



Office of the Mayor

CONSENT CALENDAR
JANUARY 28, 2020

To: Honorable Members of the City Council

From: Mayor Jesse Arreguin and Councilmembers Kate Harrison, Sophie Hahn, and Rigel Robinson

Subject: Support the “New Border Vision” to expand public safety, protect human rights, and welcome people to our city.

RECOMMENDATION

Adopt a resolution supporting the “New Border Vision”, a 21st century border policy that begins with the belief that migrants are part of the human family and should be treated with dignity and respect. Send a copy of the Resolution to U.S. Senators Dianne Feinstein and Kamala Harris, Congresswoman Barbara Lee and President Donald Trump.

FINANCIAL IMPLICATIONS

No financial implications to the City.

BACKGROUND

The residents of Berkeley have a long history and deep commitment to welcoming immigrants, refugees, and those in exile. In 1971, the City Council declared Berkeley to be a “City of Refuge”, and reaffirmed their decision in 1986 relating to Central American refugees, in 2007 after U.S. Immigration and Customs Enforcement (ICE) enforcement action took place throughout the Bay Area, and again in 2016 after the election of Donald Trump.

In early 2017, the Mayor convened a Sanctuary City Task Force, bringing immigrant rights groups, legal providers, health care providers, BUSD, UC Berkeley, Berkeley City College and other stakeholders together to discuss ways to implement our City of Refuge policy, and provide resources to support our undocumented community. On June 25, 2017, the city adopted an amendment to the City of Refuge Policy stating that “no department, agency, commission, officer or employee of the City of Berkeley shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information status of individuals in the City of Berkeley unless such assistance is required by federal or state statute, regulation or court decision”. Consistent with our City of Refuge Policy, the City Council should take further

action and work with the Southern Border Communities Coalition to bring light to the greater authorization powers held by the federal border authorities and protect our civil liberties.

When we think of a "border city" we often think of those communities immediately along the US-International border. However, under federal law 8 C.F.R. 287.1, Berkeley is a border city as it falls within 100 miles of a land or sea border, and as such Berkeley is subject to the "warrantless powers" of Department of Homeland Security (DHS) employees who may assert the power under 8 U.S.C. 1357(a)(3) to interrogate our residents, set up checkpoints, and board and search our cars, trains, buses, planes, boats, without needing a warrant or the equivalent of probable cause as is normally required under the U.S. Constitution's Fourth Amendment and the California Constitution's Article 1 Section 13.

As a border city, federal authorities within the Department of Homeland Security ("HSI") Customs of Border Protection ("CBP"), Homeland Security Investigations ("HSI"), and Immigration Customs Enforcement ("ICE") - and local enforcement bureaus serving on a joint task force with any DHS agency - may act without warrant to: set up checkpoints, search vehicles, BART, AC Transit, enter onto private property and racially profile and interrogate anyone suspected of not being a citizen. Recent polls estimate that 1 in 4 Californians have been stopped at an internal checkpoint by border authorities¹. Furthermore, DHS agencies have a long history of abusing their power to bring fear and death to their victims.

Border authorities engage in widespread corruption and abuse of power with little accountability. In the last year alone, at least 12 people have died in CBP custody². Since 2010, over 90 people have been killed during CBP encounters, 21 in California³. At least 28 of those killed were U.S. citizens. In 2018, CBP officers were arrested at a rate 5 times the average for state and local police officers⁴. The DHS Office of Inspector General has found that CBP lacks adequate safeguards to address employee misconduct. However, they are continuously expanding and using large sums of the federal budget for their unsupervised inhumane misconduct.

¹ Tom K. Wong, US Immigr. Pol'y Ctr., Public Opinion About the Border, at the Border 19 (2019), <https://usipc.ucsd.edu/publications/usipc-border-poll-final.pdf>.

² Garrett M. Graff, *The Border Patrol Hits a Breaking Point*, POLITICO Magazine (July 15, 2019), <https://www.politico.com/magazine/story/2019/07/15/border-patrol-trump-administration-227357>

³ *Deaths by Border Patrol*, Southern Border Communities Coalition, https://www.southernborder.org/deaths_by_border_patrol

⁴ Justin Rohrlich & Zoë Schlanger, *Border Officers Are Arrested 5 Times More Often than Other US Law Enforcement*, Quartz (July 16, 2019), <https://qz.com/1664253/cbp-officers-arrested-5-times-as-often-as-other-law-enforcement/>."

The power of border authorities is only growing. With over 60,000 employees, CBP is the largest law enforcement agency in the U.S. and poised to become a national police force with extra-constitutional powers⁵. Each year, the U.S. spends more on border and immigration enforcement than the combined budgets of the FBI; Bureau of Alcohol, Tobacco, Firearms and Explosives; Drug Enforcement Administration; Secret Service; and U.S. Marshals - plus the entire annual budget of the NYPD. Such a large and unjust federal agency must be checked for the protection of our civil liberties. Being that Berkeley established itself as a sanctuary city, it is part of its commitment to protect immigrants and refugees from these abusive federal agencies and speak up against federal law.

The New Border Vision resolution calls to end these abuses; it calls for compassionate border governance based on expanding public safety, protecting human rights, and creating a welcoming environment for residents and newcomers. This resolution aims to protect our human rights and stand up against unjust federal law by holding authorities accountable, keeping families together, providing humanitarian aid, rescue and recovery, protecting vulnerable individuals, and creating a welcoming environment for residents and newcomers. Given Berkeley's status as a border city under federal law, it is important to advocate for changes to federal law to provide greater oversight and limits to the power of federal border officials. Berkeley needs to take the first step to address this unjust federal power that jeopardizes the safety of our community and engage with other communities and cities to do the same.

ENVIRONMENTAL SUSTAINABILITY

No identified environmental effects.

