to listing the
2 documents that Annunciation House maintains that involve
3 communications with guests.

4 You've talked about the intake form.
5 You've talked about the travel form. What other
6 documents are there?

7 A. As I mentioned, the medical records that people
8 bring with them from the hospital, and then the
9 additional medical records that get added to that as we
10 take the individual to their medical appointments, which
11 there will be lots of follow-up on medical appointments.

12 There are -- we've made the effort to
13 computerize, enter a lot of these records on computer
14 databases with various degrees of success, and so
15 there's a database for the guests that stayed with us --
16 the refugees that stayed with us. There a database for
17 those with medical injuries. There is what we refer to
18 as the "shift book" where whoever is on shift -- the
19 volunteer that is on shift for the day or the stand
20 person who is on shift, they keep a log of what's
21 transpired during the time that they have been on shift.

22 And it includes information that pertains
23 to anything that's relevant that's happened during the
24 day, and that includes the arrival of guests --
25 refugees. It can also include information that a

1 refugee will give us about their particular situation
2 that we need to make sure that whoever follows me on
3 shift becomes aware of this situation that is important.

4 Q. Are there documents that Annunciation House
5 gives to guests that say, like, the rules and the rules
6 of the house?

7 A. We do. We give multiple documents upon intake.
8 There is a two-sided page in which we explain the
9 operation of the house. This is where you're at. This
10 is one of the houses of Annunciation House. This is how
11 the house operates. It starts at 6:00 in the morning.
12 We have breakfast at this time. We have lunch. We have
13 dinner.

14 It explains the rules of the house. This
15 what is expected of everybody who stays in the house.
16 We also have a section that is very clear about reasons
17 for which you might be asked to leave Annunciation
18 House.

19 We try and be very strict with people not
20 bringing any alcohol, any drugs into our buildings. No
21 weapons are allowed in our buildings. People who come
22 in who are under the influence are not allowed to be in
23 our buildings. Not to steal from one another; to be
24 respectful of each other. Those are reasons that could
25 get a refugee guest to be asked to leave. All of that

1 is -- is on the sheet.

2 It also includes things like if you have
3 need for clothing. We try and maintain these small
4 little clothing banks in our facilities so that the
5 people can have a change of clothing, especially to have
6 new underwear, socks for refugees when they arrive.
7 That's a priority and an ongoing need.

8 Q. Have we talked about all the different
9 documents that Annunciation House has that involve
10 communications with guests?

11 A. Yes, we have.

12 Q. It doesn't sound like there's a lot of
13 documentation there -- out there.

14 A. Probably not.

15 Q. Why?

16 A. Well, first, because the need is not there.

17 There hasn't -- each one of our buildings
18 has a certain number of beds. We have limited space.
19 When the flow of refugees coming through the border is
20 low, we manage really, really well. When the flow of
21 refugees spikes, then it's very, very challenging to
22 find beds for everyone who needs a bed.

23 We try and keep the documentation to just
24 what we need to operate from day-to-day.

25 Q. Are the documents organized?

1 A. I would like to tell you that they are, but not
2 very well. It takes a lot of volunteer time to keep
3 them organized, to enter them into the computer. And
4 that's not our priority. Our priority is to answer the
5 door. And so --

6 Q. And you had mentioned that there's a flow of
7 refugees coming through the houses.

8 Can you -- can you give us some sense of
9 what the volume is of people that you say have come
10 through all the houses?

11 A. If you're asking me since 1978, I think over a
12 million would not be unrealistic. I think that in --
13 specifically, at our building on San Antonio Street,
14 throughout that 46-year history, over a hundred thousand
15 for sure. A lot of people, a lot of refugees have
16 passed through our houses of hospitality.

17 Q. And how are the documents organized that you've
18 described?

19 A. They're in file cabinets. Some of them are in
20 file cabinets. Some of them are in boxes that we set
21 aside. The goal is to -- when we have volunteer help,
22 to be able to take box by box, year by year, to enter
23 them into the computer. Until then, they remain in
24 boxes.

25 Q. And have you refused to give the Attorney

1 General access to your documents?

2 A. No. What we have wanted to understand is --
3 because of confidentiality and the implications of some
4 of the information could have on refugees that have
5 stayed or are staying at Annunciation House, we want
6 clarification as to what a judge would say must be
7 turned over, and we haven't been able to get that
8 clarification.

9 Q. But what are the reasons that you want a
10 judge's clarification prior to turning over the
11 documents?

12 A. First, there is the aspect of the ability of
13 our houses of hospitality to function, given the
14 absolute necessity of trust that develops between the
15 refugees, the guests, and the staff, the volunteers.
16 That relationship is a profound relationship that when
17 they share their story, their situation with us, that
18 they believe that to be done in confidence.

19 Secondly, some of the information that is
20 given to us could be harmful to either the refugee, him
21 or herself, or to the sponsor if that information were
22 to be made known.

23 There are people who have fled for their
24 lives. One -- many times refugees have asked me --
25 Annunciation House is so close to the border. Casa

1 Vides is so close to the border.

2 Casa Vides, literally, if you go on a
3 straight line, you would be in Juarez in ten blocks.
4 The same thing for Annunciation House. People have
5 asked me, "Is there any possibility that the person that
6 I'm fleeing from" -- that the group, that the gang --
7 "that I'm running from, is there any chance that they
8 could find me in your house?"

9 So being able to protect that information
10 is paramount to us; that that information not be made
11 available in a way that could be harmful.

12 Q. Why do the volunteers decide to come to
13 Annunciation House to work?

14 MR. BAASCH: Objection, Your Honor. Some
15 of this testimony is irrelevant, and we've exceeded an
16 hour --

17 THE BAILIFF: Please stand, sir.

18 MR. BAASCH: Sorry, Your Honor.

19 Objection to relevance. And opposing
20 counsel is going to be exceeding an hour here, limiting
21 questions that I have an equal amount of time when you
22 have a two-hour limit --

23 THE COURT: I'll allow him to answer that
24 question, but how much more questioning?

25 MR. WESEVICH: Very little, Your Honor.

1 Very little.

2 THE COURT: Okay. Go ahead.

3 A. Volunteers come because they are seeking to do
4 something that is worthwhile, meaningful, has depth to
5 it, and it allows them to wrestle with their own faith.

6 Q. (BY MR. WESEVICH) And if volunteers were
7 required to disclose all of their communications with
8 guests, would that affect the relationship that they
9 have with guests and the way that they do their job and
10 experience their job?

11 A. It would be profoundly detrimental.

12 Q. Have volunteers been dissuaded from serving at
13 Annunciation House because of this -- this lawsuit that
14 that we're involved in right now?

15 A. Yes.

16 Q. Describe that.

17 A. We've had three long-term volunteers who made
18 the decision to leave as a result of the lawsuit, and so
19 that's very concrete.

20 Q. Thank you for your time this morning.

21 MR. WESEVICH: I'll pass the witness.

22 THE COURT: Before I let you go, I need to
23 allow my court reporter a break, but I want to assure
24 you, Counsel, you're going to get the same amount of
25 time that he got. We're obviously going to go a little

1 past 11:00, but you'll get the same amount of time.

2 We're in recess for five minutes.

3 THE BAILIFF: All rise, please.

4 (Recess taken)

5 (Back on the record; counsel and parties
6 present)

7 THE COURT: You may proceed.

8 MR. BAASCH: Thank you, Your Honor.

9 My co-counsel brought it to my attention
10 during the break that we're not certain if Mr. Garcia
11 was formally sworn in.

12 THE COURT: He was.

13 MR. BAASCH: I apologize, in that case.

14 CROSS-EXAMINATION

15 BY MR. BAASCH:

16 Q. Thank you for being here, Mr. Garcia. I'd like
17 to start by asking you a number of questions about the
18 services that Annunciation House performs.

19 How many facilities does Annunciation
20 House operate?

21 A. At the present moment, we are operating five.

22 Q. Does it own all those facilities?

23 A. No. We are renting one of them and one is on
24 loan.

25 Q. Could you name the five facilities?

1 A. Annunciation House, Casa Vides, Casa Papa
2 Francisco, Casa Teresa, Casa Rita Steinhagen, which we
3 are renting, and Holy Family that is operating under our
4 umbrella right now. So that's six.

5 Q. So it's six facilities total?

6 A. Yes.

7 Q. And you own five of the six -- or the six?

8 A. We own Casa Vides, Casa Teresa, Annunciation
9 House, and Casa Papa Francisco. Four of them.

10 Q. How many beds are available at each of these
11 facilities? You can start with Annunciation House.

12 A. Annunciation House has approximately 45 beds.
13 Casa Vides would have about 40. Casa Teresa is the
14 smallest of them all, and that has about 10. Casa Papa
15 Francisco right now has about 25. Casa Rita Steinhagen
16 has capacity for about 100. Holy Family has capacity
17 for about 50.

18 Q. Annunciation House, you said, has 45 beds;
19 right?

20 A. Correct. Approximately.

21 Q. Sometimes Annunciation House will accommodate
22 many more guests than that; right?

23 A. More than that, yes. I don't know that many
24 more.

25 Q. What's the largest number of guests

1 Annunciation House has ever sheltered for one evening?

2 A. In 46 years?

3 Q. Sure.

4 A. 115.

5 Q. How do people gain access to these facilities?

6 A. They either knock on the door or we get asked
7 by Border Patrol or ICE if we're able to receive
8 families that they are releasing. And when I respond to
9 that request, I will let them know how many of them are
10 to go to Annunciation House. And those are the two
11 primary -- there are people who knock on the door,
12 individuals who are released from Border Patrol, and
13 then referrals from, like, the hospitals.

14 Q. When they -- the guests who knock on the door,
15 they knock on the door and they come in; right?

16 A. We answer the door; they come in.

17 Q. You always let them in?

18 A. Well, at the door, we'll do an initial
19 screening to find out if this is someone that we're
20 going to allow to come in.

21 Q. What are the reasons why you would not let
22 someone in?

23 A. We're very, very concerned with not feeding
24 what we refer to as hospitality site hopping; that you
25 have been released by Border Patrol. You are sent to

1 hospitality house X. You don't like it at hospitality
2 house X, and so then you start knocking on other
3 hospitality houses asking, "Would you let me stay here?"

4 And to discourage that -- we discourage
5 that. "No, you've got to go back to where you were
6 first sent." That's an example of it.

7 Q. How would you know where they were first sent?

8 A. Because I receive a text every day from
9 Border Patrol. I receive a text every day from the
10 ports of entry. I receive a text from ICE. I receive a
11 text from the detention facilities, all of them asking
12 me to -- if I can provide hospitality.

13 The other day the combined total was over
14 800 refugees for that particular day.

15 I then will let Border Patrol, ICE, Otero,
16 et cetera, I let them know what facilities, what
17 hospitality sites to send everybody to.

18 The reason I'm explaining this to you is
19 because I know if there have been any street releases.
20 If there are any street releases, I'm going to know
21 that. If there are no street releases, then there would
22 be no reason why a refugee did not, in fact, go to a
23 hospitality house.

24 Q. So I was asking before about what people you
25 would not let into Annunciation House, and you said

1 people who have been sent to a different facility.

2 Any other people that you would not let in
3 if they knocked on the door?

4 A. If someone -- if the volunteer who answers the
5 door can detect alcohol or that the person may be high,
6 we're not going to allow them to enter.

7 Q. Any other reasons?

8 A. If someone who is at the door, the volunteer is
9 having a difficult time making sense of what the
10 individual is saying, then they're going to call me and
11 I will make the determination whether that person will
12 be allowed in.

13 If someone is not a refugee, then we're
14 going to refer them to Salvation Army, to the Rescue
15 Mission. Our population is the refugee population.
16 Those are other reasons why we would not receive
17 someone.

18 Q. Any other reasons?

19 A. No. I can't think of another one.

20 Q. So if somebody knocks on the door -- they don't
21 have a passport, let's say, that's not a reason why you
22 wouldn't let them in; right?

23 A. Um, if they are a refugee, we would receive
24 them.

25 Q. How do you determine if they're a refugee?

1 A. Because they'll tell us. We'll ask them if --
2 what is your need? What is it that brings you to us?
3 And they will explain to us that -- that they are from
4 another country and they need -- they have no place to
5 stay.

6 Q. And if they say that they are a refugee, then
7 as long as they're not drunk and as long as they're
8 making sense, you'll let them in?

9 A. Correct.

10 Q. Okay. Do you need a key to enter Annunciation
11 House?

12 A. You do.

13 Q. Why is that?

14 A. That's just part of the security that we
15 maintain in the building.

16 Q. Why do you feel that you need to have security
17 at the building?

18 A. Because we do not want the doors to remain free
19 all of the time to anyone without us having the
20 opportunity to determine whether this is a place where
21 they belong.

22 Q. Why do you feel that you need to make the
23 determination whether this is a place they belong?

24 A. Because we offer a specific work -- service.
25 We offer hospitality to refugees. And short of that, we

1 are also concerned about individuals who could present
2 some kind of risk because they've been drinking or under
3 the influence.

4 Q. So people can't just walk in and out without a
5 key; right?

6 A. Correct.

7 Q. How many people at Annunciation House have a
8 key?

9 A. The staff and that varies.

10 Q. I'm sorry. You said the staff?

11 A. The staff -- the volunteer staff that are
12 helping to operate the house.

13 Q. Guests do not have keys --

14 A. They do not.

15 Q. -- correct?

16 And you mentioned before that you have a
17 curfew at Annunciation House; is that correct?

18 A. Correct.

19 Q. That curfew is 10:00 p.m.?

20 A. It is.

21 Q. What's the purpose of the curfew?

22 A. To be able to operate the house; to have a
23 starting time and an end time so that the volunteers,
24 the staff can get sleep so that we can close down for
25 the day.

1 Q. And do you let the guests leave the facility
2 after curfew?

3 A. No. No. Everyone has to be inside by 10:00.
4 Lights are out. And if you want hospitality, you
5 have -- that's one of the rules you have to abide by.

6 Q. So if a guest is hungry at 10:15 and wants to
7 go out and get a snack, he's not allowed?

8 A. Correct.

9 Q. If a guest leaves the facility but leaves some
10 of his belongings in the facility, does he have access
11 to come back and get them?

12 A. Are you asking permanently leave the facility?

13 Q. Sure.

14 A. We emphasize to them that we cannot keep track
15 of people's belongings once they leave, so you have to
16 take everything with you. If you don't take everything
17 with you, then we will not assume responsibility for
18 whatever gets left behind.

19 Q. If a guest leaves in the middle of the day and
20 he returns after curfew and his belongings are inside
21 the house, is he allowed in to get the belongings?

22 A. No. No. He will be asked to return during the
23 operational hours of the house.

24 Q. Mr. Garcia, I think a few moments ago you
25 indicated that if somebody tells you that they're a

1 refugee -- as long as they're not drunk, as long as they
2 make sense -- you'll let them into Annunciation House?

3 A. Correct.

4 Q. You don't check if they have a passport?

5 A. Not necessarily.

6 Q. You don't check for any identification; right?

7 A. We accept their word.

8 Q. And I appreciate you answering my questions,
9 Mr. Garcia.

10 You would share this information, I think,
11 with anybody who asks; right?

12 A. Pretty much so.

13 Q. And I realize this might sound like a -- it's
14 not related, but you are a religious man; right,
15 Mr. Garcia?

16 A. I have my faith, yes.

17 Q. Does it burden your religion to share this
18 information with me that we've discussed for the last
19 ten minutes?

20 A. No.

21 Q. It wouldn't burden your religion to put it in
22 writing either, would it?

23 A. No.

24 Q. And have you shared this information with other
25 people before?

1 A. Yes.

2 Q. And it didn't burden your religion when you did
3 that; right?

4 A. No.

5 Q. Were you or any of your volunteers subjected to
6 threats or harassment when you shared this information?

7 A. You're referring to the questions [sic] I just
8 provided you?

9 Q. Correct.

10 A. There have been times, yes.

11 Q. Can you give an example of one of those times?

12 A. In the present environment, graffiti has been
13 written on the walls of our building. I have gotten
14 phone calls. I have gotten e-mails from people who
15 disagree with what we do.

