

**Subject:** Response to September 9, 2022 Public Records Request  
**Date:** Tuesday, November 1, 2022 at 4:08:31 PM Eastern Daylight Time  
**From:** Brenda Luna via Proofpoint  
**To:** AO Records  
**Attachments:** poweredby.png, customerlogo.png

EXTERNAL SENDER



**2** FILE(S)  
SHARED

**8.3** MB  
TOTAL

**7** DAYS UNTIL  
EXPIRATION

Brenda Luna has invited you to a new Secure Share

Message from Brenda Luna:

Good Afternoon Ms. Shaw,

This email is in response to you public records request dated September 9, 2022, requesting the following records:

All email communications (including emails, email attachments, complete email chains, calendar invitations,

and calendar invitation attachments) and text messages or messages on messaging platforms (such as Slack,

GChat or Google Hangouts, Lync, Skype, Twitter direct messages, Facebook messages, WhatsApp, Signal, Telegram, or Parler) between (a) Supervisors Jonathan Lines and Darren Simmons and (b) Arizona Representative

Mark Finchem, including, but not limited to, communications from mfinchem@azleg.gov, markfinchem@me.com, or markfinchem@protonmail.com.

The records responsive to your request are attached in this email. Should you have any questions, please do not hesitate to contact our office.

Brenda Luna  
Lead Paralegal  
Yuma County Attorney's Office  
250 W. 2nd Street, Ste. G  
Yuma, Arizona 85364  
Telephone: (928) 817-4300

Shared Files:

2022\_RFPR12 backup.pst

RFPR#12 Request from American  
Oversight AZ-YUMA-22-0984.pdf

[Go to Secure Share](#)

POWERED BY **proofpoint**

Sent: Monday, October 17, 2022 3:42 AM EDT  
Subject: 2022\_RFPR12-10/17/2022 7:42:39 AM

The search '2022\_RFPR12' has 'Search Succeeded'.

Percent Complete: 100%  
Started by: John P. Kullman(DA)  
Stopped by: N/A  
Start Time: 10/17/2022 7:42:39 AM  
End Time: 10/17/2022 7:42:42 AM  
Size: 7.235 MB (7,585,954 bytes), Estimated size was: 7585954  
Items: 6, Estimated number of items was: 6 (Estimates don't exclude duplicates)  
Results: /o=YCMAIL/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=380293593ee1486fb273b65c4b7e71ef-RFPR122  
Errors: None  
Keyword Hits: No keyword statistics for copy search.

Identity: AAMkADUzOWZhNzRmLWRmNTUtNGIwNS1hNzZM2LTfiYTM0YzMsNTBINABGAAAAAArS05jadbIQZfcxIosAbStBwAYEu/aG5pKTaPwEJv6AvwaAAC70a23AAAxr7Q7CU+TRbG9nPYLJOxQAAI2IZpxAAA=YC/99884da  
Created by:  
Query: participants:"Mark Finchem"OR"mfinchem@azleg.gov"OR"markfinchem@me.com"OR"markfinchem@protonmail.com"  
Senders: All  
Recipients: All  
Start Date: 11/1/2020 7:00:00 AM, -7  
End Date: Blank  
Message Types: All  
Logging: Basic  
Exclude Duplicate Messages: True  
Email Notification: None  
Sources: (2) Darren.Simmons@yumacountyaz.gov, Jonathan.Lines@yumacountyaz.gov  
Sources searched successfully: (2) Darren.Simmons@yumacountyaz.gov, Jonathan.Lines@yumacountyaz.gov  
Sources not searched successfully: (0) None  
Resume: False  
Include Keyword Statistics: False

See attachments for additional logging information when full logging is enabled.

Sent by Microsoft Exchange Server 2016.

**From:** Jacob Emmett <jacobe@countysupervisors.org>

**Sent:** Tuesday, March 01, 2022 1:39 PM EST

**CC:** Craig Sullivan <craigs@countysupervisors.org>; Robin Hillyard <robinh@countysupervisors.org>; Vanessa Fielder <vanessaf@countysupervisors.org>; Intern <intern@countysupervisors.org>

**Subject:** ACTION ALERT: HB 2107 & SB 1048 - emergency powers; business closure; repeal - Moving through S-COM TOMORROW

**CAUTION:** This email originated from outside Yuma County.

Do not click on links or open attachments unless you recognize the sender and know the contents are safe.



## ACTION ALERT

Please urge your State Senator/State Representatives to **OPPOSE** HB 2107 (*Biasiucci*) and SB 1048 (*Petersen*)

### Bill Summary:

Senator Petersen's [SB 1048 emergency powers; business closure; repeal](#) and Representative Biasiucci's [HB 2107 emergency powers; business closure; repeal](#) are mirror bills that **entirely repeal the ability of BOS Chairmen to order the closure of businesses after proclamation of an emergency.**

### CSA's Concerns:

Senator Petersen and Representative Biasiucci's testimony on the issue indicated that this bill was targeted to prevent prolonged business closures like those that resulted from the COVID-19 pandemic. While we understand their intent, we have the following concerns with the bill as drafted:

- **The bill is too broad and removes an important public safety tool from the toolbox.**
  - First, their bill would remove the current ability of BOS Chairmen to order businesses closed in **all situations** - including fires, flooding, and civil unrest – and not just the prolonged closures they had mentioned. **Again, while we understand their intent, your ability to order the closure of businesses is a crucial one in times of emergency and imminent danger.**
  - **Our understanding is that when counties use this tool, it is ALMOST ALWAYS in response to imminent danger.**
- **The bill targets counties, who were not responsible for the referenced longstanding business closures.**
  - Second, Rep. Biasiucci and Sen. Petersen mention longstanding closures resulting from the COVID-19 pandemic as the impetus for their legislation. **It is our understanding that these closures resulted from counties' enforcement of the Executive's executive orders, and that counties (a) did not use these powers to order businesses closed, and (b) did so under direction from a higher authority.**

### Bill Movement:

Both bills are moving very quickly and have already passed out of their chamber of origin.

- **HB 2107** will be heard before the **Senate Commerce TOMORROW, March 2<sup>nd</sup>, @ 2:00 P.M.**
- **SB 1048** was scheduled to be heard in **House Military Affairs and Public Safety YESTERDAY, February 28<sup>th</sup>, @ 2:00 P.M. BUT WAS HELD.** The bill could move as soon as next week.