CONTACT PERSON

Mayor Jesse Arreguin 510-981-7100

Attachments:

- 1: Resolution
- 2: New Border Vision Fact Sheet- Berkeley Law International Human Rights Law Clinic
- 3: New Border Vision May 2019 Report- Southern Border Communities Coalition
- 4: New Border Vision One-Pager
- 5: Map of United States Enforcement Zone

⁵ See Garrett M. Graff, *The Green Monster*, POLITICO Magazine (Nov./Dec. 2014), <https://www.politico.com/magazine/story/2014/10/border-patrol-the-green-monster-112220>; *About CBP*, U.S. Customs & Border Protection, <https://www.cbp.gov/about>

RESOLUTION NO. ##,#### N.S.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BERKELEY
CALLING FOR A "NEW BORDER VISION" TO EXPAND PUBLIC SAFETY, PROTECT HUMAN
RIGHTS, AND WELCOME PEOPLE TO OUR CITY

WHEREAS, the Berkeley Council has found that peace is inseparable from justice, and the residents of Berkeley have welcomed to our city those who have been forced into exile and those who have come fleeing torture and death (BMC 3.68.010 E,L); and

WHEREAS, the Berkeley Council declared Berkeley to be a City of Refuge in 1971 (Resolution No 44,784 -N.S.), reaffirmed that decision in 1986 relating to Central American refugees (Resolution 52,526-N.S.), in 2007 after ICE raids took place in the Bay Area Communities (Resolution 52,526-N.S.), and again in 2016 due to increased hate crimes after the election of Donald Trump, and against xenophobic rhetoric used during the campaign (Resolution 67,763-N.S.); and

WHEREAS, in early 2017, a Sanctuary City Task Force was convened, which brought immigrant and civil rights groups, faith leaders, legal experts, school and university officials, and community activists together to discuss ways to strengthen our City of Refugee policy, as well as support our undocumented community members; and

WHEREAS, over the past two years, the Task Force and working groups developed resources and protocols to clarify the rights of undocumented individuals and city/community partners in the case of ICE enforcement activity; and

WHEREAS, the Berkeley School Board in December passed a sanctuary campus policy which clearly articulates restrictions on information sharing, providing access to school facilities, and collaboration with immigration officials; and

WHEREAS, the Director of the Berkeley Health, Housing and Community Services Department also provided guidance to department staff on ICE protocols; and

WHEREAS, on March 14, 2017, City Council adopted a resolution to Denouncing the Presidential Executive Order to Build a US-Mexico Border Wall and divest from all companies involved (No. 67,865); and

WHEREAS, on July 25, 2017, the City Council affirmed that no department, agency, commission, officer or employee of the City of Berkeley shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information on the status of individuals in the city of Berkeley unless required by law; and

WHEREAS, the City Council affirms no department, agency, commission, officer or employee shall deny access to any city service or benefits to residents on the basis of their immigration status; and

WHEREAS, On July 24, 2018, the City Council passed a resolution to Support California's Sanctuary Immigration Policies and Lawsuits Against Trump's Policies (No. 68,573), by calling on the City Council to support SB 54, AB 103, and AB 450; and

WHEREAS, on October 31, 2017, the City Council adopted a resolution Directing Berkeley to Divest from All Entities Involved in Targeting Immigrants (No. 68,208); and

WHEREAS, these laws serve to make all Californians, Immigrants, Citizens and undocumented alike feel secure and protected in speaking and seeking aid from California law enforcement and protect them from unannounced workplace immigration raids and work to ensure that those being detained on the grounds of their citizenship are treated fairly and not being help under poor conditions; and

WHEREAS, on February 13, 2018, the City Council passed a resolution Opposing the Threats of Imminent Enforcement Sweeps by ICE (No. 68,328) after it was widely reported that federal immigration officials planned a major enforcement sweep in the Bay Area and across other parts of Northern California; and

WHEREAS, the City is made up of a diverse population, and 19% of City residents were born outside of the United States⁶ but now form part of the fabric of our communities and contribute to the cultural, social and economic vibrancy of the City; and

WHEREAS, the City is a border city as it falls within 100 miles of a land or sea border under 8 C.F.R. 287.1, and as such the residents of the City are subject to the "warrantless powers" of Department of Homeland Security (DHS) employees who assert the power under 8 U.S.C. 1357(a)(3) to interrogate our residents, set up checkpoints, and board and search our cars, trains, buses, planes, boats, and other conveyances without needing a warrant or the equivalent of probable cause as is normally required under the U.S. Constitution's Fourth Amendment and the California Constitution's Article 1 Section 13; and

WHEREAS, the City also falls within 25 miles of an external boundary of the United States and as such the residents of the City are subject to DHS employees entering onto their private property, but not their dwelling, to patrol the border under 8 U.S.C. 1357(a)(3), which also undermines the constitutional rights of City residents; and

⁶ <https://datausa.io/profile/geo/berkeley-ca/#demographics>

WHEREAS, City residents are subject to profiling by DHS employees because the U.S. Department of Justice's "Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity"⁷ prohibits profiling except in the vicinity of border, which includes our City, and this runs counter to California law under the Racial and Identity Profiling Act and Penal Code Section 13519.4; and

WHEREAS, the Department of Homeland Security is made up of multiple agencies who enforce border security in various ways, at physical land borders, at sea and in the interior of the country described as the expansive border region, which includes the City, and agencies consist of U.S. Customs Border Protection (CBP) and its component agency, Border Patrol, but also U.S. Immigration Customs Enforcement (ICE), Homeland Security Investigations (HSI), the US Coast Guard and the Cybersecurity and Infrastructure Agency, among others; and

WHEREAS, the City depends on local, state, and federal laws to protect the natural and cultural heritage of California and address climate change through laws that protect our air quality, water quality, biological diversity, historical sites, sacred places, and other valuable resources, and all of these laws can be waived in their entirety by DHS without judicial review under Real ID Act Section 102 for the purpose of building border barriers, undermining our well-being and the principle of due process embedded in the U.S. Constitution's Fifth Amendment; and

WHEREAS, we are less safe, not more safe, when DHS employees operate with absolute power, and without transparency or accountability, asserting that they are not subject to our laws, which leads to a culture of impunity and high rates of abuse and corruption that endanger the country, with 42 CBP officers arrested for corruption since 2004 in California⁸; and

WHEREAS, the impunity of DHS employees operating in the border region has led to the assault of countless people and the killing of more than 90 people, including citizen and non-citizen women, children and men since 2010, of which 21 were killed in California and at its borders, and no DHS employee has ever been held accountable⁹; and

WHEREAS, border deterrence tactics such as walls and other barriers intentionally funnel people into dangerous and remote corridors that has led to the deaths of over 7,000 people since 1994, when Operation Gatekeeper began at the California border, with a current death toll of an estimated 400 men, women and children a year, which amounts to one person dying

⁷ Page 2, Footnote 2 of 2014 DOJ Guidance: <https://www.justice.gov/sites/default/files/ag/pages/attachments/2014/12/08/use-of-race-policy.pdf>

⁸ http://www.pogoarchives.org/m/prisons/CBP-2017-033851-and-CBP-2018-035232-Redacted_20180423.pdf

⁹ https://www.southernborder.org/deaths_by_border_patrol

every day for the last 25 years as a result of irresponsible policies that use risk to life as a deterrence¹⁰; and

