

JASON CHAFFETZ
3RD DISTRICT, UTAH

COMMITTEE ON
THE JUDICIARY

COMMITTEE ON THE BUDGET

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM

CHAIRMAN:
SUBCOMMITTEE ON NATIONAL SECURITY,
HOMELAND DEFENSE AND FOREIGN OPERATIONS

Congress of the United States
House of Representatives
Washington, DC 20515-4403

1032 LONGWORTH HOUSE OFFICE BUILDING
(202) 225-7751

DISTRICT OFFICES:
PROVO
51 S. UNIVERSITY AVENUE
SUITE 318
PROVO, UT 84601
PHONE: (801) 851-2500
FAX: (801) 851-2509

WEST JORDAN
3895 W. 7800 S.
SUITE 201
WEST JORDAN, UT 84088
PHONE: (801) 282-5502

www.chaffetz.house.gov

June 22, 2011

Barack H. Obama
President of the United States of America
The White House
Washington, D.C.

Dear Mr. President:

As a Member of the House Committees on Oversight and Government Reform and the Judiciary, I have been conducting oversight of the federal government's efforts to secure the southwest border and confront the threat posed by drug trafficking organizations. During this examination, I have obtained information indicating that key areas along the border are less safe and secure since you took office. I therefore seek clarification of this information and statements made by you and senior officials, as it appears that there is a vast discrepancy between messaging from this Administration and the facts on the ground.

Over the past 13 months, there have been numerous statements made publicly and under oath regarding the safety and security of our border region. Each has contained a nearly identical blanket assertion that our border is safer and more secure than it has ever been:

- "And by many objective measures **the border is much safer and more secure than it's ever been.**" – Customs and Border Protection Commissioner Alan Bersin, May 7, 2010.¹
- "Contrary to some of the reports that you see, crime along the border is down. And statistics collected by Customs and Border Protection reflect a significant reduction in the number of people trying to cross the border illegally . . . So the bottom line is this: **The southern border is more secure today than at any time in the past 20 years.**" – President Barack Obama, July 1, 2010.²
- "There is a perception that the border is worse now than it ever has been. That is wrong. **The border is better now than it ever has been . . .**" – Department of Homeland Security Secretary Janet Napolitano, March 24, 2011.³

¹ Gloria Penner and Amy Isackson, *Commissioner Alan Bersin on Immigration and Border Security*, KPBS NEWS, May 7, 2010.

² The White House, Office of the Press Secretary, *Remarks by the President on Comprehensive Immigration Reform*, July 1, 2010.

³ Stephanie Condon, *Border Security Better than Ever*, CBS NEWS, March 25, 2011.

- **“Violent crime in border communities has remained flat or fallen in the past decade, and some of the safest communities in America are at the border.”** – Ronald Vitiello, Deputy Chief, U.S. Border Patrol, April 15, 2011.⁴
- “[T]he situation along the border is better now than it probably ever has been...” Attorney General Eric Holder, May 3, 2011.⁵

Evidence appears to contradict statements made by you and senior officials within your Administration. While crime rates in some cities have dropped, other cities, such as Nogales, AZ, Phoenix, AZ, Brownsville, TX, and McAllen, TX, have seen dramatic increases in violent crime.⁶ For example, drug crimes in Phoenix have risen 6% since 2008 according to local crime statistics.⁷ In Nogales, the total number of recorded offenses ballooned from 6,068 in 2007 to 11,530 in 2010.⁸ Between 2009 and 2010 alone, there was a staggering 92% increase in the total number of recorded offenses.⁹ In a population of roughly 20,000, this means that approximately one out of every two people was potentially a crime victim last year, or that some individuals may have been a victim of multiple crimes.

The border itself has large gaps of unprotected area that drug traffickers are known to penetrate on a regular basis. According to the Government Accountability Office, only 15% of the 873 miles along the border that the Department of Homeland Security classifies as under “operational control” are actually under control.¹⁰ I toured some of these areas outside Nogales following testimony received at an April 15, 2011, National Security, Homeland Defense, and Foreign Operations Subcommittee hearing entitled, “The Border: Are Environmental Laws and Regulations Impeding Security and Harming the Environment?” Ranchers described to me in Washington and in Nogales how they are helpless to defend against heavily armed individuals who frequently smuggle contraband across their land.¹¹

⁴ Testimony of Ronald Vitiello, Deputy Chief, U.S. Border Patrol, before the Subcommittee on National Security, Homeland Defense, and Foreign Operations, House Committee on Oversight and Government Reform, April 15, 2011.

⁵ Testimony of Eric H. Holder, Attorney General of the United States, before the Committee of the Judiciary, May 3, 2011.