### ACTION NEEDED:

Please call and email your State Senators and State Representatives and explain how your county has historically used this power and why you **OPPOSE** HB 2107 and SB 1048. Please find the members of the aforementioned committees, and their contact information, below:

#### House Military Affairs and Public Safety (MAPS) Committee

##### Majority:

Rep. Kevin Payne (**Chair**) – Maricopa County - ([kpayne@azleg.gov](mailto:kpayne@azleg.gov))

Rep. Quang Nguyen (**Vice-chair**) - Yavapai County - ([qnguyen@azleg.gov](mailto:qnguyen@azleg.gov))

Rep. Teresa Martinez – Pinal County & Pima County - ([tmartinez@azleg.gov](mailto:tmartinez@azleg.gov))

Rep. John Kavanagh – Maricopa County - ([jkavanagh@azleg.gov](mailto:jkavanagh@azleg.gov))

Rep. Mark Finchem - Pinal County & Pima County - ([mfinchem@azleg.gov](mailto:mfinchem@azleg.gov))

Rep. John Fillmore – Maricopa County & Pinal County ([jfillmore@azleg.gov](mailto:jfillmore@azleg.gov))

Rep. Judy Burges – Yavapai County - ([jburges@azleg.gov](mailto:jburges@azleg.gov))

Rep. Walter Blackman – Coconino County, Gila County, & Navajo County - ([wblackman@azleg.gov](mailto:wblackman@azleg.gov))

##### Minority:

Rep. Myron Tsosie – Gila County, Graham County, Apache County, Navajo County, Coconino County, Pinal County, & Mohave County – ([mtsosie@azleg.gov](mailto:mtsosie@azleg.gov))

Rep. Christian Solorio – Maricopa County – ([csolorio@azleg.gov](mailto:csolorio@azleg.gov))

**Rep. Jennifer Jermaine** – Maricopa County – ([jjermaine@azleg.gov](mailto:jjermaine@azleg.gov))  
**Rep. Jennifer Longdon** – Maricopa County – ([jlongdon@azleg.gov](mailto:jlongdon@azleg.gov))  
**Rep. Marcelino Quinonez** – Maricopa County – ([mquinonez@azleg.gov](mailto:mquinonez@azleg.gov))  
**Rep. Daniel Hernandez** – Pima County & Santa Cruz County – ([dhernandez@azleg.gov](mailto:dhernandez@azleg.gov))  
**Rep. Melody Hernandez** - Maricopa County – ([mhernandez@azleg.gov](mailto:mhernandez@azleg.gov))

**Senate Commerce (COM) Committee**

**Majority:**

**Sen. J.D. Mesnard (Chair)** – Maricopa County – ([jmesnard@azleg.gov](mailto:jmesnard@azleg.gov))  
**Sen. Michelle Ugenti-Rita (Vice-chair)** – Maricopa County - ([mugenti-rita@azleg.gov](mailto:mugenti-rita@azleg.gov))  
**Sen. Tyler Pace** – Maricopa County - ([tpace@azleg.gov](mailto:tpace@azleg.gov))  
**Sen. David Livingston** – Maricopa County – ([dlivingston@azleg.gov](mailto:dlivingston@azleg.gov))  
**Sen. Sonny Borrelli** – Mohave County & La Paz County – ([sborrelli@azleg.gov](mailto:sborrelli@azleg.gov))

**Minority:**

**Sen. Raquel Teran** – Maricopa County – ([rteran@azleg.gov](mailto:rteran@azleg.gov))  
**Sen. Teresa Hatathlie** – Gila County, Graham County, Apache County, Navajo County, Coconino County, Pinal County, & Mohave County – ([thatathlie@azleg.gov](mailto:thatathlie@azleg.gov))  
**Sen. Rosanna Gabaldon** – Pima County & Santa Cruz County – ([rgabaldon@azleg.gov](mailto:rgabaldon@azleg.gov))  
**Sen. Sean Bowie** – Maricopa County – ([sbowie@azleg.gov](mailto:sbowie@azleg.gov))

Please let me know if you have any questions, comments, or concerns about what I've written above.

Sincerely,

Jacob Emmett  
Legislative Liaison  
County Supervisors Association of Arizona  
**Office #:** (602) 452 – 4501  
**E-mail:** [jacobe@countysupervisors.org](mailto:jacobe@countysupervisors.org)  
**Address:** 1905 W. Washington St., Suite 100  
Phoenix, AZ 85009

**From:** Jacob Emmett <jacobe@countysupervisors.org>

**Sent:** Wednesday, March 16, 2022 1:22 PM EDT

**CC:** Craig Sullivan <craigs@countysupervisors.org>; Robin Hillyard <robinh@countysupervisors.org>; Vanessa Fielder <vanessaf@countysupervisors.org>; Intern <intern@countysupervisors.org>

**Subject:** ACTION ALERT: SB 1048 - emergency powers; business closure; repeal - ON HOUSE MAPS AGENDA MONDAY 3/21

**CAUTION:** This email originated from outside Yuma County.

Do not click on links or open attachments unless you recognize the sender and know the contents are safe.



## **ACTION ALERT**

Please urge your State Representative to **OPPOSE** HB 1048 (*Petersen*)

### **Bill Summary:**

Senator Petersen's **SB 1048 emergency powers; business closure; repeal** would repeal a county Board of Supervisors' chairman's ability to order the closure of a business after an emergency or local emergency declaration.