WHEREAS, border policies criminalize rather than manage migration, leading to the inhumane treatment of families seeking life, liberty, and the pursuit of happiness, which are described as inalienable rights in the U.S. Declaration of Independence, and have led to the mass incarceration of more than 50,000 migrants, which include 24,177 in California as of 2017¹¹; and

WHEREAS, nearly one million people arrive to the United States every day, around 196,000 people every day via California, and more than 99 percent of them come with prior authorization as citizens, residents, and visa holders, but often face long waits at California’s border because of poor border management despite the government’s allocation of over \$13 billion a year to U.S. Customs and Border Protection alone¹²; and

WHEREAS, the United States loses billions of dollars and thousands of jobs every year due to long wait times at our southern border that delay trade and travel, and the cost is felt across every state, all of which are dependent on trade with Mexico as our largest trading partner; and

WHEREAS, over 160 countries took an unprecedented action in December 2018 by signing a Global Compact on Migration that calls for the protection of human rights at borders, setting new global standards and best practices for border governance as detailed in the United Nations Office of the High Commissioner for Human Rights “Recommended Principles and Guidelines on Human Rights at International Borders”; and

WHEREAS, current U.S. border policies are out of sync with global best practices and undermine our well-being, and we need our country to change its approach to the border and become a model of good border governance to create humane and functional borders for the 21st century; and

WHEREAS, border communities in conjunction with human rights experts have drafted a “New Border Vision” that adopts global best practices and relates them to the U.S. borders to expand public safety, protect human rights, and welcome people with dignity at our borders; and

WHEREAS, the “New Border Vision” leads with our values beginning with the belief that migrants are part of the human family and should be treated with dignity and respect; that migration is the exercise of the inalienable right to life, liberty, and the pursuit of happiness and as such, migrants should be humanized rather than criminalized; that we should treat all people as we would want to be treated, and give everyone full and fair opportunity to be safe; and

¹⁰ https://www.southernborder.org/deaths_by_border_patrol

¹¹ <https://www.bjs.gov/content/pub/pdf/p17.pdf>

¹² <https://explore.dot.gov/views/BorderCrossingData/Monthly?:isGuestRedirectFromVizportal=y&embed=y>

WHEREAS, expanding public safety in the “New Border Vision” means expanding public trust of DHS, but there can be no trust if there is no accountability and border agents treat residents as second-class citizens and migrants as criminals, the “New Border Vision” calls for the following:

- Decriminalize migration and focus border authorities and resources on true organized crime and terrorist threats, so that everyone, including border residents and migrants, feel safe in the presence of border authorities and do not have reason to fear mistreatment;
- Set a high standard for effective, professional and accountable law enforcement so that border authorities are trained, supervised, and recognized for adhering to best practices that build trust and keep us all safe, regardless of our status;
- Respect human rights without creating zones of exceptions or impunity, end mass detention, and provide people who suffer abuse by border authorities with meaningful access to justice to hold border authorities accountable; and

WHEREAS, protecting human rights in the “New Border Vision” means preserving the dignity of life, rather than intentionally endangering it or treating it as an acceptable collateral consequence of our policies, the “New Border Vision” calls for the following:

- Prioritize human rights at the border, allowing people to seek protection or safe return with the assistance of our government, rather than prosecution by the government; migrants seeking protection should not be turned back into harm’s way;
- Provide immediate aid, rescue, and recovery to people in distress at the border, and support rather than prosecute humanitarian aid workers who fill gaps left by the government to save lives;
- Protect children by keeping families together, locating them in the community rather than in detention, and giving child welfare specialists a primary role, not border law enforcement authorities; and

WHEREAS, welcoming people with dignity in the “New Border Vision” means creating an efficient, effective, and humane entry system to foster goodwill, but that is challenging at a militarized border, the “New Border Vision” calls for the following:

- Expand the channels for entry with adequate and accountable staff, more lanes at ports, more open hours, and more opportunities to approach so no one is left waiting for unreasonable amounts of time;

- Set the standard for border authorities to conduct welcoming, expeditious, non-threatening, professional interviews to identify people entering and screen for people who may need protection;
- Direct border authorities to refer migrants seeking protection to other agencies or community organizations that are not law enforcement and are better suited to provide trauma, medical, psychological, legal, language and other assistance in whole-of-government and whole-of-society approach to humanitarian response; and

WHEREAS, the “New Border Vision” is grounded in good governance principles that call for evidence-based and data-driven decision-making, consideration of affected communities including border residents, transparency and oversight, and full accountability without exceptions, waivers, or zones of immunity.

NOW THEREFORE BE IT RESOLVED THAT THE CITY OF Berkeley:

- 1. Recognizes that the City of Berkeley is a border city, which falls into the zone of border enforcement, as defined in 8 C.F.R. 287.1, and as such have a particular stake in the border policies that affect our residents as well as our country.**
- 2. Supports a “New Border Vision” that expands public safety, protects human rights, and welcomes people with dignity at the border. Our government should lead with our values, address our needs and adhere to good governance principles to create humane and well-functioning borders for the 21st century.**
- 3. Calls on Congress to eliminate “powers without warrant” in 8 U.S.C. 1357, which subjects City residents to potential unreasonable searches by federal authorities, undermining constitutional protections that the City is charged with protecting.**
- 4. Calls on Congress to end the border-region exception to the prohibitions on profiling, which subjects City residents to potential profiling by federal authorities, undermining California’s protection against profiling, which the City is charged with protecting; and calls on Congress to legislate universal prohibitions.**
- 5. Calls on Congress to eliminate the blanket waiver authority in Real ID Section 102, which gives federal authorities absolute and unreviewable authority to waive all local, state, and federal laws to build border barriers, undermining the well-being of City residents, the protection of their natural and cultural heritage in California, and their due process rights.**
- 6. Calls on Congress to end the criminalization of migrants for simply being migrants by eliminating 8 U.S.C. 1325, which leads to the criminal prosecution and incarceration of people asking for help; instead we should limit the adjudication of migrant cases to civil immigration proceedings to determine what remedies they**

may be eligible for including asylum.

BE IT FURTHER AND FINALLY RESOLVED that copies of this Resolution be sent to U.S. Senator Dianne Feinstein and Kamala Harris, Congresswoman Barbara Lee and President Donald Trump.

Berkeley is a border city, which puts the civil liberties of its residents at risk of abuse by federal border authorities.

Federal border authorities have extraordinary powers within 100 miles of the coast to stop, search, and interrogate residents. Within 25 miles of the coastal border, they can enter onto private property.