16 Q. I understand that, Mr. Garcia. I'm just asking
17 about the details about how the facilities operate.

18 When you've shared that information, have
19 you received threats or harassment afterwards?

20 A. There have been times.

21 Q. Can you give an example?

22 A. And the example is -- your question: Who do
23 you take in and who do you not take in?

24 When I emphasize that our work is with
25 refugees, there are others who believe we should work

1 with other populations as well. And that's where the
2 name-calling, the harassment comes in; that, "This is
3 the United States. You should work with other
4 populations."

5 Q. I understand. But if you share the names of
6 the facilities you own, you don't get threats or
7 harassment about that; right?

8 A. I am very, very concerned about the information
9 that is related to Annunciation House, given the reality
10 of August at the Walmart and what the implications of
11 that could be for the work that we do.

12 Q. I understand, Mr. Garcia, but if you can just
13 answer my question. When you shared the names of those
14 facilities that the Annunciation House owns, you have
15 not received threats or harassment about that; correct?

16 A. Today, no.

17 Q. Thank you.

18 Does Annunciation House seek grant money
19 from the federal government?

20 A. We have done that once.

21 Q. Are you familiar with the Emergency Food and
22 Shelter Program?

23 A. I am.

24 Q. Is that the one time that you were referring
25 to?

1 A. Correct.

2 Q. And about how much money did you receive from
3 that program?

4 A. Approximately, \$300,000 reimbursement for the
5 use of the Budget Inn Motel.

6 Q. What year did you receive this money?

7 A. The motel was used in 2022. The reimbursement
8 was paid to us in 2023, because there's quite a lag time
9 between when we ask for the reimbursement and when you
10 actually receive the reimbursement.

11 Q. You had to submit an application for that grant
12 money; correct?

13 A. For the reimbursement.

14 Q. And do you remember when you submitted that
15 application?

16 A. Right now, I cannot remember.

17 Q. Sometime in 2023?

18 A. Correct.

19 Q. Okay. And you said that's the one time that
20 you've applied for this grant money?

21 A. Correct.

22 Q. Do you have plans to apply in 2024?

23 A. We're going to apply a second time specifically
24 for Casa Rita Steinhagen.

25 Q. Has Annunciation House ever asked the federal

1 government for an exemption from having to submit the
2 actual application?

3 A. I'm going to ask you to -- I don't understand
4 your question.

5 Q. Have you ever asked the federal government for
6 the money and said, "We don't want to submit the
7 application. We just want the money"?

8 A. No.

9 Q. You submit the application?

10 A. Correct.

11 Q. And you're going to submit it again in 2024?

12 A. Correct.

13 Q. You're not going to ask the federal government
14 for an exemption of having to submit the application?

15 A. Correct.

16 Q. Okay. So it's accurate to say that
17 Annunciation House does not have an objection to
18 submitting this application to the federal government;
19 right?

20 A. Correct.

21 Q. No religious objection to submitting it to the
22 federal government?

23 A. Correct.

24 Q. And were you threatened or harassed after you
25 submitted the application to the federal government in

1 2023?

2 A. No.

3 Q. So then you also have no religious objection to
4 sharing that application with the State of Texas; right?

5 A. Um, no. I would -- I don't foresee an
6 objection to that.

7 Q. Switching gears a little bit.

8 Annunciation House helps people apply for
9 asylum; right?

10 A. We have.

11 Q. Okay. Are you familiar with a woman named
12 Levy Taylor?

13 A. I am.

14 Q. Could you tell us a little bit about how you're
15 familiar with her?

16 A. Taylor was a volunteer with Annunciation House
17 for multiple years. Taylor went on to get her credit
18 representation, and she was -- she worked with us in
19 that capacity, as a legal credit rep, for a number of
20 years.

21 Q. She was Annunciation House's legal coordinator;
22 correct?

23 A. Correct.

24 Q. And in your interactions with Mrs. Taylor, did
25 you find her to be an honest person?

1 A. I did.

2 Q. And you didn't believe that she's a liar?

3 A. I have no reason to believe she's a liar.

4 Q. Do you know the other organizations that
5 Mrs. Taylor has worked for?

6 A. I know some of them.

7 Q. Could you name those?

8 A. She's been associated with Las Americas -- the
9 Las Americas Advocacy Organization. That would be the
10 one that most comes to mind.

11 Q. Are you familiar with the work that
12 Las Americas does?

13 A. Yes.

14 Q. What's your understanding of it?

15 A. Las Americas provides legal representation to
16 the refugee population.

17 Q. Has it ever provided legal representation to
18 people from Annunciation House?

19 A. Yes.

20 Q. Daresay that Annunciation House has referred
21 guests to Las Americas representation?

22 A. Yes.

23 Q. Annunciation House also will sometimes host
24 organizations that help guests apply for asylum; right?

25 A. Yes.

1 Q. When those organizations come to help guests
2 apply, that means that those guests haven't applied yet
3 for asylum; correct?

4 A. Correct.

5 Q. About how many times in the last year has a
6 legal services organization -- I'm sorry, let me strike
7 that.

8 Are you familiar with the term "legal
9 services organization," Mr. Garcia?

10 A. I have some understanding of what that means to
11 me.

12 Q. Las Americas is probably --

13 A. Yes.

14 Q. Right. About how many times has an
15 organization like Las Americas, or a lawyer, a legal
16 services organization helped your guests apply for
17 asylum in the last year?

18 A. I would say maybe three or four times in an
19 organized manner.

20 Q. Are there any organizations other than
21 Las Americas to which Annunciation House refers its
22 guests?

23 A. Diocesan Migrant & Refugee Services. It's the
24 other legal service organization in El Paso.

25 And then we've also worked with some

1 referrals to a small organization in Las Cruces.

2 Q. You don't have any objection to sharing the
3 names of the legal services organizations that you just
4 shared; correct?

5 A. No.

6 Q. It doesn't burden your religion to share the
7 names of those organizations; right?

8 A. No.

9 Q. Have you ever been threatened or harassed after
10 you shared the name of one of those legal services
11 organizations?

12 A. No.

13 Q. Okay. Let me ask about the logs -- the guest
14 logbook that you had talked about with my friend on the
15 other side.

16 I think you indicated that you maintain a
17 logbook at Annunciation House of all the guests that
18 come in; is that right?

19 A. Correct.

20 Q. And that logbook contains name, date of birth,
21 nationality; correct? Sponsor; correct?

22 A. Correct.

23 Q. Does it contain any other information?

24 A. It could.

25 Q. What kind of information would it contain?

1 A. Medical information that is specific to a guest
2 that they're needing, medications that they may be
3 taking that they're now missing. That could be on there
4 as well. Family separation; that a member of the family
5 has been separated from them. That could be on there.

6 Q. Anything else?

7 A. Those are what comes to mind right now.

8 Q. You had indicated that the hospitals that refer
9 guests to you will tell you whether the guest is
10 documented; right?

11 A. Correct.

12 Q. So some of them are not documented; right?

13 A. Correct.

14 Q. Does the logbook indicate whether a guest is
15 documented or undocumented?

16 A. It may and it may not.

17 Q. Why the discrepancy?

18 A. Because we have a turnover of volunteers. And
19 one volunteer may remember and another volunteer may
20 not.

21 Q. Do you have any objection to sharing the
22 information that you shared today about those logbooks?

23 A. What I've shared with you today, I don't.

24 Q. Do you have any religious objection to sharing
25 the logbooks, period?

1 A. In other words, you're asking, can I -- do I
2 have an objection of picking up the logbook and sharing
3 that logbook?

4 Q. I'm sorry. Let me restate the question,
5 Mr. Garcia. That was unclear on my part.

6 If you were to share the logbook with
7 somebody else, would that burden your religion to share
8 it?

9 A. It would burden my concern about the
10 appropriateness of sharing that with someone that I
11 don't know should have access to that.

12 Q. I understand that, Mr. Garcia, and we're about
13 to get to that, but I just want to focus on the religion
14 for just one more second.

15 It sounds like it wouldn't burden your
16 religion to share that book with someone?

17 A. I don't see it as -- no.

18 Q. Okay. You had indicated, when my friend on the
19 other side here was questioning you, that it would be
20 harmful to share the names of people in the logbook; is
21 that right?

22 A. Again, I'm not understanding your question.

23 Q. Do you have any objection to sharing the
24 logbook, including all the names in it, to the State of
25 Texas?

1 A. Not without first getting a ruling from a judge
2 that it is okay for me to do that after I have a chance
3 to explain my reservations in doing that.

4 Q. So if the law says that you can do it, then
5 you're happy to do it?

6 A. If a judge interprets it to say that that's
7 what must be done, then --

8 Q. Even if it's what must be done, you still might
9 have concerns; right?

10 A. Absolutely.

11 Q. Okay. What are those concerns?

12 A. I am concerned about, first, the violation of
13 what is a relationship between the individuals and the
14 people that are working with them; that information that
15 is being given to them, some of which that information
16 could be written down -- and that information is then
17 made available to a third party -- and what that does to
18 the relationship between the staff person and the
19 individual guest.

20 I am concerned about the possibility that
21 some of the information that is contained in there could
22 fall into the hands of someone who could present a harm
23 to someone who has passed through our house.

24 Q. Are you aware that any documents that
25 Annunciation House provides to the Attorney General are

1 confidential as a matter of law?

2 A. I was not aware of that.

3 Q. Does that mitigate your concerns about sharing
4 documents with the Attorney General's Office?

5 A. It is helpful to know that. My -- it is
6 helpful to know that. My concern remains.

7 Q. And the concern -- just so I understand it --
8 is that there's a trust that would be broken? That's
9 one concern; right?

10 A. Correct.

11 Q. And the other concern is that people that want
12 to harm your guests would then know where to find your
13 guests; is that correct?

14 A. They could access that, yes.

15 Q. Okay. Do you have any reason to believe that
16 anyone at the Attorney General's Office wants to harm
17 one of your guests?

18 A. No.

19 Q. So how would it be possible that if the
20 Attorney General's Office had this information, that
21 someone could use it to harm one of your guests?

22 A. I'm not familiar with the procedures of the
23 Attorney General. I'm not familiar with how it
24 functions, or what have you.

25 And this is why I'm saying to you, is that

1 I want to have the opportunity to have a judge clarify
2 to me what is it that must be turned over after I've
3 explained why I hesitate to turn it over.

4 Q. Mr. Garcia, you said some of your guests, there
5 are people back in their home countries that might want
6 to harm them; correct?

7 A. Correct.

8 Q. If one of those people came to your door and
9 said they were a refugee, would you let them in?

10 A. If I did not know who they were, I probably
11 would.

12 Q. So you don't take any measures to make sure
13 that your guests are protected from people that might
14 come to harm them; correct?

15 A. We take -- if we have information -- there was
16 a family who was released to us -- this was several
17 years ago -- who was fleeing a group of people in
18 Juarez, and when they were staying at Annunciation
19 House, they saw that person drive in front of
20 Annunciation House. We immediately proceeded to help
21 them obtain tickets so that they could leave El Paso, to
22 get them out of El Paso.

23 Q. When somebody comes to Annunciation House and
24 they claim they're a refugee, do you ask all of the
25 other guests in the house whether it's okay to let this

1 person in?

2 A. We do not.

3 Q. Okay. Mr. Garcia, I would like to ask you a
4 couple of questions about your relationship with Border
5 Patrol.

6 You had said earlier that Border Patrol
7 texts you. Is that every day?

8 A. Every single day.

9 Q. So you have a good relationship with Border
10 Patrol, it's fair to say?

11 A. For the first time in 46 years, they sent me a
12 Christmas card last year.

13 Q. And -- but you're not partners with Border
14 Patrol; right?

15 A. We are not.

16 Q. Why is that?

17 A. They're a governmental entity. We're an NGO.
18 We're separate. We collaborate. We work with each
19 other; we are not a part of.

20 Q. They had offered you to be a partner, though;
21 right?

22 A. I totally don't understand the question.

23 Q. I'm sorry, Mr. Garcia.

24 Border Patrol offered to partner with
25 Annunciation House; isn't that correct?

1 A. Again, I don't know what you are referring to.
2 I've never -- I don't know how the word "partner" --
3 there has never been any time when we have received an
4 offer to partner. I don't know how you use that word --
5 how you're using that word.

6 Q. Do you remember giving an interview to the *New*
7 *Yorker* about two weeks ago, Mr. Garcia?

8 A. I do.

9 Q. And do you remember telling them that a few
10 years ago ICE tried to officially recognize Annunciation
11 House as a partner in its work?

12 A. I remember that conversation. They -- they let
13 me know that they wanted to offer an appreciation for
14 the work that Annunciation House had done in responding
15 to people that are being released.

16 Q. You turned down their offer; correct?

17 A. Correct.

18 Q. Why did you do that?

19 A. Because we see ourselves as two separate
20 entities -- two separate entities. We work differently,
21 and that professionally I wanted to keep our
22 relationship that way.

23 Q. If you were to partner with Border Patrol, that
24 would mean that all of your guests would have to have
25 active asylum cases; right?

1 A. We work with Border Patrol and we have been
2 working with Border Patrol, the releases of families --

3 Q. I'm sorry, Mr. Garcia. That's not my question.

4 A. I'm not understanding your question.

5 Q. If you partnered with Border Patrol, that would
6 mean all of your guests would be required to have
7 documentation from Border Patrol; right?

8 A. We work with Border Patrol. We have been
9 working with Border Patrol. What I don't understand is
10 the use of the word "partner."

11 MR. BAASCH: Your Honor, I would like to
12 admit into evidence what we'll mark as the Attorney
13 General's Exhibit A. It's a *New Yorker* article
14 purporting to interview Mr. Garcia, from two weeks ago.
15 I think it's self-authenticating. It's a newspaper
16 article. And I just want to put up one page from the
17 article on the screen here.

18 (Exhibit offered, Defendant's A)

19 THE COURT: I think it's already part of
20 the record because it was included in your pleadings, so
21 go ahead.

22 MR. BAASCH: Okay.

23 Q. (BY MR. BAASCH) So, Mr. Garcia, I'm referring
24 to the material right here beginning with "...even as
25 Garcia..." and ending at the end of the paragraph.

1 And if you wouldn't mind reading that for
2 me and then looking up when you're done.

3 A. Please indicate again where you want me to
4 start reading.

5 Q. Right here where it says "...even as Garcia."

6 A. "Even as Garcia works closely with federal
7 agents, Annunciation House rarely accepts government
8 funding, relying instead on donations. 'That's given us
9 a lot of freedom,' Garcia told me. Most importantly,
10 Annunciation House can help not just those who have
11 pending asylum cases but also people who are
12 undocumented. A few years ago, Garcia says when ICE
13 tried to officially recognize Annunciation House as a
14 partner in its work, Garcia turned down the offer. 'I'm
15 sorry. No offense. No offense, but I couldn't do it,'
16 he told me."

17 Q. Thank you, Mr. Garcia.

18 So do you remember making these statements
19 to the *New Yorker*?

20 A. I do.

21 Q. And can you explain what you meant about having
22 a lot of freedom?

23 A. Exactly what I've said right here.

24 "Most importantly, Annunciation House can
25 help not just those who have pending asylum cases but

1 also people who are undocumented." That's exactly what
2 I meant.

3 Q. And that's why you have not partnered with
4 Border Patrol; right? Because you want the freedom;
5 right?

6 A. The use of the word "partner," if to partner
7 with Border Patrol means to have a relationship with
8 Border Patrol whereby Border Patrol comes to us and asks
9 us, "Are you able to assist in receiving X numbers of
10 families so that we don't release them to the street?"
11 we do that. We, in fact, have that kind of a
12 relationship; in that sense, partnering.

13 But is there some official partnering,
14 et cetera --

15 Q. Mr. Garcia, did you make these statements to
16 the *New Yorker*?

17 A. I did.

18 Q. So what did you mean when you said that you
19 didn't want to be a partner?

20 A. My understanding, the way that you're phrasing
21 the question --

22 Q. Mr. Garcia, I'm referring to the words you used
23 to the *New Yorker* --

24 MR. WESEVICH: Objection, Your Honor. He
25 needs to be able to finish his answer.

1 THE COURT: Agreed. Go ahead.

2 A. I used the word "partnering" in the sense of
3 collaborating, working with. I didn't use the word
4 "partnering" in a sense of a formal relationship.