### **ACTION NEEDED:**

- **Please call and email your State Representative about why you OPPOSE SB 1048. Please find the members of the relevant committee, and their contact information, near the end of this email.**
- **If possible, please send CSA ([jacobe@countysupervisors.org](mailto:jacobe@countysupervisors.org)):**
  - **Any recent examples of how you have utilized this ability to protect constituents.**
  - **Your perspective on the longstanding business closures referenced by the bill's proponents.**

### **CSA's Concerns:**

Senator Petersen's testimony on the issue indicated that this bill was targeted to prevent prolonged business closures like those that resulted from the COVID-19 pandemic. While we understand their intent, we have the following concerns with the bill as drafted:

- **The bill is too broad and removes an important public safety tool from the toolbox.**
  - First, their bill would remove the current ability of BOS Chairmen to order businesses closed in **all situations** - including fires, flooding, and civil unrest – and not just the prolonged closures they had mentioned. **Again, while we understand their intent, your ability to order the closure of businesses is a crucial one in times of emergency and imminent danger.**
  - **Our understanding is that when counties use this tool, it is ALMOST ALWAYS in response to imminent danger.**
- **The bill targets counties, who were not responsible for the referenced longstanding business closures.**
  - Second, Rep. Biasiucci and Sen. Petersen mention longstanding closures resulting from the COVID-19 pandemic as the impetus for their legislation. **It is our understanding that these closures resulted from counties' enforcement of the Executive's executive orders, and that counties (a) did not use these powers to order businesses closed, and (b) did so under direction from a higher authority.**

### **Bill Movement:**

**SB 1048** has passed out of its initial committee (**Senate Government; (4-3-0-0)**) and its chamber of origin (**Senate; (16-13-1-0-0)**) on party-line votes. **SB 1048 is scheduled to be heard in the House Military Affairs and Public Safety (MAPS) committee on Monday, March 21<sup>st</sup>.**

### **House Committee on Military Affairs and Public Safety (MAPS)**

#### **Majority:**

Rep. Kevin Payne (Chair) – Maricopa County - ([kpayne@azleg.gov](mailto:kpayne@azleg.gov))

Rep. Quang Nguyen (Vice-chair) - Yavapai County - ([qnguyen@azleg.gov](mailto:qnguyen@azleg.gov))

Rep. Teresa Martinez – Pinal County & Pima County - ([tmartinez@azleg.gov](mailto:tmartinez@azleg.gov))

Rep. John Kavanagh – Maricopa County - ([jkavanagh@azleg.gov](mailto:jkavanagh@azleg.gov))

Rep. Mark Finchem - Pinal County & Pima County - ([mfinchem@azleg.gov](mailto:mfinchem@azleg.gov))

Rep. John Fillmore – Maricopa County & Pinal County ([jfillmore@azleg.gov](mailto:jfillmore@azleg.gov))

Rep. Judy Burges – Yavapai County - ([jburges@azleg.gov](mailto:jburges@azleg.gov))

Rep. Walter Blackman – Coconino County, Gila County, & Navajo County - ([wblackman@azleg.gov](mailto:wblackman@azleg.gov))

#### **Minority:**

Rep. Myron Tsosie – Gila County, Graham County, Apache County, Navajo County, Coconino County, Pinal County, & Mohave County – ([mtsosie@azleg.gov](mailto:mtsosie@azleg.gov))

Rep. Christian Solorio – Maricopa County – ([csolorio@azleg.gov](mailto:csolorio@azleg.gov))

Rep. Jennifer Jermaine – Maricopa County – ([jjermaine@azleg.gov](mailto:jjermaine@azleg.gov))

Rep. Jennifer Longdon – Maricopa County – ([jlongdon@azleg.gov](mailto:jlongdon@azleg.gov))

Rep. Marcelino Quinonez – Maricopa County – ([mquinonez@azleg.gov](mailto:mquinonez@azleg.gov))

Rep. Daniel Hernandez – Pima County & Santa Cruz County – ([dhernandez@azleg.gov](mailto:dhernandez@azleg.gov))

**Rep. Melody Hernandez** - Maricopa County – ([mhernandez@azleg.gov](mailto:mhernandez@azleg.gov))

Please let me know if you have any questions, comments, or concerns about what I've written above.

Sincerely,

Jacob Emmett  
Legislative Liaison  
County Supervisors Association of Arizona  
**Office #:** (602) 452 – 4501  
**E-mail:** [jacobe@countysupervisors.org](mailto:jacobe@countysupervisors.org)  
**Address:** 1905 W. Washington St., Suite 100  
Phoenix, AZ 85009

**From:** Mark Finchem <MFinchem@azleg.gov>  
**Sent:** Tuesday, May 18, 2021 2:40 PM EDT  
**To:** Jonathan W. Lines <Jonathan.Lines@yumacountyaz.gov>  
**Subject:** Ballot question

**CAUTION:** This email originated from outside Yuma County.

Do not click on links or open attachments unless you recognize the sender and know the contents are safe.

Good afternoon Supervisor Lines. I have received the strangest story from a constituent. Mary Ann Easterday claims that she received 6 ballots in the mail, using only one of them for her mail-in vote for the 2020 General Election. She also tells me that she mailed them to you to alert Yuma County leadership of a potential problem.

I am writing you today to ascertain whether you received those ballots and if you did, whether they are still under your control or did you turn them over to the Yuma County Recorder? I have heard from a lot of your constituents and this is a matter of great concern to them.

Best regards,

Mark Finchem, Representative  
Arizona House of Representatives  
11<sup>th</sup> Legislative District  
1700 W. Washington ST, #337  
On Telegram @MarkFinchem  
On Gab.com @AZHoneyBadger  
PHX, AZ 85007  
Cell: (520) 808-7340  
Office: (602)926-3122  
Fax: (602) 926-3088



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**From:** Alejandro Figueroa <Alejandro.Figueroa@yumacountyaz.gov>

**Sent:** Wednesday, March 16, 2022 8:44 PM EDT

**To:** cdbtony@aol.com <cdbtony@aol.com>

**CC:** Susan Thorpe <Susan.Thorpe@yumacountyaz.gov>; Ian McGaughey <Ian.McGaughey@yumacountyaz.gov>; Desarae Doten <Desarae.Doten@yumacountyaz.gov>

**Subject:** CSA Action Alerts: SB 1048 & HB 2316

**Attachment(s):** "ACTION ALERT SB 1048 - emergency powers; business closure; repeal - ON HOUSE MAPS AGENDA MONDAY 3 21.msg", "ACTION ALERT HB 2316 - misconduct involving weapons; public places - POTENTIAL FOR MOVEMENT ON SENATE FLOOR.msg"

Good Afternoon Mr. Chairman & Members of the Board,

The CSA is asking that County Supervisors oppose both SB 1048 and HB 2316.

