

Congress of the United States
Washington, DC 20515

May 10, 2012

The Honorable Janet Napolitano
Secretary
Department of Homeland Security
Washington, DC 20528

Dear Secretary Napolitano,

We were deeply troubled by the April 20th PBS report, 'Crossing the Line,' concerning the death of Anastasio Hernandez Rojas while he was in the custody of the Department of Homeland Security (DHS). His death and the subsequent efforts by the agents involved to minimize the incident suggest a troubling lack of training and accountability within the Department. We understand that there is an ongoing investigation of the death of Mr. Hernandez Rojas, but we believe that this incident may be emblematic of broader structural problems within DHS.

In the case of Mr. Hernandez Rojas, concerns about training and responsibility are evident in the newly available video footage shown on the PBS report. In the video, officers appear to be trying to minimize scrutiny of their behavior. They shouted to the victim to stop resisting while he remained prone and according to eye-witnesses, handcuffed. They then ordered people who were watching to stop watching and move along. In addition, according to the woman who recorded the most damning video to surface so far, officers then tried to delete videos that had been recorded by bystanders. This intimidation of bystanders caused her to be understandably fearful about coming forward, and essentially suppressed important evidence for two years.

Despite this appalling behavior on the scene, the efforts to obfuscate these actions were not limited to the officers on the scene. According to the PBS report, the press release that was sent out in the wake of this incident misrepresented what happened, saying that the victim was not handcuffed, while internal interviews of officers at the scene indicated that he had been handcuffed while he was being beaten and tasered. As far as we know this misinformation has not been corrected by Customs and Border Protection (CBP). We hope that this new video evidence will be taken seriously as part of your internal reviews.

However, we are also concerned that this incident is part of a larger cultural problem at the Department. For instance, when the ACLU requested information about your policies on the use of force, in the wake of this and other deaths resulting from CBP action, you returned a document so heavily redacted as to be unusable. We would request that you do a thorough review of this response to make sure that you are in fact redacting information that is sensitive, and not simply seeking to shield your Department from criticism. It is hard to believe that there is next to nothing you can release in terms of your guidelines on the use of force when the Justice Department and local police departments regularly release such information.

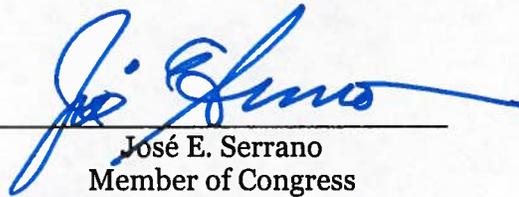
Your Department must take serious steps to determine how to make your agents more accountable, and to improve the transparency of the Department. Only by taking these steps can

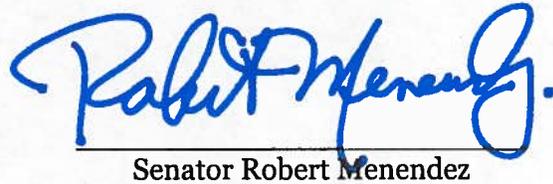
you regain the trust you have lost. In order to help restore trust in your Department, we would ask that you respond to the following questions:

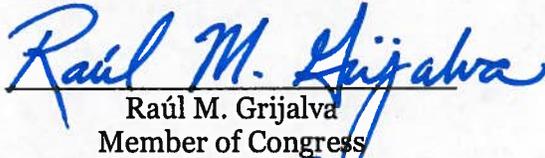
1. What is your official policy on the use of force, including lethal force? How were these policies developed?
2. What initial and ongoing training is given to Customs and Border Patrol employees regarding the use of force?
3. What steps does DHS take when there are allegations of excessive force or brutality by CBP employees? What are the disciplinary procedures taken with regard to those agents involved?
4. Given the number of incidents involving the CBP and the use of deadly force, what reforms has DHS put in place? What investigations have been pursued?

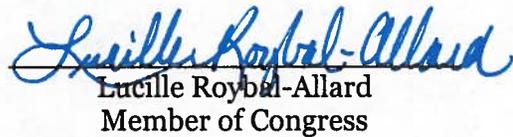
Given the serious concerns discussed in this letter, we are also writing to the DHS IG, Charles Edwards, and to the Attorney General asking that they also look into these issues. Thank you for your consideration of these concerns and we look forward to your response.

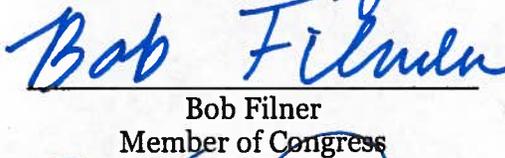
Sincerely,

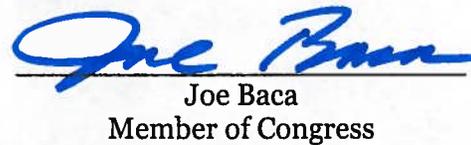

José E. Serrano
Member of Congress

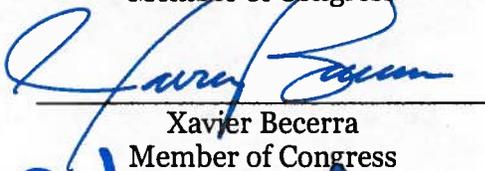

Senator Robert Menendez

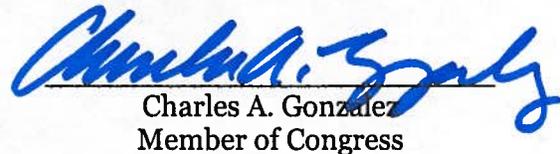

Raúl M. Grijalva
Member of Congress

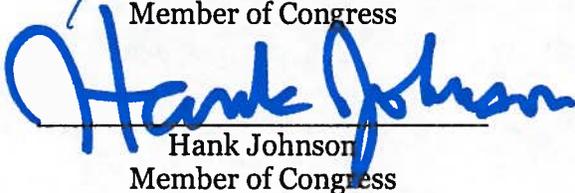

Lucille Roybal-Allard
Member of Congress

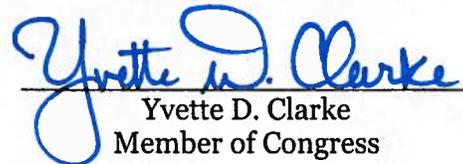

Bob Filner
Member of Congress

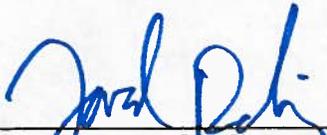

Joe Baca
Member of Congress


Xavier Becerra
Member of Congress

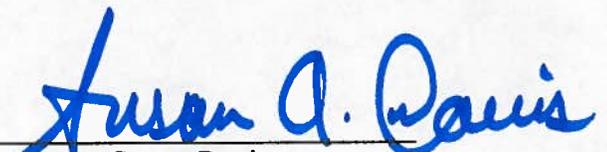

Charles A. Gonzalez
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Gregorio Kilili Camacho Sablan
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