5 There's nothing on paper. There is no
6 document. There is no modus operandi. There is no
7 memorandum of understanding. There is nothing like that
8 that exists.

9 Q. (BY MR. BAASCH) So what did you turn down,
10 Mr. Garcia?

11 A. I turned down an acknowledgment of us working
12 with them. I turned it down because for me, it was
13 important to keep our relationship professional.

14 Q. Mr. Garcia, you indicated that -- and I promise
15 I'm almost out of questions here.

16 You had indicated earlier in questioning
17 that the federal government has tried to enter
18 Annunciation House a number of times; correct?

19 A. Border Patrol.

20 Q. The first example you gave was in 1984;
21 correct?

22 A. Correct.

23 Q. And when they came and sought to enter, you
24 asked for a warrant; right?

25 A. They were already inside.

1 Q. They broke in?

2 A. They knocked on the door. One of the guests
3 answered the door. The guest did not speak English.
4 The Border Patrol officer did not speak Spanish. The
5 Border Patrol officer told me, after the fact, that he
6 had asked the guest if he could come in. When I spoke
7 to the guest, the guest said, "He was there with his
8 uniform, and I just pulled the door back and did this."
9 (Indicating).

10 The officer interpreted that to mean he
11 had been invited in; and, therefore, he did not have a
12 warrant. Once they were in, and I asked him about the
13 warrant, he said, "I do not need a warrant because I was
14 invited in."

15 Q. If you would have opened the door, you would
16 not have let the Border Patrol agent in; correct?

17 A. Correct. Not without a warrant.

18 Q. Why do you require a warrant to enter the
19 Annunciation House?

20 A. For the same reason that I would require a
21 warrant for someone wanting to come into my home, to my
22 personal space. I'm going to ask for a warrant.

23 Q. You don't require any documentation from
24 refugees who want to enter; correct?

25 A. Correct.

1 Q. But you require law enforcement to have a
2 warrant to enter; right?

3 A. Correct.

4 Q. There was another instance that you brought up
5 about someone who was staying at the Annunciation House
6 who had been shot; is that right?

7 A. Correct. Juan Patricio.

8 Q. Juan Patricio. And after Juan Patricio --
9 after that incident, did Border Patrol or any federal
10 law enforcement try to enter Annunciation House?

11 A. Yes.

12 Q. Did you let them?

13 A. No.

14 Q. Why not?

15 A. For the same reason that a warrant wasn't
16 produced. And -- and I understood they could have gone
17 and sought the warrant. They didn't.

18 Q. Is there any circumstance where you would let
19 law enforcement into Annunciation House without a
20 warrant?

21 A. If there was a life-threatening emergency,
22 absolutely.

23 Q. Any other reasons?

24 A. I can give you an example. I can't give you
25 the year that this happened. There was a group of

1 refugees that crossed into El Paso through one of the
2 sewer tunnels -- those big sewer tunnels that are
3 sometimes used that are under the city. And when they
4 were coming up on the El Paso side, Border Patrol was
5 aware that the tunnels were being used, and they were
6 detaining people as they came out. Some people got
7 scared and they ran back toward Mexico.

8 In the process, one of the smugglers
9 was -- took a child from one of the mothers that was
10 part of the group and she ran into the U.S. and didn't
11 have her child. One smuggler ended up with the child in
12 Juarez. That then triggered off an alert trying to find
13 this child.

14 I don't know how, nor why, law enforcement
15 arrived at Annunciation House under the belief that one
16 of the individuals could be at Annunciation House, and
17 they wanted to make sure they were not. Present,
18 outside of Annunciation House, was Border Patrol --

19 Q. Mr. Garcia, I understand.

20 I have limited time, so I'm sorry. I'm
21 going to move on to another question here, but I do
22 understand. I appreciate your explanation.

23 Would it frighten your guests if you let
24 Border Patrol into the facility?

25 A. It could very well frighten them.

1 Q. Why would it frighten them?

2 A. Because many of them are fleeing countries
3 where people in uniform constitute a danger to them.

4 Q. But many of your guests have been processed by
5 Border Patrol; right?

6 A. Correct.

7 Q. Not all of them, though; right?

8 A. Correct.

9 Q. The ones who have been processed by Border
10 Patrol, they wouldn't be afraid of Border Patrol, would
11 they?

12 A. They could very well about be afraid of Border
13 Patrol.

14 Q. And the ones who have not been processed,
15 they're afraid of Border Patrol too; correct?

16 A. They could be afraid of Border Patrol.

17 Q. Just one more question, Mr. Garcia.

18 Are you familiar with the name Laken
19 Riley?

20 A. Right now, I'm not -- it's not ringing a bell.

21 Q. This is the -- have you heard the news reports
22 about the Georgia student who was recently murdered?

23 A. Yes. Yes. Now I remember.

24 Q. Are you familiar with the name Jose Ibarra?

25 A. I am.

1 Q. Do you know whether Jose Ibarra stayed at
2 Annunciation House?

3 A. I do not.

4 Q. You don't know whether he stayed there?

5 A. Correct.

6 Q. Thank you.

7 MR. BAASCH: No further questions.

8 THE COURT: Go ahead.

9 REDIRECT EXAMINATION

10 BY MR. WESEVICH:

11 Q. Mr. Garcia, what percentage of the guests at
12 Annunciation House are women and children?

13 A. Um, it's a high percentage because we work
14 primarily with families. So I would say maybe as high
15 as 60, 70 percent.

16 Q. And what are the age ranges of the children
17 that are there?

18 A. From days old to the children to young adults.

19 Q. And does that have anything to do with why you
20 would lock the doors at Annunciation House?

21 A. It does.

22 Q. Describe that.

23 A. To keep our houses as safe as is possible for
24 everyone who is staying in the house.

25 Q. Now, earlier, you discussed with opposing

1 counsel a -- a -- the Emergency Food and Shelter Program
2 application that you made?

3 A. Yes.

4 Q. Okay. And did you give me permission to
5 provide a copy of that application to the Attorney
6 General?

7 A. I did.

8 Q. All right. I'm going to put on the screen what
9 we will offer into evidence as Exhibit P-1.

10 MR. WESEVICH: May I approach, Your Honor?

11 THE COURT: You may.

12 Q. (BY MR. WESEVICH) I've provided to opposing
13 counsel and put up on the screen and given to you a copy
14 of what's been marked has Exhibit P-1.

15 Would you take a minute just to review
16 that document?

17 MR. BAASCH: Your Honor, I object. I'm
18 not sure this is --

19 THE BAILIFF: Please stand, sir.

20 MR. BAASCH: I'm sorry.

21 Your Honor, I'm not sure this is a proper
22 subject for redirect. He had an opportunity to go over
23 this on his initial direct examination.

24 MR. WESEVICH: Your Honor, the entire
25 subject of the cross-examination was the request for

1 examination that --

2 THE COURT: Agreed. Overruled.

3 Go ahead.

4 MR. WESEVICH: -- the Attorney General
5 served.

6 Q. (BY MR. WESEVICH) Have you had a chance to
7 review this document?

8 A. I have.

9 Q. Is this a Request to Examine that was served on
10 Annunciation House on February the 7th, 2024?

11 A. It is.

12 MR. WESEVICH: Your Honor, we'll offer
13 Exhibit P-1 into evidence.

14 (Exhibit offered, Plaintiff's P-1)

15 THE COURT: Admitted.

16 (Exhibit admitted, Plaintiff's P-1)

17 Q. (BY MR. WESEVICH) Now --

18 MR. WESEVICH: May I approach once more,
19 Your Honor?

20 THE COURT: You may.

21 Q. (BY MR. WESEVICH) Now, I've put on the screen,
22 given to you, and given to opposing counsel, a copy of
23 what's marked as Exhibit P-2, a two-page privilege log.

24 Have you had a chance to review this
25 document?

1 A. I have.

2 Q. Is this the description of documents that
3 you're withholding from production to the Attorney
4 General pending the judge's determination of what
5 documents are necessary to give him under the law?

6 A. It is.

7 MR. WESEVICH: I offer Exhibit P-2 into
8 evidence.

9 (Exhibit offered, Plaintiff's P-2)

10 THE COURT: Admitted.

11 (Exhibit admitted, Plaintiff's P-2)

12 MR. WESEVICH: I have no further
13 questions. Thank you.

14 THE COURT: All right. I'll entertain
15 very brief argument from both sides.

16 Go ahead.

17 MR. WESEVICH: Your Honor, if this Court
18 were to enter a temporary injunction, the very next
19 minute, the opposing counsel could walk downstairs, file
20 a one-page notice of appeal, and stay the Court's
21 temporary injunction. That is why, for the Court to
22 maintain control of this case, for the Court to maintain
23 this case rather than have it go up to the Court of
24 Appeals, that's why we urge the Court to grant the
25 motion to quash. It's the most efficient, least

1 intrusive order that the Court can enter to simply delay
2 compliance with the subpoena until we can have an
3 orderly process for determining what exactly are the
4 disputed documents and what documents are subject to a
5 legitimate privilege that includes freedom of exercise
6 of religion, freedom of association, and the
7 constitutional right to be free of any punishment for
8 noncompliance with the subpoena until after the Court
9 has had an opportunity to provide pre-compliance review
10 of the Attorney General's subpoena.

11 We ask that the Court keep control of the
12 case until all these privileges that I've described can
13 be -- can be resolved in an orderly fashion. And the
14 motion to quash is the most efficient way to do that.

15 Thank you, Your Honor.

16 THE COURT: Thank you.

17 MR. BAASCH: Thank you, Your Honor. Thank
18 you for your time this morning. I'll be very brief.

19 I have to admit I think this is the first
20 time that I've seen opposing counsel invite a judge to
21 specifically issue an order for the purpose of rendering
22 the proceedings unappealable. I'm not familiar with the
23 basis for that request. But I do want to back up and
24 say that there's been a lot of sound and fury, a lot of
25 media attention about this issue. I don't think that it

1 needs to be that way.

2 If we just back up to where we started,
3 big picture here, there's a lot of interest in how NGOs
4 at the border, like Annunciation House, are operating.
5 The governor publicly called for an investigation into
6 that issue over a year ago. We have no idea what's
7 going to be found as part of that investigation, but
8 it's our duty as the Attorney General's Office to make
9 the investigation.

10 As part of the investigation, we served
11 narrowly tailored document demand requests for what I
12 would consider to be highly innocuous material. I mean,
13 some of the document requests we requested were just for
14 the applications that they made for federal aid or a
15 list of the facilities that they owned.

16 Instead of complying with a single one of
17 our document requests, we received a very surprising
18 degree of stonewalling. Instead of negotiating with us,
19 instead of giving us a single document to --

20 THE COURT: Well, hold on. This is the
21 part where you're starting to offend my intelligence.
22 You did not offer to negotiate. You did not offer to
23 act in good faith. That's the whole reason why I
24 granted -- why this Court granted a temporary
25 restraining order because your response, the Attorney

1 General's response, was an unequivocal, rude, and
2 unprofessional, "Now, immediately." There wasn't any
3 attempt to say, "Hey, how about this? How" -- there was
4 no attempt to do that.

5 I mean, all I've heard from day one with
6 the petition and the testimony that I heard today is a
7 willingness to cooperate with you in a meaningful,
8 respectful, professional way that protects all
9 interests -- the Attorney General's interests and
10 Annunciation House's interests.

11 There was no attempt whatsoever to
12 negotiate by the Attorney General, which is what gives
13 the Court rise for concern that there are ulterior
14 political motives here taking place that go outside of
15 what the law requires -- go outside of what the law
16 demands. Those are the Court's concerns.

17 Go ahead.

18 MR. BAASCH: I understand the Court's
19 concerns, Your Honor. I would just make two points very
20 quickly here. The first is that the statute that we
21 were operating under says what it says. And I recognize
22 that the statute may seem to impose a very significant
23 burden on certain organizations, but it is what the --
24 the statute does say what it says. And it says,
25 "Compliance with documents shall be made immediately."

1 When we first served this request on
2 Annunciation House, they said that they needed to
3 consult internally and speak with an attorney. We said,
4 "Okay. Forget the immediately part. Get back to us by
5 tomorrow."

6 And we cited case law indicating, in our
7 communications with Annunciation House, that we do, in
8 fact, have unlimited rights to receive documents under
9 the statute. That statute's been on the books for about
10 a hundred years, never been called into question.

11 And we also recognize that to the extent
12 that the demand imposed an impossible burden on them,
13 that we were not requesting that they provide documents
14 they don't have access to or whatever else. So I
15 recognize that the circumstances here may strike the
16 Court as -- as burdensome, but if the statute says what
17 it says, and we did give -- we tried to give some leeway
18 to Annunciation House. It was Annunciation House that
19 sued us. We didn't file the quo warranto petition
20 against them. They sued us seeking a TRO ex parte. And
21 under our interpretation, the quo warranto is a
22 compulsory counterclaim we had to assert in response.

23 I don't want to burden the Court with
24 extra argument. I know that you have other obligations
25 today, but I would just say that the three -- the three

1 core reasons they submitted for not complying or not
2 giving us certain documents are all constitutional.
3 They don't raise any argument that, under the statute,
4 they don't have to give us these documents. All they
5 say, I think, is that the Constitution supersedes or
6 overrides the statute in certain respects.

7 I don't see how that's possible in light
8 of the brief we submitted to Your Honor. There's a
9 hundred years of case law on this which we briefed
10 extensively. And the statute says what it says. I
11 think that the only way that they could be excused from
12 submitting -- from complying with regard to any document
13 is if the Constitution overrides it. We respect if
14 Your Honor does find that as to a certain document. I
15 don't think it can possibly apply to every document,
16 though.

17 Thank you, Your Honor.

18 THE COURT: Thank you.

19 Very brief. Go ahead.

20 MR. WESEVICH: Very brief.

21 We did provide documents, Your Honor.

22 We've provided 212 pages of documents that fully answer
23 their Items 2, 3, and 4, and that includes the Emergency
24 Food and Shelter Program application documents that they
25 requested.

1 The opposing counsel said that they -- the
2 statute that allows them to seek documents has never
3 been called into question in a hundred years. That
4 might be true, but it's also hardly ever been used. And
5 this is a -- this is a circumstance that it's used in a
6 religious context, in a context where -- and I would
7 emphasize this for Your Honor -- the Attorney General
8 provides no exigent circumstances why this has to be a
9 fire drill and that these complicated constitutional
10 issues cannot be thoroughly vetted and decided carefully
11 before the production of documents is provided to them.

12 There is absolutely nothing that they've
13 said in the entire proceeding about exigent
14 circumstances. We should do this in an orderly fashion,
15 and that is why we seek the temporary injunction. It's
16 why we seek the motion to quash.

17 THE COURT: All right.

18 MR. WESEVICH: And we do have proposed
19 orders for the judge's consideration.

20 THE COURT: You can hand them to the
21 bailiff.

22 If you have yours as well, go ahead.

23 I'm going to take this under advisement.
24 There's a lot to chew on here, and I know we have the
25 other issues that are still pending, so I've got to look

1 at that as well. I've been looking at it, but now that
2 I've heard your argument and your evidence today, the
3 Court will look at that and get you a ruling as soon as
4 is practical.

5 Thank you-all. We are adjourned.

6 THE BAILIFF: All rise, please.

7 (Proceedings concluded)

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1 STATE OF TEXAS)

2 COUNTY OF EL PASO)

3 I, Jo-Anne Hilverding, Official Court Reporter in
 4 and for the 205th Judicial District Court of El Paso
 5 County, Hudspeth County and Culberson County, State of
 6 Texas, do hereby certify that the foregoing contains a
 7 true and correct transcription of all portions of
 8 evidence and other proceedings requested in writing by
 9 counsel for the parties to be included in this volume of
 10 the Reporter's Record, in the above-styled and numbered
 11 cause, all of which occurred in open court or in
 12 chambers and were reported by me.