**SB 1048 Bill Summary:**

Senator Petersen's SB 1048 emergency powers; business closure; repeal would repeal a county Board of Supervisors' chairman's ability to order the closure of a business after an emergency or local emergency declaration.

**HB 2316 Bill Summary:**

State law currently states that an individual commits "misconduct involving weapons" by "entering any public establishment or attending any public event and carrying a deadly weapon on his person after a reasonable request by the operator of the establishment or the sponsor of the event or the sponsor's agent to remove his weapon." This statute is utilized by counties who choose to implement policies restricting weapons in their public buildings but does not preclude other counties from allowing weapons in their buildings. At present time, counties are permitted to set their own weapons policies and security measures for their buildings.

I've attached both action alerts (emails) for your reference.

Best,

Alejandro

**J. Alejandro Figueroa, MBA**

Director, Economic Development & Intergovernmental Affairs

Yuma County

198 S. Main Street

Yuma, AZ 85364

Office: (928) 373-1093

Cell: (928) 261-7012



**From:** Jacob Emmett <jacobe@countysupervisors.org>

**Sent:** Wednesday, March 16, 2022 5:32 PM EDT

**CC:** Craig Sullivan <craigs@countysupervisors.org>; Robin Hillyard <robinh@countysupervisors.org>; Vanessa Fielder <vanessaf@countysupervisors.org>; Intern <intern@countysupervisors.org>

**Subject:** ACTION ALERT: HB 2316 - misconduct involving weapons; public places - POTENTIAL FOR MOVEMENT ON SENATE FLOOR

**CAUTION:** This email originated from outside Yuma County.

Do not click on links or open attachments unless you recognize the sender and know the contents are safe.



## **ACTION ALERT**

**Please urge your State Senator to OPPOSE HB 2316 misconduct involving weapons; public places (Kavanagh)**

### **Bill Summary:**

State law currently states that an individual commits "misconduct involving weapons" by "entering any public establishment or attending any public event and carrying a deadly weapon on his person after a reasonable request by the operator of the establishment or the sponsor of the event or the sponsor's agent to remove his weapon." This statute is utilized by counties who choose to implement policies restricting weapons in their public buildings, but does not preclude other counties from allowing weapons in their buildings. At present time, counties are permitted to set their own weapons policies and security measures for their buildings.

As drafted, Representative Kavanagh's [HB 2316 misconduct involving weapons: public places](#) would exempt individuals with a "permit to carry a concealed weapon" from this statute **unless the "public establishment" or "public event" is at a secured facility**. The bill defines "secured facility" as an establishment or event "that has security personnel and electronic weapons screening devices in place at each entrance to the public establishment or public event" **OR** "security personnel who electronically screen each person who enters."

The bill exempts several specific locations from this new law, including **(a)** events with a liquor license, **(b)** judicial departments, prosecutorial offices, law enforcement agencies, and correctional facilities, **(c)** places where firearms are federally prohibited, **(d)** educational institutions, **(e)** community colleges and universities, **(f)** Arizona State Hospital facilities, **(g)** facilities operated by a special health care district, **(h)** public establishments that are vehicles and crafts, and **(i)** private property owners, tenants, employers, and business entities.

### **ACTION NEEDED:**

- **Please call and email your State Senator about why you OPPOSE HB 2316.**

### **CSA's Concerns:**

**HB 2316 is a "one size fits all approach" to Arizona's fifteen counties, mandating costly security technologies and staffing if counties would like to prohibit weapons in their buildings.**

Counties currently determine policies and security measures after consultation with constituents, conversation with staff, and regular risk assessments. This bill would dictate weapons policies in county buildings to each county Board of Supervisors and mandate substantial investment in security technologies if counties would like to prohibit weapons, bypassing the deliberative process – and the regular assessments – that determine current policy in each county.

Further, the bill does not distinguish one entrance from another. Large government buildings often have a variety of entrances, from public-facing main entryways to keycard-only backdoors and loading docks. If a county wanted to exercise its ability to prohibit weapons in its buildings, it would conceivably have to add security personnel and electronic weapons screening devices at each of the building's entrances (irrespective of whether the entrance is public facing).

### **Bill Movement:**

This bill passed through its initial committee, **House Government and Elections**, on a party-line vote (7-5-0-1-0). It passed the following two major checkpoints, **House 3<sup>rd</sup> Read** (31-28-1-0-0) and **Senate Judiciary** (5-3-0-0), on similarly close votes. The bill has one final stop – **Senate 3<sup>rd</sup> Read**, or a *vote of the entire State Senate* – before being sent to the Governor for his signature.

Please let me know if you have any questions, comments, or concerns about what I've written above.

Sincerely,

Jacob Emmett  
Legislative Liaison  
County Supervisors Association of Arizona



AZ-YUMA-22-0984-A-000008

**Office #:** (602) 452 – 4501

**E-mail:** [jacobe@countysupervisors.org](mailto:jacobe@countysupervisors.org)

**Address:** 1905 W. Washington St., Suite 100  
Phoenix, AZ 85009

**From:** Jacob Emmett <jacobe@countysupervisors.org>

**Sent:** Wednesday, March 16, 2022 1:22 PM EDT

**CC:** Craig Sullivan <craigs@countysupervisors.org>; Robin Hillyard <robinh@countysupervisors.org>; Vanessa Fielder <vanessaf@countysupervisors.org>; Intern <intern@countysupervisors.org>

**Subject:** ACTION ALERT: SB 1048 - emergency powers; business closure; repeal - ON HOUSE MAPS AGENDA MONDAY 3/21

**CAUTION:** This email originated from outside Yuma County.

Do not click on links or open attachments unless you recognize the sender and know the contents are safe.



## **ACTION ALERT**

Please urge your State Representative to **OPPOSE** HB 1048 (*Petersen*)

### **Bill Summary:**

Senator Petersen's [SB 1048 emergency powers; business closure; repeal](#) would repeal a county Board of Supervisors' chairman's ability to order the closure of a business after an emergency or local emergency declaration.

