

July 22, 2011

Dr. Joe Leonard, Jr.
Assistant Secretary for Civil Rights
U.S. Department of Agriculture
1400 Independence Avenue, SW
Washington, DC 20250, Mail Stop 0115

Director, Office of Adjudication
U.S. Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250-9410

**Re: Complaint Regarding Civil Rights Violations and
Violation of Executive Order 13166**

Dear Dr. Leonard,

I am writing on behalf of Ms. C [REDACTED] ("Ms. R [REDACTED]") to file a complaint regarding discriminatory actions by a law enforcement officer of the U.S. Forest Service that resulted in Ms. R [REDACTED] being subjected to an immigration enforcement action in the Olympic Peninsula region of the State of Washington. Our office is representing Ms. R [REDACTED] in this matter and her written authorization is attached to this letter.

Facts Underlying the Complaint

Ms. R [REDACTED] resides in the Forks, Washington area.¹ On May 14, 2011, she was a passenger in a vehicle being driven by B [REDACTED]. The vehicle was traveling west on Highway 101 towards Forks, Washington, when it was pulled over by a U.S. Forest Service (USFS) officer. Ms. R [REDACTED] notes that she was immediately nervous because "it is common knowledge that this Forest Service officer will pull over Latinos and then call immigration." The officer remained in his vehicle briefly and then approached the driver's side window of the vehicle and began questioning Mr. [REDACTED] and Ms. R [REDACTED]. As Ms. R [REDACTED] makes clear in her declaration, the USFS officer did not make any radio calls from the moment he began interacting with Ms. R [REDACTED] and Mr. [REDACTED] until the Border Patrol arrived. When the Border Patrol vehicle arrived, Mr. [REDACTED] exited the vehicle and ran away. Ms. R [REDACTED] was following Mr. [REDACTED] when she fell and was detained by the USFS officer who handled her so roughly, she ended up with bruises on her arms. Mr. [REDACTED] fell into the river and was later found to have drowned. Ms. R [REDACTED] was taken into custody by the Border

¹ The description of the events provided here is based on Ms. R [REDACTED]'s declaration, which is attached to this letter.

Patrol and detained for several days at the Northwest Detention Center in Tacoma, WA, until she was released on humanitarian grounds.

Because of the tragic circumstances of Mr. [REDACTED]'s death, this incident received significant press coverage. According to a statement issued by a spokesperson for the Border Patrol's Blaine Sector, the Border Patrol had responded to a request for "translation assistance" by the U.S. Forest Service officer.

Basis of the Complaint

Ms. R [REDACTED] asserts that the USFS officer violated her civil rights by triggering an immigration enforcement action against her on the basis of her ethnicity and that of her companion, Mr. [REDACTED]. Because the officer did not make a radio call to seek Border Patrol assistance at any time after he began interacting with the occupants of the vehicle, it is clear that he initiated this request before he approached the vehicle. It is therefore clear that the USFS officer called the Border Patrol without any basis to reasonably suspect either (a) that Ms. R [REDACTED] or Mr. [REDACTED] had committed an immigration violation, or (b) that Ms. R [REDACTED] or Mr. [REDACTED] needed interpretation assistance. Ms. R [REDACTED] therefore contends that the USFS officer triggered the immigration enforcement action by calling the Border Patrol solely on the basis of her ethnicity or that of Mr. [REDACTED].

However, even assuming that the Forest Service officer contacted Border Patrol solely for the purpose of obtaining interpretation assistance (as stated in the Border Patrol press statement), this action would still constitute impermissible discrimination. Under Executive Order 13166, federal agencies are required to ensure that individuals with limited English proficiency (LEP) have meaningful access to their services. The use of Border Patrol agents as interpreters in a non-emergency situation such as the one at issue here by a large federal agency cannot possibly constitute "meaningful access" under Executive Order 13166 for two reasons. First, the use of Border Patrol agents as interpreters in these situations would represent a substantial burden on LEP individuals because it will result on LEP individuals (and only LEP individuals) being subjected to questioning about immigration status in order to get access to a federal activity. Second, for an agency as large as the U.S. Forest Service, there are plenty of alternative resources for interpretation assistance, such as the Language Line service (www.language.com), that would provide consistent and reliable access without burdening LEP individuals.

In sum, whether the Forest Service officer in this case called the Border Patrol because of the ethnicities of Ms. R [REDACTED] and her companion or, as the Border Patrol reports, in order to get interpretation assistance, the Forest Service officer acted in violation of established civil rights norms.