13 I further certify that this Reporter's Record of
 14 the proceedings truly and correctly reflects the
 15 exhibits, if any, admitted, tendered in an offer of
 16 proof or offered into evidence.

17 I further certify that the total cost for the
 18 preparation of this Reporter's Record is \$510.00 and was
 19 paid/will be paid by the OFFICE OF THE ATTORNEY GENERAL
 20 OF TEXAS.

21 WITNESS MY OFFICIAL HAND this 11th day of
 22 March, 2024.

23 /s/Jo-Anne Hilverding
 24 Jo-Anne Hilverding, Texas CSR #7536
 Expires: April 30, 2026
 205th Judicial District Court
 25 El Paso, TX 79901 (915) 546-2107

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TRIAL COURT CAUSE NO. 2024DCV0616

ANNUNCIATION HOUSE, INC.,	§	
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	IN THE DISTRICT COURT
KEN PAXTON, IN HIS OFFICIAL	§	
CAPACITY AS TEXAS ATTORNEY	§	OF EL PASO COUNTY, TEXAS
GENERAL, and JENNIFER COBOS,	§	
IN HER OFFICIAL CAPACITY AS	§	205TH JUDICIAL DISTRICT
DIRECTOR OF REGIONAL	§	
OPERATIONS & STRATEGY FOR THE	§	
OFFICE OF THE ATTORNEY	§	
GENERAL,	§	
	§	
Defendants.	§	

I, Jo-Anne Hilverding, Official Court Reporter in and for 205th Judicial District Court of El Paso, Hudspeth and Culberson County, State of Texas, do hereby certify that the foregoing exhibits constitute true and complete duplicates of the original exhibits, excluding physical evidence, admitted, tendered in an offer of proof or offered into evidence during the Temporary Injunction Hearing, the 7th day of March 2024, in the above-entitled and numbered cause as set out herein before the Honorable Francisco X. Dominguez, Judge of the 205th Judicial District Court of El Paso, Hudspeth and Culberson County, Texas.

I further certify that the total cost for the preparation of this Reporter's Record is \$510.00 and was paid/will be paid by the OFFICE OF THE ATTORNEY GENERAL OF TEXAS.

WITNESS MY OFFICIAL HAND this 11th day of March, 2024.

/s/ Jo-Anne Hilverding
 Jo-Anne Hilverding, Texas CSR #7536
 Expires: April 30, 2026
 205th Judicial District Court
 El Paso, TX 79901 (915) 546-2107



OFFICE OF THE ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

REQUEST TO EXAMINE

To: Annunciation House
815 Myrtle Ave
El Paso, TX 79901-1511

Re: *The Office of the Attorney General's Investigation of Annunciation House*

The Office of the Attorney General, as the representative of the public's interest, is charged under Texas law with the power and duty to protect and enforce the public interest in nonprofit organizations. In this capacity, this Office reviews nonprofit entities to determine compliance with Texas law.

Annunciation House, Inc. ("Annunciation House"), is a Domestic Nonprofit Corporation registered to do business in Texas as a domestic filing entity. Pursuant to this office's specific authority under Texas law, including Texas Business and Organizations Code Section 12.151, *et seq.*, the Office of the Attorney General is undertaking an investigation into the organization, conduct, and management of Annunciation House.

Under Texas Business and Organizations Code:

To examine the business of a filing entity or foreign filing entity, the attorney general shall make a written request to a managerial official, who shall immediately permit the attorney general to inspect, examine, and make copies of the records of the entity.

Tex. Bus. Orgs. Code § 12.152.

Pursuant to this authority, the Office of the Attorney General is issuing this Request to Examine (RTE), requesting that Annunciation House produce the documents set forth in Attachment "A." You are to make available the documentary material described in Exhibit "A" to the undersigned Assistant Attorney General or other authorized agent(s) identified by the Consumer Protection Division ("Division"). This documentary material shall be produced for inspection and copying during normal business hours at your principal office or place of business and is due immediately upon receipt of this Request to Examine. You will permit Levi Fuller and

No. 2024DCV0616
First Amended Petition

Exhibit B

EXHIBIT

tabbles

P-1

Will Taylor, authorized agents of the Attorney General of Texas, immediate access for an examination and investigation of all requested materials and to make reproductions or copies of said materials. ***Please contact one of the persons listed below upon receipt in order to discuss and the logistics of producing the requested documents to the Consumer Protection Division***

NOTICE

Duty to Supplement

Annunciation House and its board and officers are given notice that this RTE remains effective until the Office of the Attorney General's investigation is complete, and that Annunciation House has a continuing duty to supplement its responses and to continue to produce documents and records that are within the scope of these requests. Additionally, as the investigation progresses, the Attorney General may request additional documents pursuant to one or more Supplemental Requests to Examine.

TAKE NOTICE THAT pursuant to Sections 12.155-12.156 of the Tex. Bus. & Org. Code, a foreign filing entity or filing entity that fails or refuses to permit the Attorney General to examine or make copies of a record, without regard to whether the record is located in this state, forfeits the right of the entity to do business in this state, and the entity's registration or certificate of formation shall be revoked or terminated.

Further, a managerial official or other individual having the authority to manage the affairs of a filing entity or foreign filing entity commits an offense if the official or individual fails or refuses to permit the Attorney General to make an investigation of the entity or to examine or to make copies of a record of the entity. An offense under this section is a Class B misdemeanor.

ISSUED THIS 7th day of February, 2024.

/s/ Levi Fuller

Levi Fuller
Assistant Attorney General
Consumer Protection Division
Office of the Attorney General
(512) 463-2185 (phone)
(512) 370-9125 (fax)
levi.fuller@oag.texas.gov (email)

Other Authorized Agents:
Christopher Krhovjak, Investigator
Consumer Protection Division
Office of the Attorney General
(512) 475-4175 (phone)
christopher.krhovjak@oag.texas.gov (email)

ATTACHMENT "A"

Instructions

1. **Read These Instructions/Definitions Carefully.** Your production must comply with these instructions and definitions.
2. **Duty to Preserve Documents.** All documents and/or other data which relate to the subject matter or requests of this RTE must be preserved. *Any ongoing, scheduled, or other process of document or data destruction involving such documents or data must cease even if it is your normal or routine course of business for you to delete or destroy such documents or data and even if you believe such documents or data are protected from discovery by privilege or otherwise.* Failure to preserve such documents or data may result in legal action and may be regarded as spoliation of evidence under applicable law.
3. **Relevant Dates.** Unless otherwise noted, the requests in this RTE require production of documents from January 1, 2022 to the date this RTE is received, herein called "the relevant time period."
4. **Custody and Control.** In responding to this RTE, you are required to produce not only all requested documents in your physical possession, but also all requested documents within your custody and control. A document is in your custody and control if it is in the possession of another person and you have a right to possess that document that is equal or superior to that other person's right of possession. On the rare occasion that you cannot obtain the document, you must provide an explanation as to why you cannot obtain the document which includes the following information:
 - a. the name of each author, sender, creator, and initiator of such document;
 - b. the name of each recipient, addressee, or party for whom such document was intended;
 - c. the date the document was created;
 - d. the date(s) the document was in use;
 - e. a detailed description of the content of the document;
 - f. the reason it is no longer in your possession, custody, or control; and
 - g. the document's present whereabouts.

If the document is no longer in existence, in addition to providing the information indicated above, state on whose instructions the document was destroyed or otherwise disposed of, and the date and manner of the destruction or disposal.

5. **Non-identical Copies to be Produced.** Any copy of a document that differs in any manner, including the presence of handwritten notations, different senders or recipients, etc. must be produced.
6. **No Redaction.** All materials or documents produced in response to this RTE shall be

produced in complete unabridged, unedited, and unredacted form, even if portions may contain information not explicitly requested, or might include interim or final editions of a document.

7. **Document Organization.** Each document and other tangible thing produced shall be clearly designated as to which request, and each sub-part of a request, that it satisfies. The documents produced shall be identified and segregated to correspond with the number and subsection of the request.

8. **Production of Documents.** You may submit photocopies (with color photocopies where necessary to interpret the document) in lieu of original hard-copy documents if the photocopies provided are true, correct, and complete copies of the original documents. If the requested information is electronically stored information, it shall be produced in electronic form. Electronically stored information shall be produced with the accompanying metadata, codes, and programs necessary for translating it into usable form, or the information shall be produced in a finished usable form. For any questions related to the production of documents you may consult with the Office of the Attorney General representatives above.

9. **Privilege Log.** For each Document and any other requested information that you assert is privileged or for any other reason excludable from production, please provide a privilege log, wherein you:

- a. Identify that Document and other requested information;
- b. State each specific ground for the claim of privilege or other ground for exclusion and the facts supporting each claim of privilege or other ground for exclusion;
- c. State the date of the Document or other requested information; the name, job title, and address (including city, state and ZIP Code) of the person who prepared it; the name, address (including city, state, and ZIP Code), and job title of the person to whom it was addressed or circulated or who saw it; and the name, job title, and address (including city, state, and ZIP Code) of the person now in possession of it; and
- d. Describe the type and subject matter of the Document or other requested information.

Definitions

1. **“You,” “Your,” and, “Annunciation House”** means the entity named on page one of this RTE and includes its past and present directors, officers, employees, agents and representatives, parents and predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all persons and entities acting or purporting to act under the guidance of or on behalf of any of the above. The terms “subsidiary,” “affiliate,” and “joint venture” refer to any firm in which there is total or partial ownership (25 percent or more) or control between Annunciation House, and any other person or entity.
2. **“Alien”** means any person not a citizen or national of the United States as set forth in United States Code, 8 U.S.C. § 1101.
3. **“Referral”** means any action taken to refer an Alien, whether here legally or illegally, to a lawyer or any legal services organization.
4. **“Facility”** or **“Facilities”** include, but are not limited to any temporary or permanent residential structures, commercial buildings, or leased or rented structures to which your organization, its clients, or partners have ownership or regular access.
5. **“Funding”** or **“Funds”** mean assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit.
6. **“Emergency Food and Shelter Program”** refers to the program for humanitarian relief under the purview of the Federal Emergency Management Agency (FEMA).
7. **“Intake Process”** is defined to mean your procedure, including any paperwork, used to document each individual new migrant seeking services, shelter, or assistance of any kind from you.
8. The words **“and”** and **“or”** shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of the request, any document(s) that might be deemed outside its scope by another construction.
9. **“Communication”** means any conversation, discussion, letter, email, correspondence, memorandum, meeting, note, or other transmittal of information or message, whether transmitted in writing, orally, electronically, or by any other means.
10. **“Concerning”** or **“Relating to”** or **“Related to”** means related to, referring to, pertaining to, concerning, describing, regarding, evidencing, or constituting.
11. **“Document”** is used herein in the broadest sense of the term and means all records and other tangible media of expression of whatever nature however and wherever created, produced, or stored (manually, mechanically, electronically, or otherwise), including without limitation all versions whether draft or final, all annotated or nonconforming or other copies, electronic mail (e-mail), instant messages, text messages or other wireless device messages, voicemail, calendars,

date books, appointment books, diaries, books, papers, files, notes, confirmations, accounts statements, correspondence, memoranda, reports, records, journals, scientific or medical studies, registers, analyses, plans, manuals, policies, telegrams, faxes, telexes, wires, telephone logs, telephone messages, message slips, minutes, notes or records or transcriptions of conversations or Communications or meetings, tape recordings, videotapes, disks, and other electronic media, microfilm, microfiche, storage devices, press releases, contracts, agreements, notices, and summaries. Any non-identical version of a Document constitutes a separate Document within this definition, including without limitation drafts or copies bearing any notation, edit, comment, marginalia, underscoring, highlighting, marking, or any other alteration of any kind resulting in any difference between two or more otherwise identical Documents. In the case of Documents bearing any notation or other marking made by highlighting ink, the term Document means the original version bearing the highlighting ink, which original must be produced as opposed to any copy thereof.

12. **“Identify”** means the following:

- a. With respect to a natural Person, the complete name, any alias(es), social security number, date of birth, occupation, title(s), job responsibilities, street and mailing address for both home and business at the time in question and at the time of responding (if different), home, cellular, and business telephone numbers, and personal and business email addresses;
- b. With respect to an entity, its name(s), business address(es), legal address(es), state(s) of incorporation, registered or unregistered tradename(s), name(s) under which it does business, or any other affiliated name(s), electronic email domains and websites operated by the entity, tax identification number(s), and the identity of its agent(s) for the service of process; and
- c. With respect to a Document, its Bates or other sequential notation, title, date, location, author(s), signatory(ies), recipient(s), description (*e.g.*, memorandum, letter, contract, form), the number of pages, and a summary of the contents.

13. **“Person”** means any natural person or any legal entity, including, without limitation, any corporation, company, limited liability company or corporation, partnership, limited partnership, association, or firm.

Documents to be Examined

In accordance with the requirements set forth in the "Definitions" and "Instructions" sections of this RTE, You are specifically required to produce the following documents for immediate examination and duplication:

1. Documents sufficient to show all Referrals within the relevant time period.
2. Documents sufficient to show all services that you provide to Aliens, whether present in the United States legally or illegally.
3. Documents sufficient to identify all Facilities in Texas under your control or operating at your behest.
4. All applications for humanitarian relief funding, submitted by your organization, through the Emergency Food and Shelter Program (ESFP).
5. All underlying documentation supporting your applications for humanitarian relief funding under the ESFP, including all documentation that you are required to maintain under that program.
6. All documents provided by individual Aliens as part of your Intake Process.
7. All documents provided to individual Aliens as part of your Intake Process.
8. All logs identifying Aliens to whom you have provided services in the relevant time period.



PRIVILEGE LOG

Pending the Court's ruling on the objections that Annunciation House, Inc. (AHI) lodged to the "Request to Examine" served February 7, 2024, Annunciation house withholds production of the following documents, all of which are authored by numerous volunteers, and all of which are stored in a confidential manner by AHI. The grounds for each objection are stated in AHI's First Amended Petition, which is incorporated here by reference.

1) Guest intake spreadsheets.

AHI has electronically stored information in 7 spreadsheets saved as separate files. Each is specific to one shelter. The spreadsheets are not complete, because as volunteer services are available, information from paper intake forms is transferred onto the spreadsheets. Insufficient volunteer services have been available to keep the electronic spreadsheets current. The columns of information contained for each guest in each spreadsheet is the same, including:

- a) Name
- b) Number in Family Group
- c) Relationship to Others in Family Group
- d) Gender
- e) Date of Birth
- f) A# assigned by the federal government
- g) Bond amount
- h) City, state, and country of origin
- i) Reason for stay
- j) Referring agency
- k) Arrival date
- l) Departure date
- m) Repeat guest
- n) Destination city, state, and country
- o) Phone number
- p) Other notes

AHI objects that this information is protected from disclosure by the First, Fourth, and Fourteenth Amendments, Texas Constitution art. I sections 8, 27, and 29, TRFRA, and HIPAA.

2) Guest intake papers

The information contained in the spreadsheets is often also collected on paper and then transferred to the electronic spreadsheets. AHI has numerous boxes of intake papers that have not yet been transferred to the electronic spreadsheets distributed among its shelters. AHI objects that this information is protected from disclosure by the First, Fourth, and Fourteenth Amendments, Texas Constitution art. I sections 8, 27, and 29, TRFRA, and HIPAA.

3) Shift logs

Some AHI shelters maintain a spiral notebook in which shift volunteers write by hand information that records unusual events that the oncoming shift of volunteers may need to

know. These logs are maintained chronologically. AHI objects that this information is protected from disclosure by the First, Fourth, and Fourteenth Amendments, Texas Constitution art. I sections 8, 27, and 29, and TRFRA.

4) Medical documents

Guests who have significant medical needs occasionally ask AHI to keep their medical documents safe, so AHI has medical documents of some guests. AHI objects that this information is protected from disclosure by the First, Fourth, and Fourteenth Amendments, Texas Constitution art. I sections 8, 27, and 29, TRFRA, and HIPAA.