### **ACTION NEEDED:**

- **Please call and email your State Representative about why you OPPOSE SB 1048. Please find the members of the relevant committee, and their contact information, near the end of this email.**
- **If possible, please send CSA ([jacobe@countysupervisors.org](mailto:jacobe@countysupervisors.org)):**
  - **Any recent examples of how you have utilized this ability to protect constituents.**
  - **Your perspective on the longstanding business closures referenced by the bill's proponents.**

### **CSA's Concerns:**

Senator Petersen's testimony on the issue indicated that this bill was targeted to prevent prolonged business closures like those that resulted from the COVID-19 pandemic. While we understand their intent, we have the following concerns with the bill as drafted:

- **The bill is too broad and removes an important public safety tool from the toolbox.**
  - First, their bill would remove the current ability of BOS Chairmen to order businesses closed in **all situations** - including fires, flooding, and civil unrest – and not just the prolonged closures they had mentioned. **Again, while we understand their intent, your ability to order the closure of businesses is a crucial one in times of emergency and imminent danger.**
  - **Our understanding is that when counties use this tool, it is ALMOST ALWAYS in response to imminent danger.**
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  - Second, Rep. Biasiucci and Sen. Petersen mention longstanding closures resulting from the COVID-19 pandemic as the impetus for their legislation. **It is our understanding that these closures resulted from counties' enforcement of the Executive's executive orders, and that counties (a) did not use these powers to order businesses closed, and (b) did so under direction from a higher authority.**

### **Bill Movement:**

**SB 1048** has passed out of its initial committee (**Senate Government; (4-3-0-0)**) and its chamber of origin (**Senate; (16-13-1-0-0)**) on party-line votes. **SB 1048 is scheduled to be heard in the House Military Affairs and Public Safety (MAPS) committee on Monday, March 21<sup>st</sup>.**

### **House Committee on Military Affairs and Public Safety (MAPS)**

#### **Majority:**

Rep. Kevin Payne (Chair) – Maricopa County - ([kpayne@azleg.gov](mailto:kpayne@azleg.gov))

Rep. Quang Nguyen (Vice-chair) - Yavapai County - ([qnguyen@azleg.gov](mailto:qnguyen@azleg.gov))

Rep. Teresa Martinez – Pinal County & Pima County - ([tmartinez@azleg.gov](mailto:tmartinez@azleg.gov))

Rep. John Kavanagh – Maricopa County - ([jkavanagh@azleg.gov](mailto:jkavanagh@azleg.gov))

Rep. Mark Finchem - Pinal County & Pima County - ([mfinchem@azleg.gov](mailto:mfinchem@azleg.gov))

Rep. John Fillmore – Maricopa County & Pinal County ([jfillmore@azleg.gov](mailto:jfillmore@azleg.gov))

Rep. Judy Burges – Yavapai County - ([jburges@azleg.gov](mailto:jburges@azleg.gov))

Rep. Walter Blackman – Coconino County, Gila County, & Navajo County - ([wblackman@azleg.gov](mailto:wblackman@azleg.gov))

#### **Minority:**

Rep. Myron Tsosie – Gila County, Graham County, Apache County, Navajo County, Coconino County, Pinal County, & Mohave County – ([mtsosie@azleg.gov](mailto:mtsosie@azleg.gov))

Rep. Christian Solorio – Maricopa County – ([csolorio@azleg.gov](mailto:csolorio@azleg.gov))

Rep. Jennifer Jermaine – Maricopa County – ([jjermaine@azleg.gov](mailto:jjermaine@azleg.gov))

Rep. Jennifer Longdon – Maricopa County – ([jlongdon@azleg.gov](mailto:jlongdon@azleg.gov))

Rep. Marcelino Quinonez – Maricopa County – ([mquinonez@azleg.gov](mailto:mquinonez@azleg.gov))

Rep. Daniel Hernandez – Pima County & Santa Cruz County – ([dhernandez@azleg.gov](mailto:dhernandez@azleg.gov))

**Rep. Melody Hernandez** - Maricopa County – ([mhernandez@azleg.gov](mailto:mhernandez@azleg.gov))

Please let me know if you have any questions, comments, or concerns about what I've written above.

Sincerely,

Jacob Emmett  
Legislative Liaison  
County Supervisors Association of Arizona  
**Office #:** (602) 452 – 4501  
**E-mail:** [jacobe@countysupervisors.org](mailto:jacobe@countysupervisors.org)  
**Address:** 1905 W. Washington St., Suite 100  
Phoenix, AZ 85009

**From:** Jeremy Claridge <jeremy.claridge@gmail.com>

**Sent:** Sunday, November 21, 2021 10:07 PM EST

**To:** jwlines@gmail.com <jwlines@gmail.com>; Jonathan W. Lines <Jonathan.Lines@yumacountyaz.gov>

**Subject:** Fwd: Request to reform A.R.S. § 13-107

**Attachment(s):** "Letter to Arizona Stake Holders.pdf", "Exhibit A Yuma Sun Articles by James Gilbert.pdf", "Petition for clemency.pdf", "Application to the Executive Board of Clemency.pdf"

**CAUTION:** This email originated from outside Yuma County.

Do not click on links or open attachments unless you recognize the sender and know the contents are safe.

Dear Jonathan,

Thank you for your concern regarding my client. He is 24 years old now and is incarcerated for the next 48.5 years unless his commutation of sentence goes through. I have already applied to the Executive Board of Clemency on behalf of Jose. I am wondering if you would pass this along to Governor Ducey. At some point, I anticipate that the Executive Board of Clemency will make a recommendation to commute the prison sentence of Jose Agundez-Martinez, Jacket # 350004. I would ask that Governor Ducey's office does what it can to streamline the process for Jose to get out of prison. He served just over two years in county jail for something he did when he was ten or eleven years old. Because this is a victim crime, there is a process whereby victims must be given notice but I believe that we can grease the wheels a bit so that a proper decision can be made as to his release and so there will be no delays when it goes up to the Governor's office. (A copy of the application to EBOC is attached.)

Item number 2. I tried to send the attached "Letter to Arizona Stakeholders" to Governor Ducey through a "Contact Us" site. I am not sure that it made it past the filters. I am working with Walter Blackman on trying to revise the law to prevent delayed reporting from penalizing law-abiding adults for something they did as children. I presented a proposed solution that is being considered along with the implications of changing the law. If Jose, or others similarly situated, were prosecuted as children for a delinquent act they would have been treated completely different than an adult prosecuted for the same crime. The impetus placed on juvenile delinquents is rehabilitation; while adult criminal offenders are to be punished as a deterrent to keep others from committing the same crime. Well, I can honestly say that sentencing Jose to 51 years of prison is not going to deter 10 and 11-year-olds anywhere in the state of Arizona from doing the same thing. The law doesn't even account for children learning sex education until the seventh grade because it is inappropriate to introduce these things to children of tender years. Please ask Governor Ducey to be prepared to sign the bill when presented by the Republicans in the state legislature this session.