⁶ Please see Attachment A for a breakdown of crime statistics.

⁷ Crime Statistics Reports, City of Phoenix, Arizona, 2008-2010, available at: http://phoenix.gov/haht-bin/hsrun/payf/CRIMGRIDP/StateId/QKIEoL7GCpi022fau_-fEaLt3osqG-U5vd/HAHTpage/HS_selectdates (last visited June 20, 2011).

⁸ City Yearly Stats, Police Department, City of Nogales, Arizona, available at: <http://www.nogalesaz.gov/index.cfm?fuseaction=content.faq&faqTypeID=12> (last visited June 20, 2011).

⁹ *Id.*

¹⁰ Testimony of Richard M. Stana, Director, Homeland Security and Justice Issues, before the Subcommittee on Border and Maritime Security, Committee on Homeland Security, U.S. House of Representatives, February 15, 2011 (GAO-11-374T).

¹¹ Testimony of James Chilton before the Subcommittee on National Security, Homeland Defense, and Foreign Operations, House Committee on Oversight and Government Reform, April 15, 2011.

Contrary to the perception created by this Administration, individuals cross with great ease over much of this terrain. In some areas, only several thin strands of barbed wire stand between Mexico and the United States. *See attachment B.* Other areas are guarded only by World War II-era vehicle barricades that smugglers regularly cut apart with blowtorches. *See attachment C.* Border Patrol agents explained that some land is simply too dangerous to patrol. Consequently, Mexican drug trafficking organizations have a *de facto* safe haven within U.S. borders.

In the Tucson sector, the federal government appears to have accepted these conditions as the new status quo. Instead of deploying agents to secure problematic areas, it has posted “travel caution” signs warning Americans that “smuggling and illegal behavior may be encountered.” *See attachment D.* In other words, American citizens who choose to travel near the U.S. border should do so at their own risk. This defeatism is unacceptable. Americans should not be forced to tolerate persistent attacks on their sovereignty while the federal government throws up its hands.

These facts notwithstanding, Secretary Napolitano has hailed the Tucson sector as a shining example of success. In the aftermath of Brian Terry’s death, she stated that the Border Patrol “is producing very, very strong results,” and that “illegal-immigrant apprehensions are down, which, again, is a measure that overall illegal immigration is down.”¹² She further asserted that, “by the end of next year, we will have cut [apprehensions] from 219,000 down to near 100,000.”¹³ *See also attachment E.* There is little evidence to support that reduced apprehensions can be attributed to increased security, and that the Department should therefore decrease the number of targeted apprehensions going forward.

At least one cabinet official has acknowledged that this concept is difficult to explain. At a May 3, 2011, Committee of the Judiciary hearing, I asked Attorney General Eric Holder to clarify the Administration’s rationale for this statement. With respect to the number of apprehensions, I specifically asked, “if it goes up, are we doing a better job securing the border? Or if apprehensions go down, are we doing a better job securing the border?”¹⁴ He replied that, “if we are apprehending more people, that means we’re stopping more people coming through. On the other hand, if we’re getting fewer people, it’s entirely possible that our enforcement efforts are working, and fewer people are trying to get in. It’s a difficult question to answer.”¹⁵ His explanation provided little clarification. Thus, in the absence of evidence to support a claim made in public and under oath, I am left to conclude that there is no rational explanation. This would certainly coincide with the facts as I have observed them in Arizona.

Consistent with your commitment to making the Administration “the most open and transparent in history,” I respectfully request that it explain the inconsistencies between its public

¹² Daniel Gonzalez and Dan Nowicki, *Napolitano Confirms Gang Killed Border Agent In Battle*, THE ARIZONA REPUBLIC, December 18, 2010.

¹³ *Id.*

¹⁴ Testimony of Eric H. Holder, Attorney General of the United States, before the Committee of the Judiciary, May 3, 2011.

¹⁵ *Id.*

President Barack H. Obama

June 22, 2011

Page 4

messaging and the facts. This Congress and the American people deserve nothing less than a full and honest accounting from the federal government, especially on matters of national security. In the meantime, I urge you to hold accountable those in your Administration who may be providing the American people with less than the necessary facts on this critical matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jason Chaffetz", written over a large, faint circular watermark or stamp.