- As Berkeley is a coastal city, federal border authorities within the Department of Homeland Security (“DHS”)—Customs and Border Protection (“CBP”), Homeland Security Investigations (“HSI”), and Immigration Customs Enforcement (“ICE”)—and local enforcement bureaus serving on a joint task force with any DHS agency, may act without a warrant to:
 1. set up checkpoints;
 2. search vehicles, BART, AC Transit, etc.;
 3. enter onto private property; and
 4. racially profile and interrogate anyone suspected of not being a citizen.
- 1 in 4 Californians have been stopped at an internal checkpoint by border authorities.

Border authorities engage in widespread corruption and abuse of power with little accountability.

With over 60,000 employees, CBP is the largest law enforcement agency in the U.S. It is also dangerous.

- In the last year alone, at least 12 people have died in CBP custody. Since 2010, over 90 people have been killed during CBP encounters, 21 in California and at its borders. In 2018, CBP officers were arrested at a rate 5 times the average for state and local police officers.
- CBP has failed to effectively investigate misconduct cases. The DHS Office of Inspector General has found that CBP lacks adequate safeguards to address employee misconduct. A report by the Police Executive Research Forum concluded that CBP’s use-of-force policies were “*far outside the mainstream of U.S. law enforcement*” and that many CBP deadly-force cases “*did not appear to meet the test of objective reasonableness.*”

CBP’s actions have eroded the trust of the public.

- 4 in 10 Californians have little or no trust that CBP Border Patrol agents will protect the rights and civil liberties of border residents and migrants. An even higher number have little or no trust that Border Patrol agents will be held accountable for abuses of authority.

The power of border authorities is only growing.

CBP is poised to become a national police force with extraconstitutional powers. Its stated goal is “[t]o serve as the premier law enforcement agency.”

- In 2019, CBP was allocated \$17.1 billion—almost four times more than in 2003. In 2017, nearly \$300 million was allocated to hire an additional 7500 Border Patrol agents.
- Each year, the U.S. spends more on border and immigration enforcement than the combined budgets of the FBI; Bureau of Alcohol, Tobacco, Firearms and Explosives; Drug Enforcement Administration; Secret Service; and U.S. Marshals—plus the entire annual budget of the NYPD.

The New Border Vision resolution calls to end these abuses; it calls for compassionate border governance based on:

1. Expanding public safety: holding border authorities accountable;
2. Protecting human rights: keeping families together, providing humanitarian aid, rescue and recovery, and protecting vulnerable individuals; and
3. Creating a welcoming environment for residents and newcomers.



A NEW BORDER VISION

Creating 21st century border governance by expanding public safety, protecting human rights, and welcoming residents and newcomers.

MAY 2019



INTRODUCTION

We need a New Border Vision.

A New Border Vision is a path forward. It is a guiding light and a chance to move with common purpose to unite us, rather than divide us. It is our opportunity to lead with our values, address our needs, and adhere to good governance to generate well-functioning and rights-respecting borders for the 21st century.

The United States was founded on the belief that all people have the inalienable human rights to life, liberty, and the pursuit of happiness – regardless of where they come from. As a nation formed by indigenous communities and immigrants, some of whom came involuntarily, we still strive to build a more perfect union that protects these rights for all people including new migrants and refugees.

Migration has helped define this country and the global community, making every country a place of origin, transit, and destination. But the widespread failure to protect migrants, exposing them to abuse, exploitation, and harm, recently led the world of nations in December 2018 to adopt the Global Compact on Migration to reduce the vulnerabilities to migrants everywhere by respecting, protecting, and fulfilling their human rights. Our national belief in human rights – inalienable rights – can similarly inspire us now.

Over the years, the United States helped give shape to a human rights movement that drew inspiration from our founding principles. But our current border policy turns away from this proud history. For years, this country has forgotten our commitment to human rights, choosing instead to criminalize migrants and engage in deadly and unaccountable border enforcement, undermining public safety. This administration has gone further, eroding the very human rights this country was founded upon.

Border communities and the people who live in, arrive to, or travel through them have suffered as a result. Our voices should be paramount in the national debate about the border. Instead, the border region – the place we call home – has repeatedly been used as a proving ground by politicians wanting to demonstrate their iron will while exploiting people’s fears about immigrants. These politicians have only hurt our humanity. To this, we say ‘No More.’ We offer a new vision that decriminalizes migration and sets us on a new path to act with our values and fulfill our moral and legal obligations to uphold human rights.

A New Border Vision is a framework for positive and compassionate action. It is our chance to create responsive and responsible border governance for the 21st century. This New Border Vision focuses on three priorities for creating good border governance:

- 1. Expanding Public Safety**
- 2. Protecting Human Rights**
- 3. Welcoming Residents & Newcomers**

VALUES FOR A NEW BORDER VISION

Uphold the inalienable human rights of life, liberty, and the pursuit of happiness.

In our Declaration of Independence, life, liberty, and the pursuit of happiness are described as inalienable rights. They are the most fundamental human rights and are endowed to migrants just as they are endowed to citizens. In fact, migration is the pursuit of these rights. The protection of these universal human rights must be given primacy in all border governance measures.

Partner with border communities in decision-making about the border.

Border communities in the United States are economically vibrant, naturally beautiful, and culturally diverse. They are places of encounter, opportunity and hope, and they are home to millions of border residents who are our nation's chief ambassadors and welcomers. Border residents are directly affected by border governance and must be taken into account in a central way. Border communities know the border region better than anyone else and must be consulted about their priorities.

Recognize the dignity and humanity of people who are migrating.

Migration is a human phenomenon as old as time and a part of nearly every family's story. It is a defining feature of our globalized world, making every country, including the United States, a country of origin, transit, and destination. If governed well, migration is a source of prosperity, innovation, and sustainable development. Thoughtful border governance helps to increase opportunities for safe, orderly, and regular migration and to minimize the need for dangerous and irregular migration. Migration should never be criminalized. Good border governance recognizes our common humanity and shared potential.

Honor the principle of non-discrimination.

The principle of non-discrimination is a cherished constitutional value found in the equal protection clause of the 14th amendment. Border governance measures must not exclude or mistreat people based on race, ethnicity, gender, national origin, religion, sexual orientation, gender identity or expression, disability or any other human trait. Our traits are what make us human and should not imperil us or be cause for exclusion or mistreatment.

Strive for social cohesion and inclusion.

As a country, we have long aspired to find unity in diversity, with the words *E Pluribus Unum* (out of many, one) emblazoned on the nation's seal. We are a democracy inspired by indigenous people, forged by diverse immigrants and freed people, and continuously rejuvenated by newcomers from around the world. Our policies and public statements must recognize that diversity is our strength and, with our words and our deeds, we must strive to foster social cohesion and avoid stigmatizing, xenophobic, racist, alarmist, or inaccurate language.