Much Appreciated,

-----  
Jeremy Claridge, Esq.  
P.O. Box 4412  
115 N. Columbia #7  
Somerton, AZ 85350  
Phone: 928.328.1300  
Fax: 928.328.1301  
[www.yumacriminal.com](http://www.yumacriminal.com)

----- Forwarded message -----

**From:** Jeremy Claridge <jeremy.claridge@gmail.com>

**Date:** Wed, Oct 6, 2021 at 5:04 PM

**Subject:** Request to reform A.R.S. § 13-107

**To:** <randrade@azleg.gov>, <bbarton@azleg.gov>, <lbiasiucci@azleg.gov>, Walter Blackman <wblackman@azleg.gov>, <jblackwater-nygren@azleg.gov>, <rbolding@azleg.gov>, <Sbolick@azleg.gov>, <rbowers@azleg.gov>, <jburgess@azleg.gov>, <kbutler@azleg.gov>, <acano@azleg.gov>, <fcarroll@azleg.gov>, <jchaplik@azleg.gov>, <cdavez@azleg.gov>, <rcobb@azleg.gov>, <dcook@azleg.gov>, <adalessandro@azleg.gov>, <ddegrazia@azleg.gov>, <tdunn@azleg.gov>, <mepstein@azleg.gov>, <despinoza@azleg.gov>, <cfernandez@azleg.gov>, <jfillmore@azleg.gov>, <mfinchem@azleg.gov>, <rfriese@azleg.gov>, <tgrantham@azleg.gov>, <ggriffin@azleg.gov>, <ahernandez@azleg.gov>, <mhernandez@azleg.gov>, <dherandez@azleg.gov>, <jake.hoffman@azleg.gov>, <jjermaine@azleg.gov>, <jjohn@azleg.gov>, <skaiser@azleg.gov>, <jkavanagh@azleg.gov>, <jlongdon@azleg.gov>, <rmeza@azleg.gov>, <nguyen@azleg.gov>, <bnutt@azleg.gov>, <josborne@azleg.gov>, <jparker@azleg.gov>, <jpawlik@azleg.gov>, <kpayne@azleg.gov>, <bpingerelli@azleg.gov>, <ppowershannley@azleg.gov>, <droduiguez@azleg.gov>, <asalman@azleg.gov>, <jschwiebert@azleg.gov>, <ashah@azleg.gov>, <sierra@azleg.gov>, <sstahlhamilton@azleg.gov>, <btoma@azleg.gov>, <mtsosie@azleg.gov>, <mudall@azleg.gov>, <jweninger@azleg.gov>, <jwilmeth@azleg.gov>, <lalston@azleg.gov>, <nbarto@azleg.gov>, <sborrelli@azleg.gov>, <sbowie@azleg.gov>, <pboyer@azleg.gov>, <lcontreras@azleg.gov>, <kfann@azleg.gov>, <rgabaldon@azleg.gov>, <sgonzalez@azleg.gov>, <dgowan@azleg.gov>, <rgray@azleg.gov>, <skerr@azleg.gov>, <vleach@azleg.gov>, <dlivingston@azleg.gov>, <marsh@azleg.gov>, <jmendez@azleg.gov>, <jmesnard@azleg.gov>, Lisa Otondo <lotondo@azleg.gov>, <tpace@azleg.gov>, <jpeshlakai@azleg.gov>, <wpetersen@azleg.gov>, <mquezada@azleg.gov>, <rrios@azleg.gov>, <wrogers@azleg.gov>, <tshope@azleg.gov>, <vsteele@azleg.gov>, <ktownsend@azleg.gov>, <mugenti-rita@azleg.gov>  
**Cc:** <jgilbert@yumasun.com>, adrian agundez <adrian01agundez@gmail.com>, <engage@az.gov>

AZ-YUMA-22-0984-A-000012

Dear Fellow Arizonans,

Please look at the attached bipartisan proposal. I am prepared to testify before the respective floors of the State Legislature as to the truthfulness of the letter and answer any questions you may have for this upcoming legislative session. Please take a look at what I have proposed and assist me with getting this passed. I will be calling my Republican representative, Tim Dunn to carry the torch on this one. On its face, it appears to be a highly charged topic but when you bear through my four-page letter, it only makes sense. I am seeking 100% support in fixing this problem. Thanks for your service to our great state. I am looking forward to working with you in this new session.

Sincerely,

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Jeremy Claridge, Esq.  
1405 W. 16th St, Suite G  
Yuma, AZ 85364  
Phone: 928.328.1300  
Fax: 928.328.1301  
[www.yumacriminal.com](http://www.yumacriminal.com)

DOUGLAS A.  
DUCEY  
GOVERNOR



DR. C.T. WRIGHT  
CHAIRMAN

## ARIZONA BOARD OF EXECUTIVE CLEMENCY

### COMMUTATION OF SENTENCE APPLICATION (A.R.S. 31-402, 31-403, 31-411 AND A.R.S. 13-603(L))

A commutation of sentence reduces a sentence, either totally or partially, that is then being served. It does not change the fact of conviction, imply innocence, or remove civil liabilities that apply to the convicted person as a result of the criminal conviction.

FORWARD THIS APPLICATION DIRECTLY TO: ARIZONA DEPARTMENT OF CORRECTIONS, TIME COMPUTATION UNIT, 1601 West Jefferson, Phoenix, Arizona 85007 or [commutationidd@azade.gov](mailto:commutationidd@azade.gov). Please list current offense(s) to be considered for Commutation of Sentence. Applicant must have served a minimum of two (2) years on his/her current offense(s) and is not within one (1) year of his/her parole eligibility or mandatory release date for sentences more than 3 years. Exceptions to this are special orders by the court (A.R.S. 13-603L), or imminent danger of death. The Board does not consider sentences of three years or less. **Future sentences (consecutive terms) will not be considered for reduction UNLESS the sentences are under the same criminal case number and the total sum of the future sentences equals 50 years or more.**

### APPLICATION FOR COMMUTATION OF SENTENCE

Please type or print legibly in ink the answers to the following questions. If the space is insufficient, please continue the answer on another sheet of paper and label the corresponding section that you are continuing. Do not modify the application as **only this application will be accepted**.