Jason Chaffetz
Member of Congress

cc: The Honorable Janet Napolitano, Secretary, Department of Homeland Security
The Honorable Eric Holder, Attorney General, Department of Justice
Mr. Thomas E. Donilon, National Security Advisor to the President
The Honorable Darrell Issa, Chairman, House Committee on Oversight and Government Reform
The Honorable Elijah Cummings, Ranking Member, House Committee on Oversight and Government Reform
The Honorable Lamar Smith, Chairman, House Committee on the Judiciary
The Honorable John Conyers, Ranking Member, House Committee on the Judiciary
The Honorable Peter King, Chairman, House Committee on Homeland Security
The Honorable Bennie G. Thompson, Ranking Member, House Committee on Homeland Security

Attachment A

Local Crime Statistics Demonstrate an Increase in Crime Rates in the Border Region

A. Nogales, Arizona

Crime Rates (Numbers) for Nogales: 2007-2010*

Crime (City of Nogales)	Burglary	Thefts	Thefts from Auto	Grand Theft Auto	Aggravated Assaults	Assaults	Damaged Property	Total number of Offense Records
2007	128	185	61	186	74	205	268	6,068
2008	164	181	95	211	61	133	265	5,843
2009	139	175	93	135	60	114	267	5,978
2010	253	373	216	230	106	206	483	11,530
% increase (2007-2010)	97%	101%	254%	186	23%	.5%	80%	90%

* City Yearly Stats, Police Department, City of Nogales, Arizona, available at: <http://www.nogalesaz.gov/index.cfm?fuseaction=content.faq&faqTypeID=12> (last visited June 20, 2011).

Crime Rates (Numbers) for Nogales in the past year alone: 2009-2010*

Crime (City of Nogales)	Burglary	Thefts	Thefts from Auto	Grand Theft Auto	Aggravated Assaults	Assaults	Damaged Property	Total number of Offense Records
2009	139	175	93	135	60	114	267	5978
2010	253	373	216	230	106	206	483	11530
% increase (2009-2010)	82%	113%	132%	70%	76%	81%	81%	92%

* City Yearly Stats, Police Department, City of Nogales, Arizona, available at: <http://www.nogalesaz.gov/index.cfm?fuseaction=content.faq&faqTypeID=12> (last visited June 20, 2011).

B. Brownsville, Texas

While the number of certain crimes occurring in Brownsville, Texas have decreased in recent years, other crimes, such as murder, rape, robbery, and aggravated assault have all increased from 2009-2010.

Crime Rates (Numbers) in Brownsville: Crimes Against Persons: 2008-2010*

Crime (City of Brownsville, Texas)	Murder	Rape	Robbery	Aggravated Assault
2008	3	26	173	431
2009	4	26	152	272
2010	7	31	165	360
% increase (2008-2010)	133%	19%	(4)%	(16)%
% increase (2009-2010)	75%	19%	9%	32%

* Crime Statistics, City of Brownsville, Texas, 2008-2010, available at: <http://www.cob.us/police/index.asp?conID=158> (last visited June 20, 2011).

C. McAllen, Texas

While the number of certain crimes occurring in McAllen have decreased in recent years, other crimes, such as murder, rape, robbery, and theft have all increased from 2000-2010.

Crime Trends and Analysis (Numbers) in McAllen, Texas: 10 year index crime summary*

Crime (City of McAllen, Texas)	Murder	Rape	Robbery	Theft
2000	2	1	116	6163
2008	9	18	135	6599
2009	4	20	132	6785
2010	5	14	115	6282
% increase (2000-2010)	150%	1300%	(1)%	2%

* Crime Reports, City of McAllen, Texas, McAllen Ten Year Summary Report, available at: <http://www.mcallen.net/police/reports.aspx> (last visited June 20, 2011).