5) Medical spreadsheet

AHI maintains a spreadsheet that describes serious injuries to guests and their medical conditions. AHI objects that this information is protected from disclosure by the First, Fourth, and Fourteenth Amendments, Texas Constitution art. I sections 8, 27, and 29, TRFRA, and HIPAA.

6) Travel slips

AHI writes travel details for guests so that they have their itineraries in writing as they interact with bus companies and airlines, and AHI keeps some carbon copies of these, but the copies are useless after the guests have travelled so they are not ordinarily saved by AHI.

The travel slips include this information:

- a) Name
- b) Phone number
- c) Room number
- d) Hospitality site
- e) Number of persons
- f) Pick-up time
- g) Driver and phone number
- h) Destination
- i) Name of ticket purchaser
- j) Departure date and time
- k) Airline or bus company
- l) Confirmation number
- m) Children names and ages
- n) Car seat status for infants and toddlers

AHI objects that this information is protected from disclosure by the First, Fourth, and Fourteenth Amendments, Texas Constitution art. I sections 8, 27, and 29, and TRFRA.

7) AHI publishes a range of communications to guests as necessary covering subjects ranging from chapel services to guest rules and responsibilities to guest needs for clothing and toiletries and infant care items. AHI has 30 pages of these responsive documents. AHI objects that this information is protected from disclosure by the First, Fourth, and Fourteenth Amendments, Texas Constitution art. I sections 8, 27, and 29, and TRFRA.

LETTER FROM THE SOUTHWEST

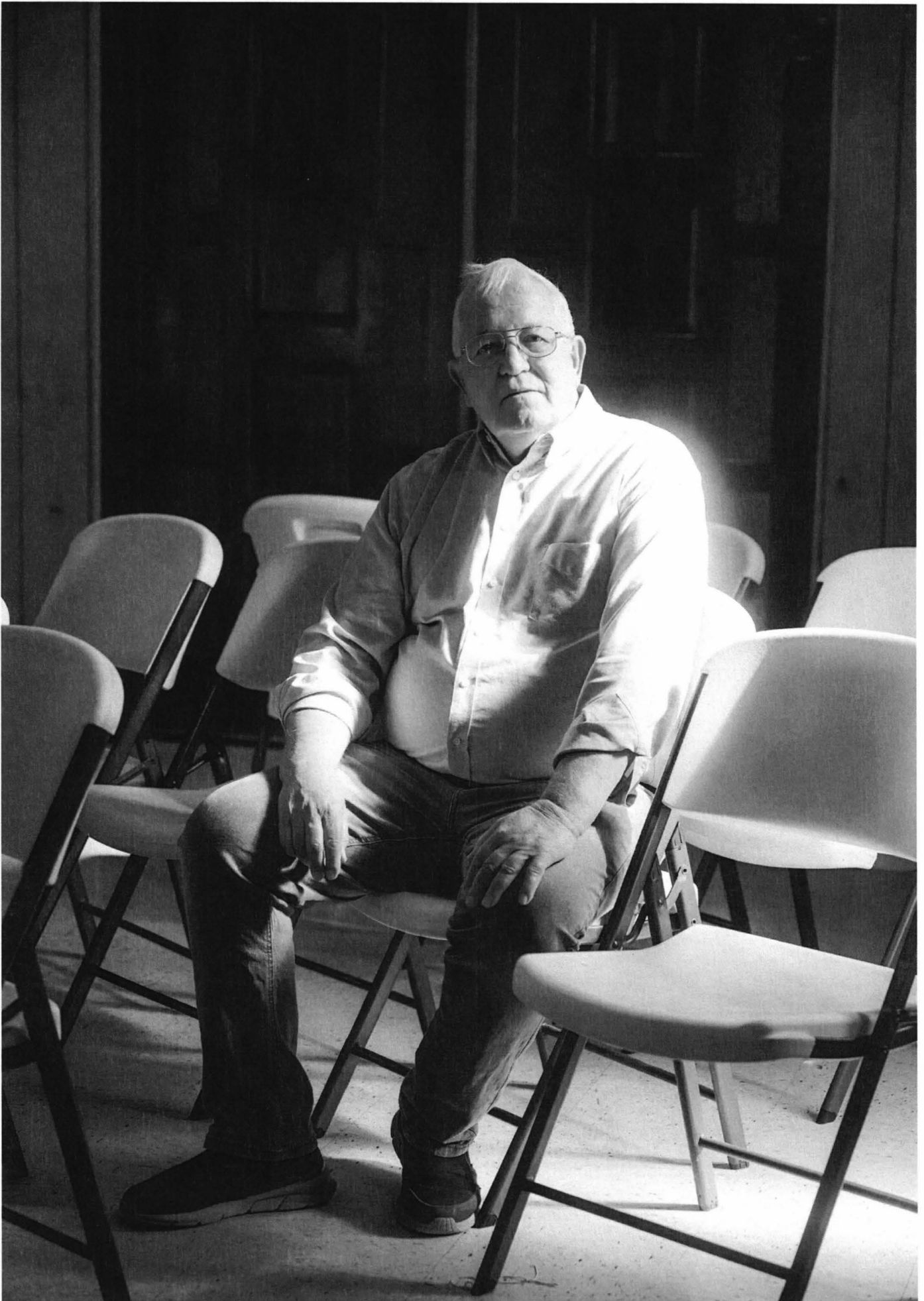
EL PASO'S SAINT OF THE BORDER NEGOTIATES A NEW REALITY

For nearly fifty years, Ruben Garcia has welcomed migrants and refugees at Annunciation House. Amid record border crossings, Texas is now trying to shut down his network of shelters.

By Rachel Monroe

February 23, 2024

OAG
Exhibit A





Photographs by Desiree Rios for The New Yorker

 Save this story

Ruben Garcia's days start early, with a text message from Border Patrol. On a bright day in mid-January, the message arrived a little after 5:45 A.M. Ninety-two people who had crossed the border illegally as part of family units would be released today, the text said. Where would they go?

As the director of Annunciation House, a nonprofit shelter system, Garcia, who is seventy-five, has welcomed migrants and refugees arriving in El Paso for nearly fifty years. Record numbers of people are crossing the border, many of them into El Paso, one of the country's busiest ports of entry. Ninety-two people was "very manageable" compared with the number on many other days, he said. Without Garcia's efforts, "over the years, tens of thousands of people would have been on the streets of El Paso without food, without shelter, without comfort," Veronica Escobar, the congresswoman who represents El Paso, told me. When Escobar took a congressional delegation to the border, earlier this month, she made sure her colleagues talked to Garcia, whom she refers to as "a saint who still walks the earth."

Daily

Our flagship newsletter highlights the best of *The New Yorker*, including top stories, fiction, humor, and podcasts.

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Increasingly, people in positions of power are eager for Garcia's expertise, even if they don't always agree with his opinions on immigration; he has met with representatives of both the Trump and Biden Administrations. Last January, when New York's mayor, Eric Adams, visited the southern border to better understand how to handle the influx of migrants to New York, he sat down with Garcia. "He was basically, like, 'Why are you sending all these people to New York City?' " Garcia recalled. Garcia has white hair and a mild, tolerant manner that belies his underlying steeliness; he has little patience for people who see migrants as someone else's problem. "This is us encountering our own humanity," he told me. "This is what we were made for." He encouraged the Mayor to enlist local faith communities to support migrants until they got on their feet. Wasn't New York the wealthiest city in the world? Adams seemed unconvinced. "He was, like, 'Ruben, you don't live in my world,' " Garcia recalled.

A letter written by a guest at Casa Papa Francisco, one of the Annunciation House's hospitality sites.

A guest hangs laundry on a clothesline at Casa Papa Francisco.

Accommodations at Casa Papa Francisco, one of the Annunciation House's hospitality sites.

The increasing political prominence of immigration has also put aid organizations in the crosshairs. This week, Ken Paxton, Texas's attorney general, announced a suit against Annunciation House, accusing the organization of "astonishing horrors," among them "facilitating illegal entry to the United States, alien harboring, human smuggling, and operating a stash house." (The lawsuit stems from a dispute over Annunciation House's failure to turn over paperwork that the attorney general had requested with one day's notice.) A ruling against Annunciation House might force the organization to cease operations in Texas.

Garcia was born and brought up in El Paso, where he attended Catholic schools. When he was in his twenties, he ran youth-outreach programs for the local diocese, but he hungered for a larger sense of purpose. Garcia and a

group of friends began meeting regularly, trying to determine how to lead meaningful lives. It was the mid-seventies, and all around the country young people were embarking on soul-expanding quests. Garcia was emphatically not a hippie—“Chances are, if I had met a hippie, I would’ve said, ‘Don’t you have anything better to do with your time?’ ” he told me—but he was drawn to his faith’s radical practitioners, including Dorothy Day, who opened “houses of hospitality” to feed and provide shelter for the poor, and Cesar Chavez, who incorporated prayers into marches for workers’ rights.

During the months of prayer and discussion, Garcia kept circling back to the same realization: “The God of Scripture identifies first and foremost with the least among us. And we’re not that,” he said. “That insight was extremely helpful. Because it allowed us to understand that, if you want to find greater meaning and purpose and depth to your life, then go place yourself among the people that God does identify with, and they will teach you. At that time, in El Paso, there were two shelters, and neither of them would let you stay there if you were undocumented. So when we asked the question, ‘In El Paso, in 1978, who would be some of the people that God would identify with?’ The answer was, ‘The undocumented.’ ” That year, the Diocese of El Paso granted Garcia and his friends use of the second floor of a brick building a mile from the border. Garcia wrote to Mother Teresa, whom he had met a couple of years prior, telling her about their work. He says she replied, “Now that you have the building, you can go out and announce the good news.” Thus the name of the project: Annunciation House. In keeping with the tradition started by Day, Garcia and his co-founders referred to the residents of Annunciation House as “guests.” “We had one guest who was undocumented, and then we had two, we had three, we had four,” Garcia said. Volunteers and guests lived communally. Within a few years, they had taken over the first floor of the building, too. Garcia’s co-founders eventually left, but Garcia says he lived in Annunciation House and its network of shelters for thirty-five years, until his parents died, when he moved into their house.

Several weeks before Paxton sued Annunciation House, I met Garcia at Casa Papa Francisco, a former convent building that, in 2022, was repurposed as a shelter, one of several that the organization runs. Its guests had crossed the border illegally before either being apprehended or seeking out immigration officials to apply for asylum. The building had the tidy but functional atmosphere of a place that many people pass through on the way to somewhere else. A map of the United States was tacked to a wall, near a list of phone numbers for bus companies. In the kitchen, people stood chatting: the daily bus to New York had been cancelled, owing to bad weather.

Cots are turned on their side inside Casa Rita Steinhagen, one of Annunciation House's newest hospitality sites.

Most people who come to Annunciation House shelters stay for a handful of days or a few weeks, before leaving to connect with friends or family or work prospects elsewhere. But some guests stay longer. That day, Garcia was taking two of them

to a dentist appointment: Yara, a teen-ager who had arrived from Venezuela with her mother seven months before, and Wilson, a thin young man with lively eyes who had been severely burned in the March, 2023, fire at Juárez's detention center. Garcia lifted Wilson, who uses a wheelchair, into the front seat of his work vehicle, a white Toyota truck with nearly two hundred thousand miles on the odometer, then hoisted the chair into its bed.

In Annunciation House's early days, its blend of religious faith and civil disobedience was not unique. In the eighties, as civil wars—which were in some cases fought by U.S.-funded paramilitaries—ravaged Central America, the Reagan Administration enacted policies that made it difficult for those fleeing violence to claim asylum. Hundreds of congregations of many faiths offered themselves as shelters to undocumented refugees as part of the sanctuary movement. After the September 11, 2001, attacks and the formation of the Department of Homeland Security, the border became increasingly militarized; in 2003, a Border Patrol agent shot and killed Juan Patricio Peraza Quijada, a nineteen-year-old who was staying at Annunciation House. (A judge later ruled that the agent's actions were justified.) Garcia still bristles when he discusses the shooting, and every year he hosts a memorial Mass for Peraza on February 22nd, the anniversary of his death. Peraza's death marked “a low point” in Garcia's relationship with the Border Patrol, he said.

Then, in 2014, Garcia says, representatives from the Border Patrol and from the El Paso office of Immigration and Customs Enforcement requested to meet with Garcia. “I'm, like, What the hell are they wanting? Because, at that point, there wasn't really a relationship,” Garcia said. The officials wanted to discuss a shift in migrant populations. Instead of single adults hoping to find work under the table, many border crossers were now families planning to apply for asylum. Instead of attempting to evade the Border Patrol, they were seeking out agents, and ICE didn't have the capacity to house family units while their cases were pending. (U.S. immigration courts currently have a backlog of more than three million cases.)

“They said, ‘We want to release them to Annunciation House—will you take them?’ And that’s when I was able to say to them, ‘With certain conditions,’ ” Garcia recalled. He asked that the asylum seekers be released with papers that enabled them to travel, and that Annunciation House’s volunteers not be enlisted to monitor guests. “No enforcement,” as he put it. (An ICE representative was unable to confirm Garcia's account of the 2014 meeting before publication. C.B.P. did not respond to a request for comment.)

That meeting marked the beginning of Garcia’s new relationship with the border-enforcement agencies. Nowadays, once asylum seekers either are apprehended or turn themselves in to Border Patrol, they are processed into the immigration system, and, if released, brought to Annunciation House’s network of shelters, where they are fed, housed, and provided assistance to travel onward. “Otherwise, you’re going to see people sleeping in the streets,” Garcia said. (In the Rio Grande Valley, a similar support network is run by Sister Norma Pimentel.) Even as Garcia works closely with federal agents, Annunciation House rarely accepts government funding, relying instead on donations. “That’s given us a lot of freedom,” Garcia told me. Most important, it means that Annunciation House can help not just those who have pending asylum cases but also people who are undocumented. A few years ago, Garcia says, when ICE tried to officially recognize Annunciation House as a partner in its work, Garcia turned down the offer. “I’m sorry, no offense, no offense—but I couldn’t do it,” he told me.

As we sat in the dentist’s waiting room, Garcia explained that, during the Trump Administration, as the number of migrants continued to rise, Annunciation Houses’s resources grew strained. In one year, Garcia told me, ICE released more than a hundred and fifty thousand people to the organization’s shelters. “The reasons are always the same—I can’t feed my family, I’m afraid. It’s just that the numbers have gone up,” Garcia said. (According to a D.H.S. report, under the Biden Administration, C.B.P. has taken more than six million migrants into custody, deported approximately four million, and released more than 2.3 million while their cases were pending; the majority of those who arrived as families were

released.) Annunciation House had always run on a shoestring budget, and the COVID-19 pandemic made things even harder; volunteer levels dropped, even as border crossings rose, after a brief lull in 2020, to record numbers. “We were doing all of it, and the city and county were doing none of it,” Garcia said. “We just couldn’t keep going at that pace.” In 2022, Garcia shut down Casa del Refugiado, one of Annunciation House’s satellite shelters, which had a capacity of more than a thousand beds—at the time, one of the largest shelters on the southern border.

The situation put El Paso, a city that has traditionally welcomed immigrants, in a bind. Declaring a state of emergency because of the migrant crossings would unlock state and federal funds, but some local lawmakers feared that doing so would accord with Governor Greg Abbott’s rhetoric about a migrant “invasion” at the border. The city did eventually issue a disaster declaration, and opened shelters of its own, but the money came with strings attached. “When the City of El Paso declared a disaster,” the El Paso County judge Ricardo Samaniego testified before the House Judiciary Committee, last February, “we did not get the resources that we needed but instead saw the state send Texas National Guard, the placement of concertina wire lined haphazardly in certain areas, and pseudo barriers of tanks and cargo containers.” “With the disaster declaration, you get the money. And you get the razor wire,” Garcia said.