Each question must be answered fully and truthfully.

SECTION 1: APPLICANT INFORMATION		
Last Name	First Name	Middle Name
Agundez-Martinez	Jose	Adrian
ADC Number:	350004	

1  
Revised 2/28/19

**Imminent Danger of Death:** Check this box if you are applying for a Commutation of Sentence based on Imminent Danger of Death.

**A.R.S. 603L:** Check this box if you applying under the provision whereby the sentencing Court has entered a special order allowing you to petition the Board for a commutation of sentence within 90 days of your commitment to the custody of the Department of Corrections.

**\*The Board of Executive Clemency will only consider those applications, under this provision, that are statutorily eligible and certified by the Department of Corrections. Confirmation of medical status from the Arizona Department of Corrections Health Services Unit must be attached to this application.**

**“IMMINENT DANGER OF DEATH”** means that an applicant has been examined by a medical doctor and that doctor has diagnosed the applicant as suffering from a medical condition which, in the doctor’s professional medical opinion, will to a reasonable medical certainty result in the applicant’s death within four (4) months. Imminent Danger of Death shall only apply for those applicants that are currently incarcerated.”

Date of Birth: <b>March 25, 1996</b>	Place of Birth <b>Yuma, Arizona</b>	Gender <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female
Facility & Unit Location: <b>Eyman SMU I Unit</b>	Classification: <b>Close/Moderate</b>	List Authority: (INS, County, City, State etc.)
Do you have any detainer(s)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

**SECTION 2: SENTENCE(S) SEEKING COMMUTATION**

List Each Sentence That You Are Requesting To Have Commuted

Cause No./Count	Committing Offense (Do Not Use A.R.S. Statute)	Sentence Received	Exact Years and/or Months Request to be Reduced from Sentence
1.	<b>Sexual Conduct with a Minor</b>	<b>13 Years</b>	<b>10 Years 7 Month</b>
2.	<b>Molestation of a Child</b>	<b>10 Years</b>	<b>10 Years</b>
3.	<b>Sexual Conduct with a Minor</b>	<b>13 Years</b>	<b>13 Years</b>
4.	<b>Molestation of a Child</b>	<b>10 Years</b>	<b>10 Years</b>
5.	<b>Attempted Molestation of a Child</b>	<b>5 Years</b>	<b>5 Years</b>
6.			

**SECTION 3: FAMILY/SUPPORT INFORMATION**

Current Marital Status:	<input checked="" type="checkbox"/> Single	<input type="checkbox"/> Divorced	<input type="checkbox"/> Widow
	<input type="checkbox"/> Married	<input type="checkbox"/> Separated	<input type="checkbox"/> Widower
If released, how many children will reside with you under the age of eighteen (18)?	<u>zero</u>		

Please list any individual (s) that will support you in the community.

Name:	Age:	Relationship:
1. <b>Adrian Agundez</b>		<b>Father</b>
2. <b>Rosa Agundez-Martinez</b>		<b>Mother</b>
3. <b>Jazmine Agundez</b>		<b>Sister</b>
4.		
5.		

**SECTION 4: COMMUTATION APPLICATION HISTORY**

Have you applied for a Commutation in the past?     Yes     No

If yes, please state the month(s) and year(s) you applied:

What sentence(s) did you apply for:

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

Was a commutation recommended to the Governor? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, did you receive a decision? <input type="checkbox"/> Yes <input type="checkbox"/> No
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If yes, what was the decision?

## SECTION 5: OFFENSE INFORMATION

7. Describe in **DETAIL** your involvement in the offense. Who was involved in the crime (Co-Defendants, Victims etc). What were your actions/motives before and immediately after the crime. Be specific and describe your exact responsibility in the crime. *Please, no general statements.*

When I was a kid my dad went to prison in California. My mom started baby sitting to make money to support my sister and me. I used to play with the other kids and there were a couple of times that I touched two of the kids inappropriately. I remember one time

touching Mario Ruiz and having him touch me on my genitals and penis. I let him play with my Hot Wheels. He testified that I digitally penetrated him when this occurred. I do not remember doing that. I was maybe ten or eleven when this occurred and Mario was four.

The other child was Angelica Pena. There were probably 4 or 5 times that we inappropriately touched each other. The one time in particular was when I asked her if she wanted to kiss my penis. She was nine and I was eleven. I never threatened her or physically forced her or hurt her. She said voluntarily so I pulled down my gym shorts, she grabbed my penis and kissed it. She testified in court that she put it in her mouth. I don't remember that, I just remember that it was weird so I pulled up my pants and left. She remembers it being at my house and I remember it being at her house. She was my neighbor and we would play all sorts of games together when we were kids. Our families were friends and we would spend birthdays and quinceneras together and there was never any ill feelings about what happened as children.

The last allegation has to do with Angelica's sister who is still a minor. When she was four she said that she saw my penis and thought that I was going to make sexual or masturbatory contact with her. I was about eleven at the time. The only thing I remember doing was running from the bathroom to my bedroom without a towel after taking a shower. They remember me laughing and I must admit I probably thought it was funny. I don't think it is funny now as I have been incarcerated since June 3, 2019 for something I did when I didn't even know it was wrong. Mario, Angelica, and her sister did not come forward with the allegations for over eleven years. During that time, my dad got out of prison, came home and started taking care of the family again. I grew up normal and did not have the shame and pent up emotional damage that the other kids appeared to have. I am so sorry for that but there is nothing I can do. I didn't do it to try to harm them. In fact, I can't say why I did it. I don't remember being sexually motivated to do what I did. I have had a lot of time to think about why I did what I did. Maybe it was curiosity, maybe it was acting out on things that I knew adults did, maybe it was simply boredom. The fact of the matter is that I really don't remember what I was feeling during this time except that I was really depressed at losing my dad to prison for three years. Now that I have been incarcerated for two and a half years I know my dad feels the same way. I am very sorry for the pain my childish actions caused the other children and I am even more sorry for how my family suffers because of what I did. I don't deny that what I did was wrong, I am asking for leniency based on the fact that I was stupid kid at the time and I never wanted to harm anyone.