Actions Requested

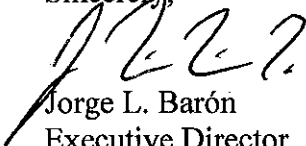
In light of the above, we are asking that your office take the following actions:

1. Investigate the circumstances of this incident and provide a response to this complaint.
2. If the investigation concludes that the USFS officer in fact initiated an immigration enforcement action on the basis of Ms. R [REDACTED]'s ethnicity, that the appropriate disciplinary action be imposed against the USFS officer involved in this incident.
3. Issue guidance to USFS law enforcement personnel, particularly in the Olympic National Forest region, that they are not to trigger immigration enforcement action against an individual without reasonable suspicion that the individual has violated our immigration laws.
4. Issue guidance to Forest Service law enforcement personnel, particularly in the Olympic National Forest region, that the use of Border Patrol agents for interpretation assistance during routine law enforcement actions is not permitted by Executive Order 13166 absent extraordinary circumstances.
5. Provide training to Forest Service law enforcement personnel, particularly in the Olympic National Forest region, about avenues of obtaining interpretation assistance that comply with the requirements of Executive Order 13166.

* * *

I would welcome the opportunity to provide further information regarding this complaint. Please do not hesitate to contact me by phone at (206) 957-8609 or via email at jorge@nwirp.org. I look forward to your response.

Sincerely,



Jorge L. Barón
Executive Director

cc: Margo Schlanger, Officer for Civil Rights and Civil Liberties, Department of Homeland Security

Christine Stoneman, Special Legal Counsel, Federal Coordination and Compliance Section, Civil Rights Division, U.S. Department of Justice

John Bates, Chief Border Patrol Agent, Blaine Sector, U.S. Border Patrol

Dale Hom, Forest Supervisor, Olympic National Forest

Enclosures:

- Authorization from C [REDACTED]
- Declaration of C [REDACTED]
- Statement from U.S. Border Patrol Spokesperson Richard Sinks, May 16, 2011
- "Search Continues for Missing Forks Man; No Leads on Whereabouts," Peninsula Daily News, June 3, 2011

Consent for Release of Information Regarding Complaint

I, [REDACTED], hereby consent to the release of information regarding the complaint I have filed with the Department of Agriculture's Office of the Assistant Secretary for Civil Rights (USDA-OASCR) to Jorge L. Barón of the Northwest Immigrant Rights Project. I authorize USDA-OASCR to release any and all information regarding the complaint (including resolution of the complaint) to Mr. Baron or any individual on the staff of Northwest Immigrant Rights Project he designates.

[REDACTED]

07-10-11
Date

I, [REDACTED], hereby certify that I am fully competent in both the English and Spanish languages, that I have read the above English document to [REDACTED] in true and accurate Spanish to the best of my ability, and that she has signed her name with full understanding of its contents.

[REDACTED]
Signature

07-10-11
Date

DECLARATION OF [REDACTED]

I, [REDACTED], hereby declare as follows:

1. My name is [REDACTED]. I was born on [REDACTED] 1984.
2. I have been living in Forks, Washington since 2006. I am the mother of two young children, both of whom were born in the United States.
3. On May 14, 2011, I was with my partner [REDACTED]. We were driving west on Highway 101 towards Forks when we were pulled over by an officer with the U.S. Forest Service. Where we stopped was right by a bridge over the Sol Duc River. I was nervous because it is common knowledge in the community that this Forest Service officer will pull over Latinos and then call immigration.
4. After the Forest Service officer pulled us over, he stayed in his car for a moment and then he came up to the driver's side window. The officer started asking questions about whether we had salal in the car. [REDACTED] said that we did. The officer asked for driving license. [REDACTED] gave it to him along with a Mexico's ID the officer asked for forest permit. [REDACTED] was getting ready to show a permit. Right about that moment, I saw that a Border Patrol vehicle pulled up near us. I told [REDACTED] "ya llego la migra" ("border Patrol is here") The Forest Service agent had not called anyone on the radio when he started talking to us, so I know he must have called the Border Patrol before he started to ask us questions.
5. When [REDACTED] heard me that Border Patrol was there, he got panicked and got out of the car and started running into the forest by the river. I also got scared and followed him behind, but I fell and just then, the Forest Service agent grabbed me roughly by my hair, and held me. I ended up having bruises on my arms from the way I was handled.
6. When I was detained, I was crying and begged someone from the Border Patrol to let me stay here because I had two children who needed me. I told him that my children are citizens and immediately he started yelling bad words like "F" he was mad. The Border Patrol agent told me to give them the address of where the children were. I did not want to give the address because I was afraid of what the Border Patrol would do with my children, but I gave them the phone number. Then one of the Border Patrol agents said that they called but that the person who answered had said they didn't know me. However, I later asked my friend who had been at that number and she told me that the Border Patrol never called her.
7. There was another woman who lived in [REDACTED] who came to try to help me right when I was detained and she also told the Border Patrol that I had children and I was the only one who could care for them. The Border Patrol told this