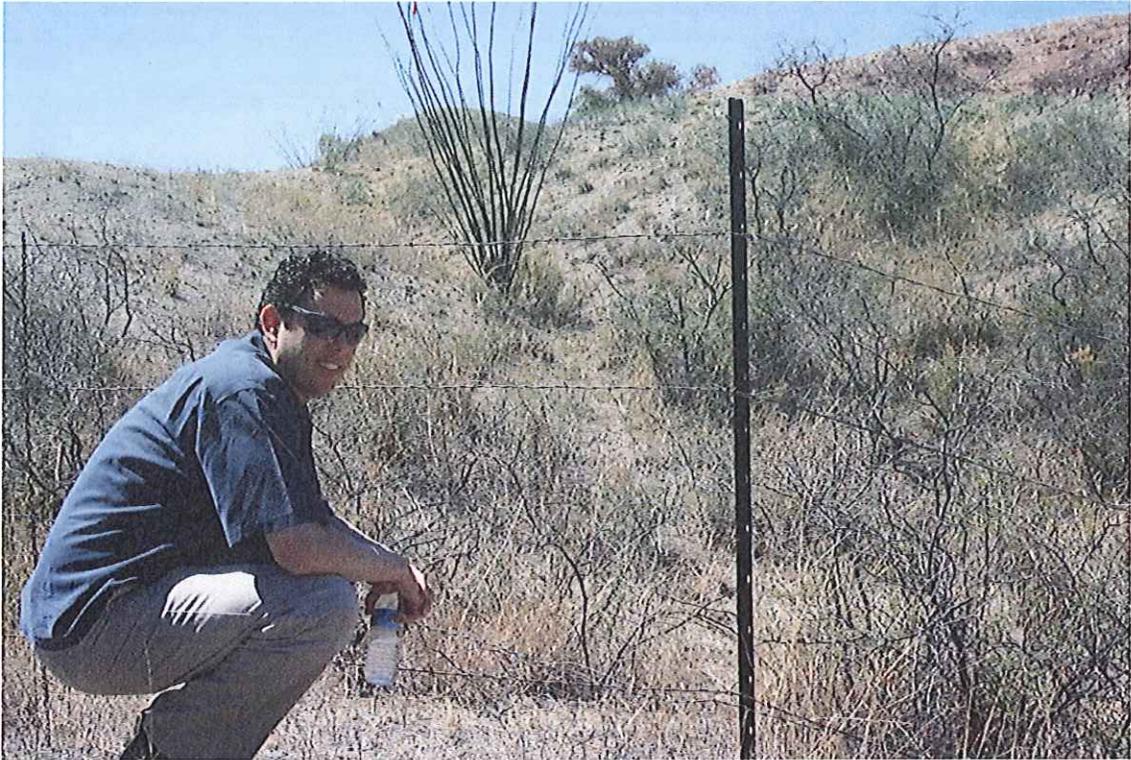
D. Phoenix, Arizona

Phoenix Police Department: Grid Stat Council District Summary (numbers) for Drug Crime:
2008-2010*

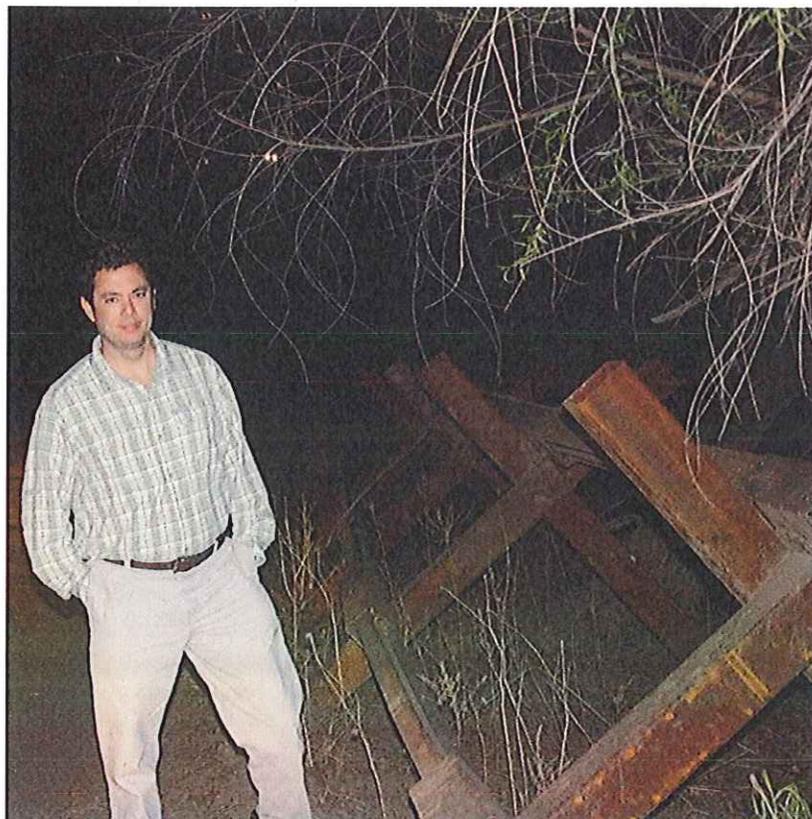
Crime (City of Phoenix)	Drug Crimes
2008	9145
2009	9679
2010	Not yet available
% increase (2008-2009)	6%

* Crime Statistics Reports, City of Phoenix, Arizona, 2008-2010, available at: http://phoenix.gov/haht-bin/hsrun/payf/CRIMGRIDP/StateId/QKIEoL7GCpi022fau_-fEaLt3osqG-U5vd/HAHTpage/HS_selectdates (last visited June 20, 2011).

Attachment B



Attachment C



Attachment D