EXPANDING PUBLIC SAFETY



Our communities are safe when everyone is supported to pursue their full potential in an environment of harmony, safety, equality, and justice. We are safe when everyone can access quality education, healthcare, homes, and jobs. We are safe when we are protected from flooding, fires, and other disasters. We are safe when we can call first responders for help without the threat of violence or deportation. In short, we are safe when everyone can thrive. The role of government is to invest in the things that keep us safe and help us thrive.

That is not currently happening in the border region. Instead of investing in revitalizing border communities, the current administration is doubling down on militarizing them. Instead of contributing to our safety, unaccountable border authorities engage in abuse and corruption while the administration continues to push for deadly walls that exacerbate flooding and

devastate our cultural and natural heritage. Public safety depends on public trust, but there can be no trust when the administration is unwilling to hold itself accountable and is fixated on policies that are harmful and out of touch with reality.

Despite the rhetoric, no known terrorist has entered via our southern border, and the best way to ensure no one ever does is to provide humane and orderly processes at our border, which we currently lack. According to the FBI, border cities are among the safest in the country, with the lowest rates of violent crime and property crime. On an annual basis, less than a fraction of one percent of people entering the country arrive without prior authorization, and an even smaller fraction demonstrate intent to commit crimes or do harm. In that context, the militarization of border communities does not make sense and does not expand our safety. On the contrary, it makes us far less safe. What does increase our safety is creating border policies that are responsive to our needs and responsible to the communities they are intended to serve.

Responsive border policies focus on actual needs in border communities that ensure families feel safe and thrive. Such policies also focus on genuine threats and recognize that migration, in and of itself, is not a threat. Nor is it a crime. Migration is the human experience of seeking life, liberty, and the pursuit of happiness. Facilitating the humane and orderly movement of people across the border increases public safety.

Responsible policies train border authorities in global best practices, including in limiting the use of force, and train them to prioritize saving people and to avoid tactics that endanger them. Such policies require border authorities to protect the human rights of everyone, everywhere in the United States, including in border communities that are often wrongly viewed as exempt from these protections.

Expanding the notion of public safety is in everyone's interest. Responsible border management means that families – residents and migrants alike – feel safe in their well being and do not have reason to fear border authorities. It means border authorities are trained, supervised, and recognized for adhering to best practices that build trust and help keep us all safe. It also means that people who suffer from the abuse by border authorities have meaningful access to justice, and border authorities are held accountable.

GOALS FOR EXPANDING PUBLIC SAFETY

Engage in strategic planning to focus border authorities and resources

- » Engage in evidence-based strategic planning to identify true threats and appropriate responses to organized crime and terrorism: this means focusing on these threats, not migration. Programs such as Zero Tolerance and Operation Streamline that criminalize migrants and separate families should end.
- » Focus border authorities at the border: this means deploying them at the borders, proportionate to true threats, and eliminating interior checkpoints, roving patrols, and collaboration with local police. These practices erode trust in law enforcement and restrict freedom inside the United States.
- » Focus resources on detection of true criminal and terrorist threats: this means investing in tools that work, such as ground sensors, vehicle scanners and technologies with privacy protections, not expensive, harmful, and ineffective walls.

Employ best practices for effective and professional policing

- » Adhere to best practices: this means implementing the highest policing standards from the Police Executive Research Forum (PERF) and the International Association of Chiefs of Police (IACP), to reward professionalism, prevent abuse and corruption, and create a culture of accountability.
- » Provide ongoing training, especially on the use of force: this means considering human life as paramount and training authorities on de-escalation and non-lethal responses, such as for rock throwers; limiting force to a proportionate response; using lethal force only when proportionate and absolutely necessary to prevent death or serious injury; and establishing clear consequences for abuse of power.
- » Prioritize and protect life, avoiding tactics that endanger life: this means border authorities embrace a role as preservers of life; assessing risks associated with a tactic; and ending tactics that potentially harm people, such as scatter tactics that disorient migrants, high-speed car chases, and “prevention through deterrence” strategies such as barriers that funnel people into dangerous corridors.

Respect human rights

- » Enforce the protection of human rights fully: this means law enforcement should investigate and prosecute persons that violate these rights, including border authorities. Establish firewalls to protect personal data and enable migrants to effectively seek help, report crime, and participate in judicial proceedings.
- » End unreasonable searches, seizures, and surveillance in the border region: this means requiring border authorities to have probable cause or a warrant to board and search vehicles and boats or enter private land, without exception; it also means limiting the use of drones, intercept equipment, facial recognition, and other surveillance in order to ensure protection of civil liberties.
- » End mass incarceration of migrants at the border: this means ending the current practice of detention; detention should only be used as a last resort after community-based alternatives and should be limited in scope and duration, be necessary and proportionate, and based on individual assessment. Children and families should never be detained. Ever.

PROTECTING HUMAN RIGHTS



Every day, millions of people cross borders in pursuit of their inalienable rights. Our borders should be a model to the world on how to protect and uphold human rights. Instead, we have endangered people with policies that create lawlessness and impunity, undermining good border governance. Border regions are often treated as zones of exception for human rights. That should never be the case. Good border governance depends on the full defense of human rights.

Our border communities recognize and respect the reality of families with mixed immigration status. The people without status who live in our homes, worship in our churches, volunteer at our schools, and in so many other ways enrich our communities are not threats to our national security. To the contrary, they demonstrate how border communities practice *convivencia* (living together) in vibrant ways. Migration control and border enforcement tactics that target and victimize these families and our communities must be discarded. Migration is not a crime and the migrants living among us should not be treated as if it were.

The protection of human rights is of particular concern for the border residents who live inside the United States in the spaces between ports of entry. We often must pass through checkpoints as far away as 100 miles into the interior. In these zones, border authorities assert excessive power, beyond the power of other law enforcement agencies, which leads to harassment, abuse, racial profiling and intimidation of border residents and travelers. If human rights are to mean something, they must be fully protected in border communities, without exception.

Migrants in distress at our borders are also particularly vulnerable to human rights abuses. These include families who are seeking protection from danger they face in their home countries. We are obligated to respect the right to asylum and must offer other protections to keep people out of imminent danger.

Vulnerable migrants also include those who are blocked from safe migration channels. Unable to access the ports of entry because of turnbacks or lack of information, these migrants are forced to cross between the ports, often relying on smugglers. They pass through remote and treacherous areas leading hundreds of migrants to die in transit each year in our southern border region.

Good border governance requires the protection of human rights and respect of human dignity of every person. It also requires providing more avenues for safe migration, including expanding the pathways for legal immigration and expanding protections for people in danger. It also includes protecting children and other vulnerable individuals arriving at the border, prioritizing human rights in the processing of asylum seekers and others seeking protection, and preserving life through immediate aid and rescue.