Abbott’s busing program, in which chartered buses take migrants to cities elsewhere in the country, has also helped relieve the pressure on El Paso. Abbott was criticized for using migrants as pawns in order to make a political point. But Garcia pointed out that busing migrants away from border cities also helped make their plight visible to more people: “So, one-fourth of the population of Venezuela—probably six million people—has left Venezuela. But those six million people aren’t here. They’re in Colombia, they’re in Ecuador. Those countries have absorbed many, many more people than have come here. But our reaction—the richest country in the world!—has been that we’re overwhelmed. As long as the Venezuelans are overwhelming Colombia, we don’t give a shit. We don’t raise a

finger. We only pretend to be concerned when they start showing up here.” Many Americans seemed to think of migrants as someone else’s problem; what if, instead, we considered them our collective responsibility? “All of us have skin in this game,” he said. But, as rhetoric around migration grows more heated, the humanitarian work done by organizations like Annunciation House becomes more fraught. An anti-immigrant activist recently filmed volunteers aiding migrants in Arizona, accusing them of “aiding and abetting the cartels.”

Later in the afternoon, Garcia visited a former church building that Annunciation House was converting into a shelter. He planned to name it Casa Rita Steinhagen, in honor of a Minnesota nun and peace activist who served time in prison for protesting the School of the Americas, a U.S. Army training program for Latin American military officers. The shelter will use FEMA money as part of its operating budget, only the second time Garcia has accepted government funding. (It will remain separate from the rest of Annunciation House’s operations.) The church’s sanctuary was already cluttered with cots and stacks of boxes containing blankets from the Red Cross. “You’ve got enough blankets, at least,” Garcia told a volunteer. She eyed the boxes appraisingly. “Just enough, probably,” she said.

As we headed back to Casa Papa Francisco, Garcia checked his phone—another text from Border Patrol, then a call from a volunteer trying to sort out the disrupted bus schedules. Amid the constant work of coordination, Garcia began to muse on his eventual retirement. He’s decided that, when the time comes, he’ll step back all the way; he doesn’t want to become one of those people who hovers over what he’s built, unable to leave it behind. “Maybe *then* I’ll become a hippie,” he said. ♦

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Rachel Monroe is a contributing writer at The New Yorker, where she covers Texas and the Southwest.

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EXHIBIT 11

MARCH 2023

ANNUNCIATION HOUSE NEWSLETTER



Letter from the Director

BY RUBEN GARCIA

In December 2022, over 27,000 migrants and refugees from Latin America and beyond — especially Venezuela and Nicaragua — arrived in El Paso. Many of them have sought hospitality at Annunciation House and the network of shelters that exist throughout the region. They arrive at our border because of violence, political instability, poverty, environmental disasters, and climate change in their home countries—because they do not have the ability to pursue a dignified life in the places they are from. Fundamentally, they are coming because of the exorbitant inequality that exists throughout our hemisphere that means a relatively small number of people are able to enjoy great riches while many others, quite literally, go hungry. The real crisis is not the people who are arriving at the border in search of safety, it is the fear and greed that wall us off from wanting others to enjoy what we have.



In this issue:

- Pg. 1: Letter from the Director
- Pg. 5: Updates from Our Houses
- Pg. 9: Borderlands News Digest
- Pg. 10: Between A Fence and a Hard Place: The Deadly Consequences of the US Border Wall
- Pg. 15: 2022 Volunteers: By the Numbers
- Pg. 17: Mary Bull: Celebrating a decade of service at Annunciation House
- Pg. 17: Volunteer Reflections: Suffering & Joy
- Pg. 19: Support Our Work

El Paso is not a wealthy city, but it is rich in a culture of hospitality. This community has consistently welcomed people in need by providing food, a place to stay, and a period of safety before they continue on to family, friends, or work in other parts of the country. El Paso has continued to honor this tradition this holiday season, as people throughout the city carried out remarkable acts of hospitality. We know people who have opened their homes to families who would otherwise sleep on the streets in freezing temperatures; people who have made their vehicles into additional sleeping areas; people who bring meals and coffee to the refugees on the streets every day; faith communities, schools, and community agencies who have transformed their spaces into temporary shelters. We are humbled and honored to work alongside people who believe wholeheartedly in the tradition of welcome, and act on that belief.

And yet, the people of El Paso cannot meet the needs of this time alone. The present moment is an opportunity to reimagine the country's response to refugees, to fashion policies that center human dignity, and to acknowledge our fundamental interconnectedness to one another. It is a moment to recognize that borders are places of possibility, not places of crisis.



Our current immigration policies are based in, at best, ineffective bureaucracy and, at worst, hypocrisy, fear, and exploitation. The United States is dependent upon the labor and economic benefits that immigrants provide, but we are not willing to see the people who provide this labor as full and dignified human beings, or extend to them the rights that we take for granted.

For decades, the United States has played an outsized role in contributing to the causes of human migration across borders, especially in the Western hemisphere. In the 1980s, the United States government provided arms and support to repressive governments in Central America, whose tactics led to mass suffering and death. More recently, trade agreements have enriched American businesses and allowed American consumers access to cheap goods while making it impossible for many in Mexico and Central America to earn a living wage in their home countries. And let's not forget that the comfortable lifestyle many Americans enjoy has made the United States a chief driver of climate change, which disproportionately harms low-income countries, intensifying droughts and other destructive weather patterns that have driven people to seek safety and livelihoods elsewhere.

It is past time to acknowledge the reality that we cannot have it both ways. We must update our laws and acknowledge that our country's wealth has been enabled by generations of exploitation. We have a moral and historical obligation to share our abundance so that all may have the ability to thrive. Such sharing is not charity; it is a debt that we owe. And making good on that debt will not impoverish us, but enrich us, as we recognize the immigrants and refugees in our communities as neighbors, teachers, and friends.

The U.S.'s immigration policies are not only rooted in pervasive inequality, they are causes of death. In our borderlands and on the migratory route, people die every day while seeking safety and a dignified life. This is profoundly unacceptable. We must imagine and implement humane ways for people to seek safety in a way that, at minimum, does not endanger their lives. But we can imagine more than just their survival. We can also create conditions that align with the realities of our economic and human interconnectedness. Goods and money flow freely across our border with Mexico. Why do these things rate more consideration than human beings?

The work to build anew may seem daunting, but there is an immediate way to begin to act in service of a more just immigration framework.

Annunciation House is inviting communities around the country—faith communities, community groups, or other organizations—to offer hospitality to newcomers for a day or several days before they join loved ones in other parts of the country. What would this look like? After communication and preparations, we would

arrange for a bus of recently arrived refugees (around 50 people, 15-20 families) to be sent to your community. They would need temporary shelter, food, and sanitary facilities. Most would have friends or family members elsewhere in the country who can take them in, so the welcoming group's main task would be to help each guest make contact with those loved ones and make arrangements to travel onward. This is the work El Paso has been doing for generations. Faith communities in Kansas City and Denver have already responded to our invitation, and are learning what our volunteers already know: that when we reach out to our neighbor in need, we receive far more than we give.

To begin a new work like this is daunting, we know. Yet at its core, the work of hospitality is straightforward: offering someone who is hungry a plate of food, someone who is tired a place to lay their head, someone who has been traveling for months a shower and change of clothes. It is an act of loving our neighbors as ourselves—and expanding who we know our neighbor to be.

"We have a moral and historical obligation to share our abundance so that all may have the ability to thrive. Such sharing is not charity; it is a debt that we owe."

As the community of El Paso mobilized to find shelter for so many refugees this past December—during the height of the Christmas season—Annunciation House’s Catholic identity invited us to reflect on the clear parallels between the story of the Holy Family and the people who arrive at our doorstep seeking refuge. We also consider the Magnificat, in which Mary goes to visit her cousin with news of her pregnancy. She breaks out in song, celebrating God for being ardently present with the poor: “God has brought down the powerful from their thrones, and lifted up the lowly; God has filled the hungry with good things, and sent the rich away empty.”

In the 1970s and ‘80s, the governments of Guatemala, Argentina, and Nicaragua banned the Magnificat. (People from these countries—especially Nicaragua—are now at our border in notable numbers.) Ordinary citizens, however, refused to cease their recitation, both as an act of resistance and because of their belief that God stood firmly with those who have been oppressed.

It is time to radically re-envision our country’s policies and stance towards immigrants. Let this begin by following the example of people throughout the Americas who have repeated Mary’s words in resistance and faith, even at times when doing so was risky: by believing that we have the duty to end exploitative structures of power, and the promise of creating a world in which all people can enjoy good things given by God.



Updates From Our Houses

This February, Annunciation House celebrated our 45th anniversary. Over these many years, we have never wavered in our commitment to accompany the migrant, refugee, and economically vulnerable peoples of the border region through hospitality, advocacy, and education. Some aspects in the struggle — and the joy — of migration persist over time. Many other aspects are in constant flux, shifting with political tides, new laws and policies, environmental disasters, and new conflicts and crises in other parts of the world. As such, we are called to lean on faith while we live with uncertainty, and to constantly adapt and grow. The last few years have been no exception to this rule. Read below for a few updates from each of our houses:

Annunciation House

After nearly two years of temporary closure for major renovations, Annunciation House reopened for hospitality in late 2022.

Annunciation House has been the original and primary house of hospitality since the organization's founding in 1978. The building is now over 100 years old, and due to its heavy use supporting a thriving community of refugees and volunteers for nearly half that time, the building was in very worn condition. We are profoundly grateful to the thousands of donors who generously contributed funds to renovate the building, enabling us to provide dignified and comfortable shelter to the poor in migration.



The renovations brought Annunciation House into compliance with important building codes and the Americans with Disabilities Act. For example, we were able to move the kitchen and dining room from the second to the first floor and make all restrooms handicap-accessible. This has enabled Annunciation House to become the primary receiving site for refugees who have fallen from the border wall and are dealing with serious injuries and broken bones. Many of these refugees come to our houses with wheelchairs, walkers, crutches, and external fixators. The renovations have enabled us to meet their needs, provide comfortable housing while they heal, and ensure that they can fully participate in community life in our houses.

Casa del Refugiado (CDR)

After operating Casa del Refugiado for over three years beginning in April 2019, Annunciation House closed this hospitality site in August 2022. Casa del Refugiado was opened with the goal of expanding our hospitality to the maximum number of refugees during periods of heavy migration. At times, CDR and its numerous volunteers provided shelter for upwards of 1,000 refugees a night. CDR served a critical role in preventing refugee releases to the street, providing temporary shelter, hot meals, clothing, transportation assistance, and compassionate care to tens of thousands of refugees over its three years of operation.

However, CDR also presented many challenges. The implementation of Title 42 at times reduced the arrivals of refugees to a trickle, leaving CDR empty for months at a time. On the other hand, CDR's substantial size required a huge number of volunteers to operate, which became increasingly difficult to maintain particularly with the onset of the Covid-19 pandemic. And there were serious building maintenance issues, such as a leaking roof, that sometimes made sections of the building unusable. After weighing the decision for several months, the Board of Directors ultimately determined that it was unsustainable for Annunciation House to continue operating CDR, and began closing the site down. We have remained in communication with the City of El Paso, among others, to support hospitality efforts in the absence of CDR and develop more sustainable solutions.



Mural by artist Waka Laura



Casa Papa Francisco

As the saying goes, “when one door closes, another opens.” In the midst of closing down Casa del Refugiado, Annunciation House acquired a large, permanent new hospitality site in El Paso to continue providing hospitality in the context of large refugee arrivals. The house will be known as Casa Papa Francisco, in honor of Pope Francis’s efforts to draw attention to the plight of refugees and his call to communities around the world to meet them with welcome. The building was formerly a convent, and we are inspired by its spaciousness and the potential it has to meet growing needs for housing in El Paso.

Some parts of Casa Papa Francisco were regularly used by its former occupants and are in good condition, enabling us to immediately begin offering hospitality to recently arrived refugees in this space. Eventually, Casa Papa Francisco will also become the primary site for our Border Awareness Experience program, an immersion learning program meant to give participants an increased understanding of the realities of immigration. This house also has a beautiful chapel that is large enough to use as a meeting space. In January 2023, we hosted an asylum workshop here for a group of about 40 refugees. A volunteer attorney (Nancy Oretskin) and translator (Molly Molloy) guided the group through the process of requesting asylum, helped participants fill out their applications in Spanish, translated their documents into English, and helped them submit their forms online.

Like Annunciation House, Casa Papa Francisco is an old building in need of repairs and renovation. We are currently analyzing the building’s needs and working to prioritize the upgrades and renovations that will allow us to use this building to its fullest potential.



Photo by volunteer Emma Brown (@instagrandmabrown)

Casa Anunciacion Juárez opened in January of 2020 to help provide hospitality to refugees forced to remain in Mexico under the so-called “Migrant Protection Program” (MPP). Shortly after opening Casa Anunciación Juárez, we also opened a much larger hospitality site in Juárez named Albergue Papa Francisco. For two years, these shelters served a critical role providing housing to refugees denied their legal right to seek asylum.

Once President Biden took office and ended MPP, the refugees living in Casa Anunciacion Juárez and Albergue Papa Francisco were slowly allowed to enter the United States. Albergue Papa Francisco emptied and eventually we closed it completely, returning the building to the Catholic Diocese of Juarez.

Casa Vides

With the opening of Casa Papa Francisco, we have shifted our long-running hospitality program for Social Security beneficiaries from Casa Vides to Casa Papa Francisco. These beloved guests made Casa Papa Francisco feel like home right away and they have been lending a hand as we get this new space up and running.

In the meantime, moving the Social Security program to Casa Papa Francisco has allowed us to devote Casa Vides to additional hospitality for recently-arrived refugees. Additionally, Casa Vides continues its long history as a house of long-term hospitality, providing shelter for over 40 refugees and families with ongoing legal cases and longer-term hospitality needs.

Casa Anunciación Juárez & Albergue Papa Francisco

We held onto Casa Anunciación Juárez a little longer so as to provide hospitality to new refugee families arriving in Juarez who continued to be impacted by Title 42. In particular, we are grateful to our long-time partner Cristina Coronado who led hospitality efforts at this site and who rallied the funding to keep Casa Anunciación Juárez operational. However, our own volunteer resources were increasingly focused on hospitality in El Paso. As a result, in October 2022 we fully passed over this work to Cristina and the Columban Mission Center of El Paso. Thank you, Cristina, for carrying on this torch!

Borderlands News Digest



To provide context about the border, the policies and realities that affect the people we serve, and the framework within which Annunciation House works, we invite you to read this small selection of articles, and continue reading beyond! Click on the headline to follow a link to each article.

[El Paso Pastor Serves Migrants As Long As It Takes](#)

BY CINDY RAMIREZ
EL PASO MATTERS, 2/6/23

The numbers of refugees arriving to El Paso has fluctuated, from more than a thousand daily in December to less than 200 per day in recent weeks. One constant has been the hospitality of borderlands churches, local residents, and area organizations, who—no matter the weather, circumstances, or numbers— have been present to the needs of refugees.

[Illegal](#)

BY ALLEGRA LOVE
EL PASO MATTERS, 1/26/23

This article provides updates on Title 42 and how recent changes in the federal policy affect Haitians, Cubans, Venezuelans, and Nicaraguans at the border. In particular, the United States has implemented two new programs: an app called "CBP One" that requires asylum-seekers to schedule appointments in advance, and a parole program for people from certain countries to apply—in limited numbers—for entry to the U.S. This article analyzes the limitations of these processes, and presents alternatives and ways to frame a truly just system.

[A Mother, A Daughter, A Deadly Journey \(Podcast\)](#)

BY MICHAEL BARBARO
THE NEW YORK TIMES, 1/20/23

This podcast follows a young child and her mother on their journey out of Venezuela and through the Darien Gap. The story—while distinct to the particular family profiled—is nonetheless similar to reports of the journey undertaken by so many of our guests in the past year.

[Pope Tells Foreign Exploiters in Congo, "Hands Off Africa!"](#)

BY GERARD O'CONNELL
AMERICA MAGAZINE, 1/31/23

Pope Francis visited the Democratic Republic of Congo and South Sudan in late January. The Pope's remarks about a country's right to self-determination echo profoundly throughout our hemisphere. "[The Pope] called on other countries, both near and far, and multinational corporations to stop the economic exploitation of this country and the continent and urged, 'Hands off the Democratic Republic of the Congo! Hands off Africa! Stop choking Africa. It is not a mine to be stripped or a terrain to be plundered.'"