woman that if they could see the children, they would let me go. So this woman called someone in Forks and a man picked up my children and brought them to the side of the road where I was being detained. However, when the children came, the Border Patrol still did not release me. It made it all harder because I saw them in the car and I think they could see me, but I was never allowed to talk to them. My daughter is now asking me questions about why I was arrested because she saw me when I was detained. They saw me when they walked me from the Forest Service vehicle to the Border Patrol car and my hands were tied behind my back. I did not understand why they had asked for the children to come to see me detained like that and they still did not release me.

8. I was taken to Port Angeles and then I was detained at the Northwest Detention Center in Tacoma.

I, [REDACTED] declare under penalty of perjury under the laws of the United States of America and the State of Washington that the foregoing is true and correct. Executed in Forks, Washington.

[REDACTED]

07/10/11
Date

I, [REDACTED], hereby certify that I am fully competent in both the English and Spanish languages, that I have read the above English document to [REDACTED] in true and accurate Spanish to the best of my ability, and that she has signed her name with full understanding of its contents.

Signature [REDACTED]

07-10-11
Date

Jorge L. Baron

From: news@peninsuladailynews.com
Sent: Monday, May 16, 2011 4:28 PM
To: rob Ollikainen
Subject: Fwd: U.S. Border Patrol Statement

----- Original Message -----

Subject:U.S. Border Patrol Statement

Date:Mon, 16 May 2011 19:15:49 -0400

From:SINKS, RICHARD M <richard.sinks@dhs.gov>

To:<news@peninsuladailynews.com>, <editor@forksforum.com>

On May 14, 2011 at 1425 hours, the U.S. Border Patrol (USBP) received a call from a U.S. Forest Service (USFS) Officer requesting translation assistance with two individuals that were encountered during a vehicle stop on Highway 101 near milepost 214. A Border Patrol Agent responded to the scene and subsequently took one subject into custody for an immigration violation. A second subject fled the scene on foot and was last seen entering the Sol Duc River. A search for the second subject was conducted; however, the individual was not located.

Richard Sinks

Supervisory Border Patrol Agent

Blaine Sector

Public Affairs Office

Richard.Sinks@dhs.gov

360-332-9255 Desk

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Article published Jun 3, 2011

Search continues for missing Forks man; no leads on whereabouts

By Rob Ollikainen

Peninsula Daily News

FORKS — Friends and family of [REDACTED] continue to search the Sol Duc River for any sign of the Forks man who eluded Border Patrol agents by jumping into the river May 14.

Clallam County Sheriff's Sgt. Brian King said 15 to 20 people are searching daily from where [REDACTED] was last seen — the east bridge at Milepost 212 of U.S. Highway 101 — downstream to Sappho.

"They haven't indicated to us at what point they will feel satisfied with the search," King said. "They're confident that they will find something."

The Clallam County Sheriff's Office considers [REDACTED] a missing person. A report has been filed.

King said sheriff's deputies will continue to track the situation.

No leads

"But we have no leads as to his whereabouts," King said.

According to a May 16 Border Patrol statement, a traffic stop was initiated by a U.S. Forest Service officer who requested translation assistance from the Border Patrol for two people inside a vehicle.

Border Patrol agents took one person into custody for an immigration violation while [REDACTED] slipped into the rain-swollen river. [REDACTED] reportedly cannot swim.

After an initial search by the Border Patrol, concerned residents, many of whom are migrant workers, launched a massive volunteer search.

At least 50 people combed the river every day for a week after [REDACTED] went missing.

On-duty sheriff's deputies assisted, but the Sheriff's Office did not mobilize a volunteer search-and-rescue team because [REDACTED] was considered a fugitive.

At the height of the search, as many as 150 people were looking for [REDACTED], said Lisa Salazar of Forks Human Rights Group. Searchers have access to a drift boat and a volunteer diver, she said.

Salazar, who has been in contact with [REDACTED] family, said the river is still running high.

“They want to find him no matter what condition he is in — no matter what’s happened to him,” Salazar said. “They want to have some closure.”

Reporter Rob Ollikainen can be reached at 360-417-3537 or at tom.callis@peninsuladailynews.com

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