GOALS FOR PROTECTING HUMAN RIGHTS

Prioritize human rights in border governance

- » Prioritize human rights in policy and practice to facilitate effective border governance: this means shifting away from an enforcement-at-any-cost perspective that threatens human rights, harms community well-being, creates zones of impunity, erodes trust, and is ultimately ineffective.
- » Protect individuals from return or expulsion to countries where they face the risk of persecution and torture: this means providing a safe and effective process for people to seek available protections. People should never be returned to countries where they will be exposed to human rights violations.
- » Ensure that the return of migrants with no legal right to stay is safe, dignified and follows due process: this means returning people only after an individual assessment and exhaustion of remedies; returning them with their families (who are not eligible for protections) and with identity documents and belongings; and ending returns at night, to dangerous places, or remote areas far from apprehension.

Provide immediate aid, rescue, and recovery

- » Provide immediate humanitarian aid to ensure human dignity: this means, border authorities should be trained and equipped to provide first aid, water, food, blankets, sanitary items, and rest to individuals who present themselves or are encountered. The government should provide support to organizations that provide aid to migrants in their communities and help family members reunite.
- » Prioritize rescue and recovery: this means increasing search and rescue capacity, locating rescue beacons with 911 cell-relay along remote routes, and making every effort to rescue, recover, identify, and repatriate remains through international multi-stakeholder collaborations that include the effective participation of and regular communication with families of the disappeared.
- » Recognize the ancient, moral, and sacred duty of individuals to help others in distress: this means ensuring that people who provide humanitarian aid, rescue, and recovery are not penalized for or obstructed from doing so, and their aid provisions are never destroyed. Instead they should be supported to fill gaps the government is unable to fill.

Protect children and other vulnerable individuals

- » Protect the best interests of children at all times regardless of their migration status or that of their parents: this means treating children as children first, maintaining family unity, locating children in the community, and having child welfare specialists play a primary role with children, not border authorities.
- » Increase sensitivities to vulnerable populations: this means border authorities (who are mostly male) should be regularly trained to communicate with people they encounter who are female, indigenous, ethnic minorities, religious minorities, LGBTQ, traumatized, or otherwise vulnerable.
- » Provide support and pursue justice for families impacted by border militarization: this means providing federal and state victim support services for families who have been harmed or killed; and fully investigating and prosecuting border authorities alleged to be responsible.

WELCOMING RESIDENTS & NEWCOMERS



Our borders are places of encounter, opportunity, and hope, but our current policy has undermined their potential and growth. The nearly one million people who arrive in the United States daily include border residents, visitors, merchants, and migrants. They are strengthening connections with our global neighbors, building goodwill, and fueling our economy so that we can all thrive.

Over 99 percent of people arriving have prior authorization to enter the country. Less than one percent come without prior authorization and most of them seek protection in the form of asylum or other assistance. A smaller number arrive seeking a better life like generations of migrants before them. Our welcoming system must respond to all of them in an effective, humane, and efficient way.

Given the volume and variety of people arriving, responsible border governance requires that we have sufficient channels for people with prior authorization (visas, passports) to cross the border. It is also essential that we have adequate and accountable personnel to staff those crossings. The country loses billions of dollars and thousands of jobs every year due to the long wait times at our southern border crossings. The cost is felt across the nation, which depends on trade with Mexico, now our largest trading partner. Long lines at the border also impact local businesses, degrade air quality, and imperil the well being of elderly, pregnant and disabled individuals who cannot withstand long waits.

We must ensure clear processes and sufficient access for migrants without prior authorization to approach the ports of entry to seek asylum, protection, or other assistance. Migration should never be criminalized. To do so is to criminalize a fundamental human experience. In order for the United States to engage in managing migration in a manner consistent with our values, our policies must reflect our humanity.

The welcoming of migrants necessitates a whole-of-government and whole-of-society approach that begins before migrants arrive at the border. It begins with the cooperation and coordination of local, state, national and international governments and nongovernmental organizations on both sides of the border to respond to the human rights concerns and needs of migrants. The role of border authorities with regard to migrants is to identify newcomers in a professional manner, identify their reason for entry, and make appropriate and timely referrals. That's it. Referrals include child welfare specialists, asylum officers, trauma counselors, medical teams, humanitarian aid organizations, and other partnering community organizations to assist migrants.

To facilitate the welcoming of migrants, it's imperative that border authorities and others coordinating with them on both sides of the border provide migrants access to interpretation in a language they understand, access to information about their rights, freedoms, and available protections, and access to other relevant assistance including cultural liaisons and legal counsel to communicate effectively and exercise their human rights fully. All of this should be done in a cage-free environment that honors the dignity of migrants. This will facilitate expeditious processing in conformance with national and international obligations.

GOALS FOR WELCOMING RESIDENTS & NEWCOMERS

Expand channels to welcome people at ports of entry

- » Respect international obligations to asylum seekers and others seeking protection, ensuring entry systems provide migrants the opportunity to present themselves expeditiously: this means sufficient staffing and facilities to avoid turnbacks and eliminate prolonged waits outside the country.
- » Increase channels for entry of border residents, visitors, merchants, and migrants: this means adequate and accountable staff, more lanes at ports, more open hours, and more opportunity to approach and be processed so that no one is deterred and compelled to pursue irregular entry.
- » Provide accommodation for elderly, pregnant, disabled, and others in need to physically access channels safely: this means assisting with mobility, providing seating, providing access to shade and water, and providing expeditious processing when necessary.

Expedite interviews to identify and refer arrivals

- » Conduct interviews in an efficient, professional, confidential, non-threatening, non-coercive way: this means a clear standard for treating everyone with dignity and respect; it also means extending full due process for credible fear interviews that should only be conducted by asylum officers, not border agents.
- » Identify the reason for entry without engaging in discrimination: this means no profiling based on race, ethnicity, gender, national origin, religion, sexual orientation, gender identity and expression, disability or other identity traits. Human traits should never be cause for exclusion or mistreatment.
- » Make appropriate and timely referrals for people who are at particular risk: this means referrals to governmental or nongovernmental entities to address the needs of children, asylum seekers, victims of trafficking or violence, and those with medical concerns. People waiting should have adequate water, food, sanitation, and a comfortable temperature in a humane, cage-free environment.

Provide access to interpretation, information and assistance

- » Provide access to interpretation for arrivals who need help with communication: this means language or sign interpretation, or verbal explanation for those who are not literate.
- » Provide access to information about rights, freedoms, and available protections: this means proactively giving this information to arrivals subject to enforcement measures and possible return, and distributing widely in countries of origin.
- » Provide access to assistance in a whole-of-government approach: this means having sufficient trained personnel, other than border authorities, to provide medical and psychological assistance, trauma response, cultural liaison, child guardianship, legal assistance and other assistance in cooperation with nongovernmental service providers as needed.