BETWEEN A FENCE AND A HARD PLACE

The Human Cost of the Southern Border Wall



Around February 2021, Araceli* fled her home, her family, and everything she knew in Ecuador to seek asylum in the United States, where her three US citizen sons live. Due to the implementation of Title 42 — a public health policy used during the pandemic to turn back asylum seekers who presented at the border — Araceli feared she would be denied the right to seek asylum. Instead, she sought help from a coyote to cross into the United States so she could seek asylum and reunite with her family.

At the wall, the coyote set up a hanging ladder that swung precariously when people started climbing it. Araceli managed to climb all the way up, but she struggled to get over the top. The people behind her and the coyote yelled at her to hurry. Araceli fell from the border wall at the highest point, thirty feet in the air — about the height of a telephone pole. She landed on the ground, instantly in tremendous pain, and could not get up. Another woman had also fallen and seemed to be very seriously hurt and unable to move. Araceli managed to call 911 on her cell phone, and eventually an ambulance and Border Patrol agents arrived and took her to an El Paso hospital. Araceli's injuries included multiple pelvic fractures, a right ankle fracture, fracture of the ulna in her right forearm, and PTSD symptoms including nightmares from the trauma. After three weeks in the hospital, ICE transferred her to a detention facility, where the cold cell aggravated and intensified her pain. Finally in March 2021, ICE released Araceli to Annunciation House. Araceli remained at Annunciation House for weeks until she was well enough to travel to reunite with her family sponsor, awaiting the outcome of her asylum case.

*Pseudonym

Constructing the modern border wall

The US-Mexican border wall is a painful and undeniable force in El Paso and other borderland communities: a scar in the earth, a separator of families, a symbol of xenophobia against our immigrant siblings. However, the wall as we now know it is a relatively modern development. Until the early 2000s, most border communities had only moderate fencing or simple mile-markers to denote the international boundary. This enabled people and wildlife to pass relatively freely and safely between countries.

The drastic shift toward looming steel barriers began after the 9/11 terrorist attacks. Politicians on both sides of the aisle leveraged fears of terrorism to blame and demonize immigrants, culminating in the REAL ID Act of 2005. This legislation paved the way for building the modern-day border wall by giving the Secretary of Homeland Security unprecedented power to waive “all legal requirements” that might stand in the way of constructing roads or barriers along the border. The REAL ID Act was followed by the Secure Fence Act of 2006, which authorized and partially funded the construction of 700 miles of fencing along the Mexican border. From 2007 to 2015, Customs and Border Patrol spent \$2.3 billion to build up physical barriers. During this time, trade agreements ensured that capital and material goods continued to move freely across the border—but the movement of human beings became increasingly restricted.

Borderland communities predicted the harm the wall would cause. Rather than stopping or stemming migration, the wall simply pushed refugees into increasingly dangerous sections of desert and mountains. In one study measuring the impact of the Secure Fence Act, the ACLU found that a drop in the number of total apprehensions “masked a more than doubling of the increase of the likelihood of death, up from 42 deaths per 100,000 apprehensions to 96 deaths per 100,000.” In some sections of the border, the death rate increase was even more extreme: Tucson saw a fivefold increase, and Laredo’s death rate increased more than six-fold (from 48 to 326 deaths per 100,000 apprehensions, in 2006 and 2017 respectively).

Despite the border wall’s impact as a humanitarian and environmental disaster — and an astronomically expensive one at that — the idea has persisted in political spheres and in the mainstream media that a wall could deter migration if only it were taller and more substantial. From 2018 to 2019, the Trump Administration secured another \$1.3 billion in funding from Congress to build new or replacement walls at the southern border. In El Paso — as well as other areas including San Diego and the Organ Pipe Cactus National Monument in Arizona — this meant replacing existing border walls with taller, 30-foot steel bollard-type wall.

At Annunciation House, the new wall’s consequences were pronounced. No, our houses were not emptied because the wall deterred refugees from seeking asylum or convinced families to abandon reunification with their loved ones. Instead, we saw patterns of increasingly frequent and severe injuries among those who stayed in our houses. For example, there was Yesenia*, a 20-year-old from Guatemala who hoped to study dance in the United States. She passed out after slipping and falling on the United States side from the 30-foot wall. After regaining consciousness, Yesenia was in such excruciating pain that she was certain she would die. Ingrid arrived at Annunciation House in a wheelchair with fractures in her spinal cord, both feet, and ankles, and struggled to sleep due to her pain and emotional trauma. There were Rocio* and Pilar*, who each fell from the wall (on separate occasions) as coyotes urged them over. They came to Annunciation House with debilitating pain from fractures in their feet and ankles. Over time, refugees in wheelchairs, crutches, casts, and braces became an increasingly present fixture in our houses.

*Pseudonym

The border wall presents a danger to human life. The patterns we have witnessed at Annunciation House are mirrored in [reports](#) across the borderlands of an unprecedented increase in trauma from border wall falls, including refugees suffering broken legs, traumatic brain injury, spinal cord injuries, miscarriages, and death. From 2021-22 alone, 20 Mexican nationals [died](#) while trying to cross the border, and nearly 250 others were injured.

Title 42: Eliminating safe access to asylum compounds the dangers of migration

A border wall becomes especially lethal when there are few options other than to climb it or face the hazardous terrain around it. In the past three years, the unlawful implementation of Title 42 has created exactly this dilemma for refugees seeking asylum and family reunification in the United States.

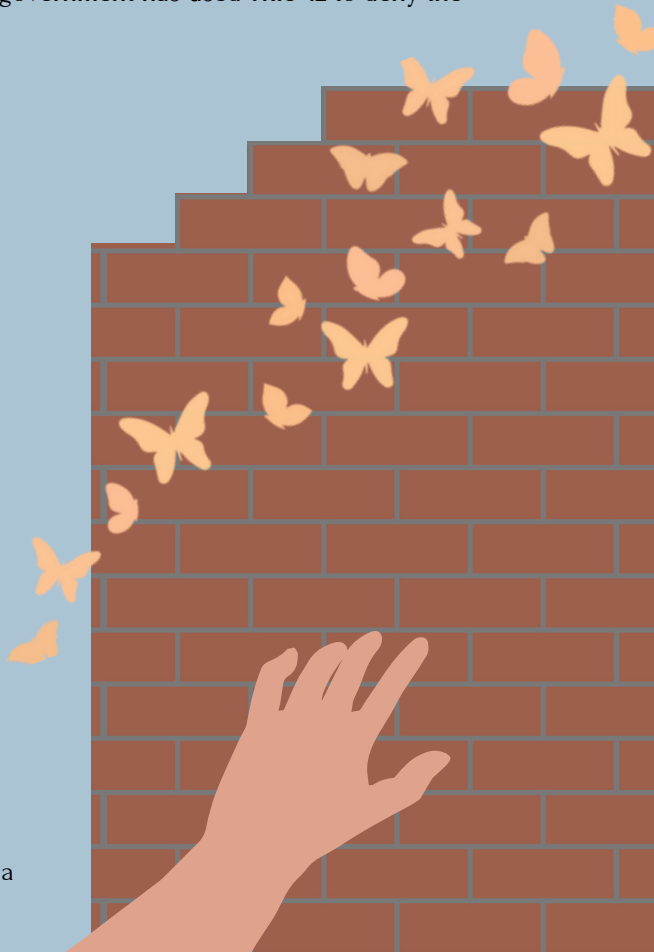
A rarely-used provision of the U.S. public health code, Title 42 gives the federal government the ability to take emergency action to keep communicable diseases out of the country. Already in search of new and creative ways to stem migration, the Trump administration weaponized Title 42 in March 2020 to refuse entry to all asylum seekers at the southern border (even as it down-played the seriousness of the pandemic in other contexts, rejected options such as masks and social distancing, and did not implement pandemic control measures for US citizens at land border crossings).

The fundamental right to seek asylum is enshrined in US and international law, and has been a cornerstone of US immigration policy since the end of World War II. Title 42 has dramatically interfered with that right. In El Paso, CBP officers station themselves mere footsteps over the international boundary on the Paso del Norte bridge, where day after day refugees approach them on the bridge seeking to set foot on US soil and ask for asylum. Instead, they are turned back to wait in indefinite limbo in Mexico. Since March 2020, the government has used Title 42 to deny the right to asylum [over 2.5 million times](#).

It is no wonder that refugees risk their lives crossing over the border wall — or the Rio Grande with its unpredictable currents, or the harsh desert — when the government has worked assiduously to eliminate safe and legal avenues to seek asylum. Decades of restrictive immigration policy have proven that walls and asylum bans do not stop migration, but merely force people to adopt increasingly dangerous and lethal measures to exercise their right to seek safety. In its support for policies based in fear and animosity toward refugees, the United States government created the conditions that led to the [deadliest year for migrants ever recorded](#). At Annunciation House, we gladly provide hospitality to the survivors of our broken immigration policy. However, we are disturbed by its increasingly severe consequences.

Intersections of immigration and disability justice

Some refugees come to Annunciation House with injuries that may eventually heal with time and care, while others' bodies will be marked forever with the cost of seeking refuge in the United States. As we increasingly find ourselves accompanying refugees with serious and chronic injuries, we reflect on the intersections of immigration with disability justice. We recognize that current US immigration policies are a





force that creates new disabilities in those seeking asylum, both physically as well as mentally. A system that denies people safe and legal avenues to migrate forces refugees to take perilous routes and risk their bodily well-being for the chance to seek asylum. Some researchers have estimated that as many as 30% of refugees have a disability, injury or trauma from their journey. Once in the US, the immigration detention system often exacerbates physical and mental health disabilities, and even causes new violence against refugees including medical neglect, prolonged detention or solitary confinement.

At the same time, we are listening and learning from disability justice advocates about what solidarity and dignity looks like in the context of disability. Annunciation House has always affirmed the inherent dignity and worth of the human person, independent of that person's "utility" as a worker or producer. Our mission is to serve those whom society has left on the margins, those who find themselves excluded from most other systems of care and support. We have long been aware that here on the border, the poorest of the poor include undocumented migrants and refugees, who are turned away by many service agencies. Similarly, many people with disabilities find themselves unable to access resources in their communities, because those resources have not been built with them in mind. They are denied full participation in society, and the community is deprived of their insights and voices.

As we receive guests with injuries into our newly renovated building, we are reminded that disabilities themselves do not limit people from achieving their full potential. Rather, what can be limiting are the surrounding structures, unless they are built to accommodate all of us, with our varying needs and abilities. All of us benefit from increased inclusion: for example, the front-door ramp that permits wheelchair access to Annunciation House also allows an able-bodied guest with a baby to smoothly wheel out a stroller.

We are working to build accessibility and ensure that our houses of hospitality can accommodate diverse needs and bodies and provide safe, comfortable, dignified shelter to all people. We affirm the principle of interdependence — which acknowledges that our survival is bound up together. And we uplift the important contributions of disability justice advocates in unraveling racist and ableist systems, fighting to abolish immigration detention, and re-imagining an immigration system grounded in dignity, love, and full participation for all.*

A Path Forward

The southern border wall continues to impose incalculable harm on Borderlands communities and refugees seeking safety in the United States. At the same time, Title 42 has amplified the wall's harm by restricting safe and legal avenues to seek asylum. Whereas most pandemic-era measures have long been waning, both the Trump and Biden administrations have sought to entrench Title 42 as a permanent new hurdle to seeking asylum. As recently as

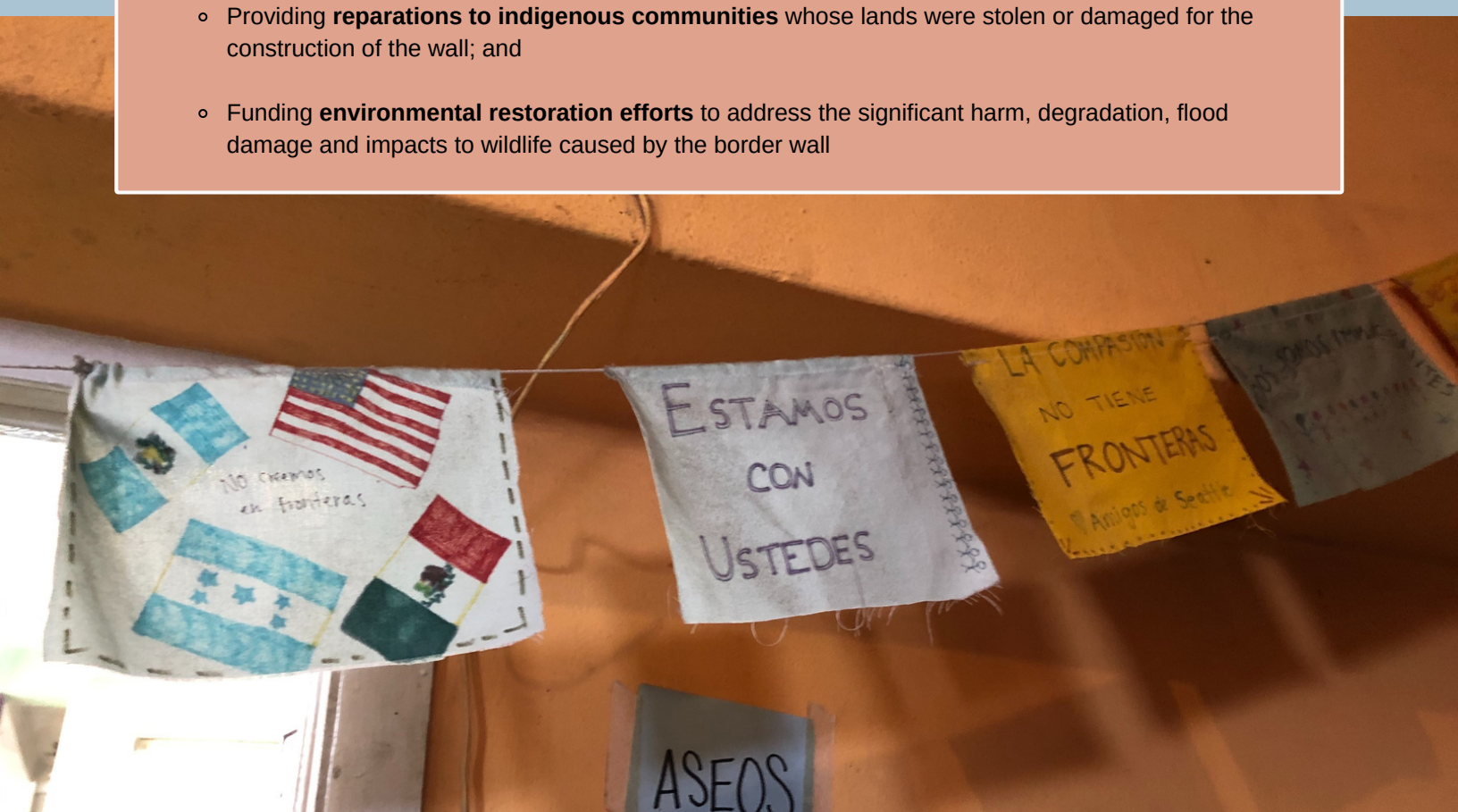


*For more reading on disability justice and its intersections with immigration justice, we especially recommend: Eli Clare, Alice Wong, Mia Mingus, Leah Lakshmi Piepzna-Samarasinha, Sandy Ho, and Gaelynn Lea

January 2022, following a federal court declaration that the current implementation of the law is unconstitutional, President Biden has sought to expand Title 42. The Biden Administration is also implementing or seeking to implement new hurdles for asylum seekers—many of which are reminiscent of the Trump administration's policies — such as requiring refugees to request an appointment in advance to be able to seek asylum in the US.