RULES FOR GOOD BORDER GOVERNANCE

Drive decision-making with accurate and unbiased data.

Good border governance is driven by data that grounds responsible decision-making in reality, not rhetoric. High-quality data enables research, guides coherent and evidence-based policymaking, informs public discourse, and allows for effective monitoring and evaluation of the implementation of policies.

Partner with affected stakeholders.

The impact of border policies on border residents, visitors, merchants, and migrants should be addressed in the development, implementation, and evaluation of border governance policies. Good border governance responds to the concerns of affected communities and incorporates the input of stakeholders, which include local governments, civil society organizations, and international actors. In a whole-of-government and whole-of-society approach to border governance, stakeholders are partners in responding to challenges and needs, and local border communities do not bear the cost or burden of responding alone.

Be transparent to the public.

Transparency is a cornerstone of good border governance and means that information about policies and their implementation must be freely available and accessible to those affected by them. The public must be informed about the data collected, reports produced, budgets allocated, money spent, policies proposed, decisions made, evaluations completed, evidence collected, and videos recorded, and the location of detainees. Responses to Freedom of Information Act (FOIA) requests should come within weeks, not years.

Ensure meaningful oversight.

Oversight is necessary to ensure compliance with goals, policies, and standards of professionalism. Good border governance must strengthen internal monitoring of the Department of Homeland Security (Office of Civil Rights and Civil Liberties, Office of Inspector General, Office of Professional Responsibility). It must also include external monitoring by independent auditors, civilian review bodies, and international observers.

Hold authorities accountable.

A cornerstone to public trust is accountability. Government officials must be accountable to those they govern and there can be no exceptions, no waivers from compliance with the law. Access to an accountable justice system is key for people pursuing remedies for harm resulting from border governance policies and practices, or from corruption or organized-crime ties. Meaningful justice includes a robust complaint system, independent investigation, fair adjudication, and effective remedy. An effective remedy is responsive, timely, and meaningful. It provides reparation to the victim, guards against repetition, and applies the appropriate sanctions commensurate with the offense including a criminal conviction and/or administrative discipline.



CONCLUSION

A New Border Vision for responsible border management leads with our values, addresses our needs, and adheres to good governance to generate well-functioning borders for the 21st century.

This vision was developed by the Southern Border Communities Coalition (SBCC), a coalition of community organizations spanning the length of the southern border, in collaboration with the Northern Border Coalition (NBC) and in consultation with academics, human rights experts, and law enforcement leaders. This vision draws on national and global perspectives on border governance to create a path forward at a divisive and chaotic time in the United States.

A New Border Vision is intended to set a new tone for dialogue about the border, to offer a template for new policy development, and to encourage us to turn the page to move forward together with common purpose and shared humanity. Let this vision be a guide to fulfill our nation's moral and legal obligations.

“The sacred rights of mankind are not to be rummaged for, among old parchments, or musty records. They are written, as with a sun beam in the whole volume of human nature, by the hand of the divinity itself; and can never be erased or obscured by mortal power.”

Alexander Hamilton, 1775
American Statesman, Founding Father, and Immigrant

SBCC would like to thank the following for contributing their perspective:

Global perspective:

Global Justice Clinic, New York University Law School
Inter American Commission for Human Rights, Office of the Rapporteur on the Rights of Migrants
United Nations Former Vice Chair on the Committee on Migrant Workers
United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions
United Nations Special Rapporteur on Racism, Racial Discrimination, Xenophobia and Related Intolerance
United Nations High Commissioner for Refugees Regional Office for the USA and the Caribbean
United Nations Committee on Migrant Workers
University of California Berkeley's International Human Rights Law Clinic

National perspective:

American Civil Liberties Union (ACLU)
Church World Service
National Network for Immigrant and Refugee Rights
Washington Office on Latin America

Southern border perspective:

Alliance San Diego (CA)
American Friends Service Committee - US-Mexico Border Program (CA)
California Immigrant Policy Center (CA)
San Diego Immigrant Rights Consortium (CA)
SEIU United Service Workers West (CA)
Colibrí Center (AZ)
Frontera de Cristo (AZ)
Good Shepherd United Church of Christ (AZ)
ACLU New Mexico (NM)
New Mexico Comunidades en Acción y de Fe (NM)
ACLU Border Rights Center (TX)
La Unión Del Pueblo Entero (TX)
Rio Grande Valley Equal Voice Network (TX)
South Texas Human Rights Center (TX)

Northern border perspective:

New York Immigration Coalition
Northern Borders Coalition



Produced by Alliance San Diego on behalf of the Southern Border Communities Coalition.

For more information about SBCC, visit www.southernborder.org.



A New Border Vision is a framework for responsible border governance. It leads with our values, addresses our needs, and adheres to good governance principles to generate humane and well-functioning borders for the 21st century. It is driven by border communities who are calling for the following action in a New Border Vision:

EXPAND PUBLIC SAFETY.

Public safety depends on public trust, but there can be no trust when the administration treats migrants as criminals and border residents as second-class citizens. We must decriminalize migration, hold border authorities accountable, and treat everyone with dignity and respect.

- ◆ Focus border authorities and resources on true threats at the border, not migration.
- ◆ Employ best practices for effective, professional and accountable policing.
- ◆ End unreasonable searches, seizures, surveillance and detention.

PROTECT HUMAN LIFE.

Our borders should be a model to the world on how to protect and uphold human rights. Instead, we have threatened people with policies and tactics that endanger life. We must preserve life above all else and support humanitarian acts that proactively save people.

- ◆ Prioritize human rights, allowing people to seek protection or safe return.
- ◆ Provide immediate aid, rescue, and recovery to people in distress.
- ◆ Protect children and other vulnerable individuals, keeping families together.

WELCOME PEOPLE AT THE BORDER.

Our welcoming system must respond to border residents, migrants, merchants and visitors in an effective, efficient, and humane way — one that takes a whole-of-government and whole-of-society approach. This means border authorities should play a limited role to identify and clear people, or they refer them as needed, including migrants and asylum seekers, to other governmental or nongovernmental entities for assistance and processing.

- ◆ Expand channels to welcome people at ports of entry, eliminating long wait lines.
- ◆ Expedite entry interviews to identify and clear people or refer them for help as needed.
- ◆ In a whole of government approach, provide access to interpretation, information, and assistance.