Our vision for a more just future is informed not only by our own experience providing hospitality to refugees at the border, but also by the perspectives of refugees, residents of the Borderlands, immigration lawyers and activists, environmental protectors, indigenous communities, and many more, who have written and spoken about the damage inflicted by Title 42 and the border wall. We deeply value the experiences of our allies in this shared work and their insights into how current policies impact their work, history, identities, and struggles. Accordingly, we add the insights we have gained from serving the poor in migration to this larger chorus and demand immediate change:

- We demand the **full rescission of Title 42** and **restoration of the right to seek asylum** for all; and
- We demand that the **remaining funds** appropriated for the border wall be **used to address harm** caused by the wall, including:
 - **Removing** the wall, or **replacing** the wall with border markers that enable safe and free migration and do not cause harm to humans, wildlife, or environment;
 - Providing **medical** and **mental health care** for individuals injured by the wall;
 - Providing **reparations to indigenous communities** whose lands were stolen or damaged for the construction of the wall; and
 - Funding **environmental restoration efforts** to address the significant harm, degradation, flood damage and impacts to wildlife caused by the border wall



2022 VOLUNTEERS: BY THE NUMBERS

Annunciation House was founded in 1976 by a small group of young adults who gathered with a common desire to experience the Gospel more deeply. A guiding principle was the determination that whatever was done, it would have to be in solidarity with the poor. The lifestyle would be simple and lived in community. Any work or service would be offered freely. Those accepting this journey would be volunteers, receiving no pay or wages.

Over 45 years, Annunciation House has never wavered on our commitment to this principle. Our diverse and passionate community of volunteers lays the groundwork for all that we do. Our volunteers have been more important than ever in the past years as we have worked to provide shelter and stability throughout a global pandemic and the tumultuous effects of Title 42. Some highlights of our beloved volunteer community include:

Long-Term & Summer Volunteers

21

of long-term and summer volunteers who sustained our work from Nov. 2021-2022, living full-time in our houses in radical hospitality

14

volunteers were long-term volunteers, meaning they committed to a full-year of service with Annunciation House

5

stayed longer than their year-long commitment (or are planning to)!

7

volunteers were summer volunteers. This is about average over the past decade - except for 2019, when we hosted 19!

10 & 7

of years of service of our longest-serving volunteers, Mary Bull (10 years), and Sr. Bea (7 years)

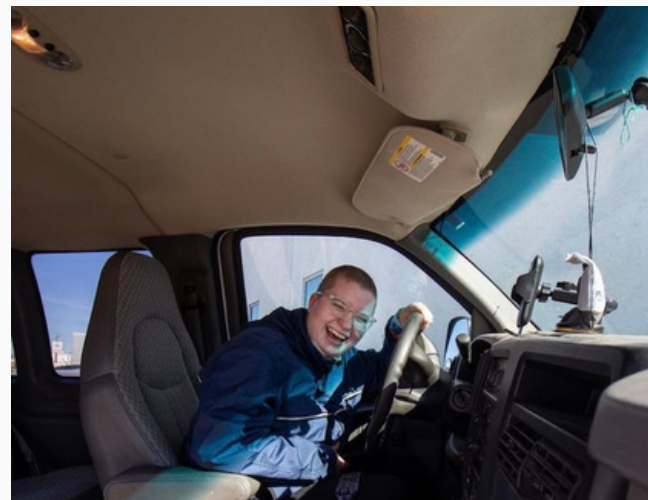
19 - 80

the age range of our volunteers! One-quarter are over 60; most of the others are between 20 and 35 years old

Volunteers have come from all over the United States, including Michigan, New York, Louisiana, and California, as well as from beyond the U.S., including England, Ireland, and Mexico



Long-term vols Mignon & Sr. Bea (above) and Lillian (below). Photo by volunteer Emma Brown, @instagrandmabrown

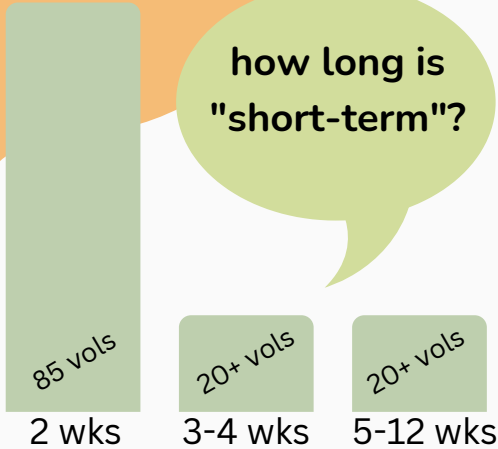


Short-Term Volunteers

150+

of short-term volunteers who worked with us from Nov 2021-2022. Our short-term volunteers came from across the country, as well as Mexico and England

how long is "short-term"?



20

are people who have previously served as short-term volunteers (returning for a second, third, or even fourth time!)

~12

are former long-term volunteers who came back to serve again

Community Volunteers

~50

of community volunteers who supported our mission across all our sites in 2022. Most of these volunteers are from El Paso, though some are from Anthony and Las Cruces, NM.

Three community volunteers at Annunciation House have been doing regular shifts at the house for over a year; two community volunteers at Casa Vides have been doing shifts for over two years.

Community volunteers Sister Mary Peter and Barbara (left and center); short-term volunteer Sister Dani (right). Photos by volunteer Emma Brown, @instagrandmabrown.



Mary Bull: Celebrating a Decade of Service at Annunciation House



In 2022, Mary Bull completed her tenth year of volunteer service with Annunciation House, where she arrived in 2012 from Saginaw, Michigan. She is our longest-serving volunteer! We are profoundly grateful for Mary's commitment, leadership, and depth of knowledge about many things: house operations, the evolving political and humanitarian situation at the border, Annunciation House history, and coordinating the volunteer community, to name just several.

Mary has worked with thousands of volunteers from around the region, country, and beyond as they serve at Annunciation House, as well as tens of thousands of guests from every continent except Australia and Antarctica. Mary has served at Annunciation House, Casa Anunciación in Juárez while that was open during the pandemic, and also many of the hotels that we have operated. To hear more about Mary's journey to El Paso, as well as what motivates her, check out [this podcast interview](#) on the Jesuit Post.

Mary has a young nephew she enjoys visiting when she is not at Annunciation House, as well as a cat named Patricio. Thank you, Mary, for all you do, and the countless ways you serve our guests and live out the mission of Annunciation House every day.



Volunteer Reflection: "Suffering & Joy" by Michael Brennan

Hope is hearing the music of the future. Faith is to dance to it. – Rubem Alves

It took us all by surprise. After wiping down the breakfast tables and sweeping the floor, an upbeat salsa song came on the music speaker. Immediately, eight Cuban men started giddily and skillfully dancing together, and provided dance lessons to the Venezuelans and the volunteers. It was a spontaneous eruption of joy amidst the suffering, waiting, and uncertainty of the journey.

My wife, Cata, and I are spending a week in El Paso helping to translate political asylum applications for Venezuelan refugees. We are immersed in intimate stories of personal persecution, fear, and the grief of having to flee one's homeland. People entrust to us their struggles and sufferings. Through it all, the bedrock belief is hope for a better future.

Our time in El Paso put faces and names on the data, narratives to the numbers. . . to tell the stories of the statistics. (However, to protect the people, the stories that follow are composites not tied to any one individual, and names are pseudonyms.)

Emmanuel is a 16-year-old Haitian young man that traveled with his family from Chile to the border. It took them 3 months of riding buses and walking through the muddy jungle separating Columbia from Panama to get to El Paso. Crossing the Darien Gap required eight days and nights of walking. Emmanuel described, through tears, that the trail through the jungle is strewn with the dead bodies of refugees who collapsed and died. In his words, "it was so hard to keep breathing, and to keep walking."

Luis and Carmen fled Venezuela and crossed that same jungle carrying their 2-month-old baby. Luis was drafted into the Venezuelan military and fled for his life when he was ordered to assassinate individuals opposed to the government. "I couldn't do that . . . someday, I will face my God and have to answer for what I have done with my life."

Laura from Peru is a painter in her 50s. She would paint pastoral scenes of the Andes mountains and sell them to tourists on the streets of the capital to support herself. With the pandemic, the tourists stopped coming, and Laura couldn't support herself. She ventured north to live with family in the U.S. The smugglers provided a ladder for her to scale the border wall, but once she got to the top, they took the ladder away. Laura lost her balance and fell, fracturing her spine, pelvis, and both legs. "At first, I just wanted to be dead. My God, why didn't you let me die? But now that I am healing, I give thanks to God for my life, and for hope."

Maria fears persecution in Venezuela for having attended an anti-government protest. "The government and their armed forces – "Los Colectivos" – were taking all the international food donations for themselves. They were meant for the people, not for the rich and powerful."

Our lives are blessed by the opportunity to share a thin slice of life with the poor in migration. They struggle and hope, despair and dance, and through it all, they are grateful for every small act of kindness.

With the other volunteers, we start every day with a time of reflection. Most often, we rededicate ourselves to being "present to the guests, in a loving and joyful way." Every day there are moments of tears, joy, and unexpected grace. As Easter approaches, we give thanks for all the blessings in our lives, and for the privilege of being able to accompany – for a brief time – our brothers and sisters in migration.

~Cata y Miguel

Support Our Work

Annunciation House could not run without the generosity of our community, near and far. Our houses are sustained totally by the spontaneous and free contributions of individuals, groups and faith communities. We have no permanent funding sources, and we have never accepted government funding.

Volunteer

Annunciation House is eagerly seeking long-term (one year or more) and short-term volunteers (two weeks or more) to assist with providing hospitality to migrants and refugees in El Paso, TX. We welcome both local volunteers from El Paso/Juarez/Las Cruces, and out-of-towners who can commit to at least two weeks. Please visit our [website](#) for more information!

Donate

At this time, we primarily request monetary donations. Unrestricted monetary donations enable Annunciation House to respond quickly and nimbly to ever-changing needs at the border, purchase the supplies our guests need the most, and limit waste.

Annunciation House is a 501(c)3 organization; all donations are tax-deductible. Financial donations can be made online with a credit card through [this PayPal site](#). Checks made out to Annunciation House can be mailed to:

Annunciation House
P.O. Box 11189
El Paso, TX 79995-1189

Special Call for Former BAE Coordinators

Did you previously volunteer as a BAE Coordinator with Annunciation House? Please reach out! Our Border Awareness Experience program was deeply impacted by the Covid-19 pandemic and by the shifting landscape of volunteer capacity. As we revamp our educational programming, we are interested in speaking with former BAE Coordinators about opportunities to re-engage with this work. Please contact us at volunteercoordinator@annunciationhouse.org.

Stay Tuned: VOV 2023

For twenty years, Annunciation House has issued an annual Voice of the Voiceless Award recognizing the courageous people who accept the call to work, struggle, and witness on behalf of the oppressed poor. Through their work and actions, these individuals give voice to the poor and their profound yearning to be heard and freed.

Our Voice of the Voiceless event has been paused for the last two years as we adjusted to new realities of quarantine and social-distancing under Covid-19. We are delighted to announce its return in 2023! Stay tuned for more details, and consider joining us in El Paso this year to honor the value of these voices that offer a guiding path of light in times of darkness.



ANNUNCIATION HOUSE

www.annunciationhouse.org

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EXHIBIT 12



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Declaration of Immigrant Rights



We are a nation of immigrants.

The country we inhabit belongs first and foremost to the indigenous nations and peoples who first lived, and continue to live, in this land. All the rest of us are immigrants, or the descendants of immigrants. We come from Mexico and the Philippines, from Central America, Ireland, Ethiopia and Iraq. We come to escape poverty and violence, fear, war, discrimination, political suppression and economic hardship. We leave behind parents and children and the skies of our homelands.

We bring with us languages, photographs, telephone numbers, backpacks, stories, and hopes. We have walked day and night through the desert to cross the frontera. We have waited on the far side for papers to go through. We have hopped trains, seen companions fall, have put our trust in and been abandoned by coyotes—human smugglers. We are the ones who have arrived.

We have been called illegals, mojudos, aliens and terrorists. We are rounded up at work, leaving our children stranded. We are imprisoned and deported from the cities where we have lived for decades. We are guarded against at the border by barbed wire, dogs, pressure sensors and armed guards, as if we are an army to be feared. Yet often, we are the ones who live in fear.

We are math teachers and dishwashers, carpenters, translators, painters of portraits and of houses. We pick the apples in Yakima, Washington. We wash your dishes in restaurants in Minnesota. We rebuild houses in Louisiana in the wake of Hurricane Katrina. We pay taxes out of our salaries. We send our children to school, wanting them to learn and succeed and to be safe. Neither do we forget the family members we have left in our birth countries: we work hard to support them as well. But we live here now: in big cities and small towns, in migrant camps, in apartment buildings and bedroom communities. In some places we are invisible. But look for us—we are here. We are twelve million strong.

We have sought and found opportunities in this country, and in return we have contributed our labor, our children, the rich textures of our cultures, and a chance for each of us—we and you—to learn compassion and wisdom through encountering the stranger. But we must be strangers no longer. We are your grandparents and your sons- and daughters-in-law, your past and your future. As brothers and sisters in Christ, we affirm our humanity, dignity, and value. As children of one God, as heirs of one earth, we assert our rights.

1. We have the right to be treated with respect, regardless of our documented status, and to be referred to in terms that reflect our humanity: no human being is illegal.
2. We have the right to seek employment, and to work to improve the quality of life for ourselves and our families. If we cannot support our families in our home country, we have the right to migrate to other countries in search of work.
3. We have the right not to be separated from our nuclear families. Our spouses and children should be allowed to travel with us as we cross borders in search of a living wage.
4. We have the right to earn legal status in a country to which we have contributed our labor, even if—indeed, especially if—we are low-wage workers.
5. We have a right to safe working conditions and fair compensation for our labor.
6. If we become the victims of a crime, we have the right to seek protection from the law of our new country without fear of imprisonment or deportation based on our documentation status. We have the right to prosecute abuses of our rights, including domestic abuse and abuse by employers.
7. We have a right to health care and healthy living conditions.
8. We have a right to education for ourselves and for our children.
9. We have the right to preserve our traditions and language as we integrate and learn the traditions and language of our new country. We recognize that each of us is made richer by this sharing of cultures.
10. We have the right to participate in political activities and protests without the fear of being detained for advocating for ourselves. reduce the need for illegal

immigration.

For this reason, immigrant and American-born, we say together from the border to the Congress of the United States, "Give us just and humane legislative immigration reform!"

- For the millions of undocumented persons presently living, working and raising families in the United States, we ask Congress to provide an inclusive, straightforward and reasonably priced legislative pathway to permanent legalization and the opportunity for eventual citizenship.
- For families that live separated and divided by present immigration policy, we ask Congress to legislatively affirm the intrinsic value of family unity by eliminating the tremendous backlog of family-based petitions awaiting the availability of a visa.
- For immigrants seeking to accept available jobs and for employers seeking to fill employment positions, we ask Congress to legislatively provide a legal entry pathway for future workers and their families, especially low-skill workers, and thereby significantly reducing the loss of life and limbs, human smuggling, violence and indebtedness that the present system creates.
- For immigrants with special circumstances, we ask Congress for the passage of the Dream Act, the Ag Jobs Act, adjustment of status for recipients of political asylum and Temporary Protected Status, and adjustment of status for persons in removal proceedings who have no felony criminal records.
- For immigrants who feel obligated to live in hiding, who have lost their lives or limbs, who must risk violence and the tremendous indebtedness of paying human smugglers, due to the growing "enforcement-only approach" in dealing with immigration, we ask Congress to legislatively bring an end to the militarization of the border, the construction of walls and fences, employment and neighborhood raids that divide families, the ever increasing construction of immigration detention facilities and the detention of unaccompanied children.
- For immigrants encountering law enforcement, we ask Congress to legislatively protect and guarantee human and civil rights by ensuring due process, making enforcement of immigration law the sole domain of federal agencies, establishing a viable and independent mechanism for the review of federal enforcement agencies and the handling of complaints.
- For potential immigrants, especially those immediately south of the border, who overwhelmingly abhor having to leave their country, family, friends and communities, we ask Congress to legislatively set policies and provide foreign aid to fund economic development programs that create the kind of living-wage employment that allows families to sustain themselves and thus reduce the need for illegal immigration.



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