Una Nueva Visión Fronteriza es un marco de gobernanza fronteriza responsable que lidera con nuestros valores, aborda nuestras necesidades y se adhiere a los principios de la buena gobernanza para crear fronteras para el siglo XXI que funcionen bien. Es una visión impulsada por comunidades fronterizas que buscan lo siguiente a través de una Nueva Visión Fronteriza:

AMPLIAR LA SEGURIDAD PÚBLICA.

La seguridad pública depende de la confianza pública, pero no puede existir la confianza cuando la administración trata a migrantes como criminales y a los residentes fronterizos como ciudadanos de segunda clase. Debemos despenalizar la migración, hacer que las autoridades fronterizas rindan cuentas y tratar a todas las personas con dignidad y respeto.

- ◆ Enfocar a las autoridades y a los recursos en las verdaderas amenazas en la frontera, no en la migración.
- ◆ Emplear las mejores prácticas para una vigilancia policial efectiva y profesional que rinda cuentas.
- ◆ Poner fin a las irrazonables búsquedas, confiscaciones, vigilancia y detención.

PROTEGER LA VIDA HUMANA.

Nuestras fronteras deben ser un modelo para el mundo sobre cómo proteger y elevar los derechos humanos. En lugar de hacer eso, hemos amenazado a la población con políticas y tácticas que ponen en riesgo la vida. Debemos preservar la vida antes que nada, y apoyar los actos humanitarios proactivos que salvan a la gente.

- ◆ Priorizar los derechos humanos para que las personas pidan protección o sean retornadas de forma segura.
- ◆ Proveer asistencia, rescate o recuperación inmediata a personas que se encuentran en peligro.
- ◆ Proteger a niños y niñas y a otras personas vulnerables, así como mantener a las familias unidas.

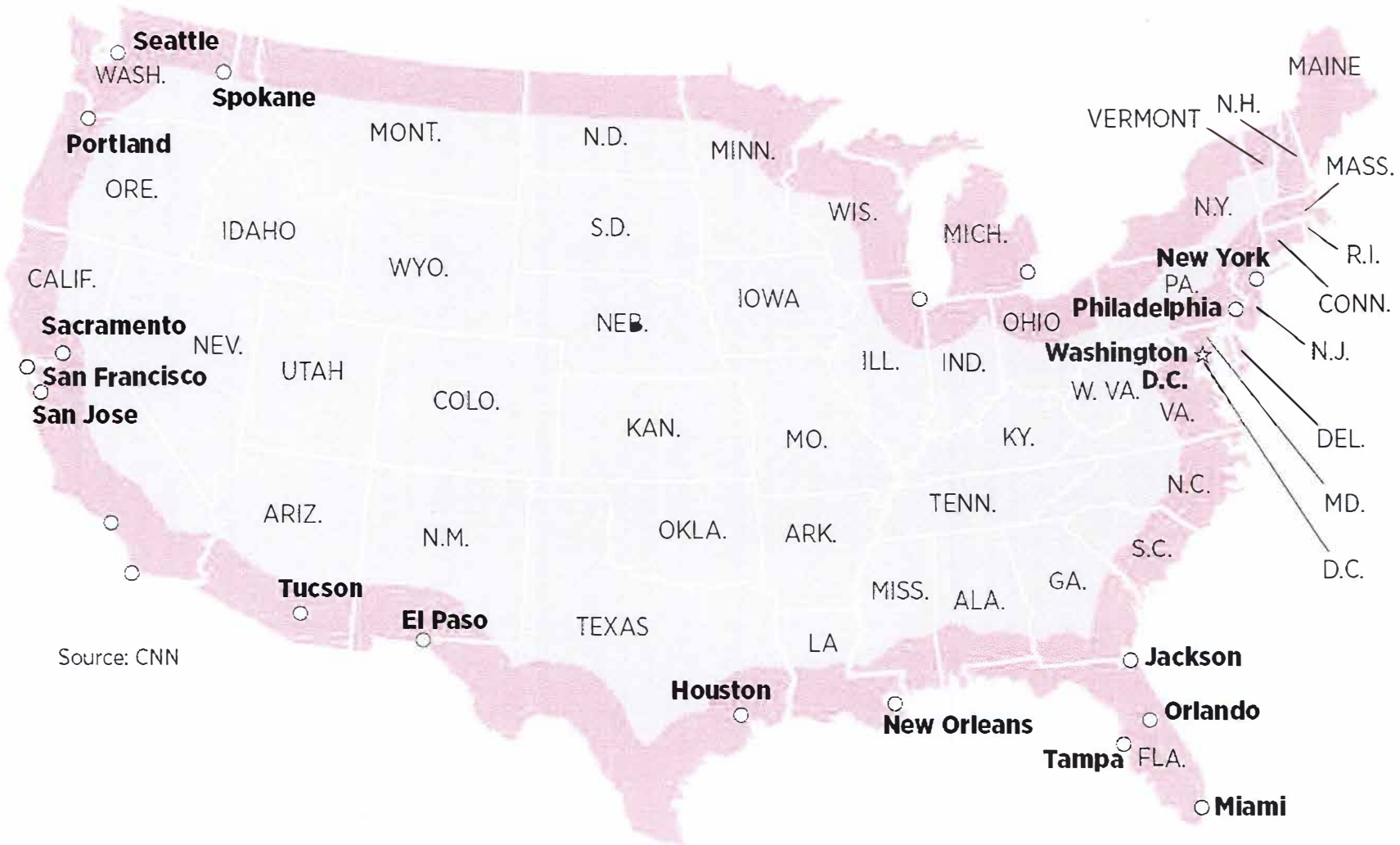
DAR LA BIENVENIDA A LAS PERSONAS EN LA FRONTERA.

Nuestro sistema acogedor debe responder a residentes fronterizos, migrantes, comerciantes y visitantes de una forma efectiva, eficiente y humana que incluya un enfoque de todo el gobierno y de toda la sociedad. Las autoridades fronterizas deben limitarse a identificar y autorizar, y de ser necesario, referir a migrantes y solicitantes de asilo a entidades gubernamentales o NGOs para recibir asistencia o ser procesados.

- ◆ Expandir los canales para darle la bienvenida a la gente a los puertos de entrada y eliminar las filas largas
- ◆ Acelerar entrevistas de entrada para identificar y autorizar o referir para recibir asistencia.
- ◆ Proveer acceso a interpretación, información y asistencia como parte de un enfoque de todo el gobierno.

United States border enforcement zone

Immigration checks by Border Patrol agents may be made without a warrant up to 100 miles from U.S. borders and coastlines. The area in orange is the enforcement zone including some of the the major cities within that zone.



Source: CNN

MOLLY QUINN/THE SPOKESMAN-REVIEW