**SECTION 6: PURPOSE FOR COMMUTATION**

The Court sentenced you for the crime you committed. Why are you now seeking to reduce your sentence?

Obviously I am seeking to reduce my sentence because I am not happy with a 51 year prison sentence. In the United States of America we are forbidden from enacting cruel and unusual punishment under the Eighth Amendment. The only thing written into the law to prevent a child sex offender who never had a transfer hearing in Juvenile Court from spending the rest of his natural life in prison is the powers of the Executive Clemency Board. The prosecution could have charged Angelica with Sexual conduct with a minor because she made oral sexual contact with my penis when I was eleven. This didn't happen, nor should it have happened. We were just kids. If an adult male did the same thing I would think that the law squarely applies. There really is no equal protection for me when I was eleven at the time she made oral contact with my penis.

Honestly, I didn't know it was wrong. I didn't learn about that until I was in Junior High School. I was more interested in the time at playing tetherball, playing with my Hot Wheels, kicking the soccer ball, and riding my bicycle.

When my mom went back to work, the stupid sexualized behavior stopped. I never touched my sister or any other kids. My dad came home and I totally forgot about what I did. I am law abiding and a contributing member of society. I believe in God and have sought His forgiveness too. Nothing like this ever happened again nor will it ever happen. When the San Luis Police came into my home on a search warrant, they didn't find anything supporting their claims. They took all kinds of memory devices and found nothing. They arrested me in my bedroom even though I was not listed on the search warrant. I know very well the power of the government and I promise to behave in all areas of my life because I don't want troubles. I especially don't want my family to suffer any more.

**If any, what mitigating and/or aggravating factors were considered by the Court relating to the sentence(s) you are asking for commutation. In other words, what factors were presented to allow a lesser (mitigating) sentence or make it harsher (aggravating) than typically received (presumptive).**

Sentence	Mitigating Factors	Aggravating Factors
Count 1: 13 years	The Court considered my age	The Court was concerned
Count 2: 10 years	and gave the minimum	about the victims in the case
Count 3: 13 years	sentences.	but still gave the minimum
Count 4: 10 years		sentences allowed under law
Count 5: 5 years		

**If you agreed to a plea bargain, why are you now asking the Board to recommend to the Governor modify the agreement you made with the Court?**

**I did not agree to a plea bargain.**

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For all persons committing offenses on or after January 01, 1994, the Board will vote to recommend a reduction of sentence to the Governor only after finding by clear and convincing evidence that the sentence imposed is clearly excessive given the nature of the offense and the record of the offender and that there is a substantial probability that when released the offender will conform their conduct to the requirements of the law.

If your conviction meets these time frames, why is your sentence excessive?

If I was adjudicated delinquent as a child I would have been under the jurisdiction of the Juvenile Court. I would have likely been given counseling and would not have been committed to the Arizona Department of Juvenile Corrections. At age 25 I would have been able to have the adjudication sealed and have been released from sex offender registry requirements. This sentence is extremely excessive in comparison to what would have happened if my case was handled as a juvenile. It is important to note that at age eleven it is common practice in Yuma County to handle cases like these in Juvenile Court. My case would not have been transferred to the Adult Criminal Court as there was no physical harm to the other kids. Everyone would have gotten counseling and things would likely have been better. I hate to make this argument but the same law that was supposed to protect the other kids, didn't protect me. Yes, I can now say I shouldn't have touched the private parts of the other kids. I didn't know at the time and they didn't know that they shouldn't have touched me. I don't think it can ever make sense to me that my life should be taken away because of something I did when I didn't know it was wrong. Mario and Angelica didn't know it was wrong to touch me and, rightfully so, they have no criminal consequences.

Why should the Board believe that you will remain crime free if released earlier than your sentence end date?

I have a track record of remaining crime free. I will admit that I was with some friends and they were smoking marijuana and I tried some. We were caught and I pled to a misdemeanor. I have no desire to mess with that stuff any more. My attorney will send you a copy of my psychosexual evaluation that does not place me at a risk to reoffend. In addition, I want to assure you that I have done every in my power to be positive about this whole experience and I am committed to remaining positive. I hope that you will commute my sentence so that I may have immediate release. I can remain on house arrest if you want and do ankle monitoring. My family can help pay for this. I will contact my parole officer daily if needed and stay away from all social media. I am ready to be out of here and never want to come back.

<p>Since your incarceration, what has been your most significant achievement? Why?</p>
<p>I have done a lot of reading and have sought God more than I ever have in my life. It is through faith on Jesus that I have witnessed the miracle of endurance. This has truly been the hardest experience of my life and I know I couldn't have endured for so long without faith in Jesus.</p>

<p>What are the specific factors you would relay to the Governor to justify that you are deserving of a commutation of sentence?</p>
<p>1. I am sorry for what I did. It will never happen again. I would like to educate children everywhere about the law and how it can affect them.</p>
<p>2. I was only eleven when I touched the other children and asked them to touch me. I honestly didn't know it was wrong.</p>
<p>3. My psychosexual evaluation shows I am not a risk to re-offend and I am not attracted to children.</p>
<p>4. I am a hard worker and have had a job since I was sixteen years old. I have never been without employment. I want to complete my education and have some college prior to my arrest.</p>
<p>5. It took the kids eleven years before they came forward which was why I was charged as an adult for something I did as a kid.</p>

**SECTION 7: SUBSTANCE ABUSE AND TREATMENT INFORMATION**

1. Have you ever been addicted to or abused alcohol or drugs of any type?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
I have drank alcohol to the point of getting drunk.	
2. Were drugs or alcohol involved in the offense that you seeking commutation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Have you used drugs or alcohol during your incarceration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
4. Do you consider yourself in recovery now?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If yes, please complete Question 4a.	
4a. How long have you been in recovery and how do you maintain?	
5. List any substance abuse programming and dates of attendance that you have completed while incarcerated on this sentence?	
<b>PROGRAM NAME</b>	<b>DATE</b>
1. NONE, I am not addicted to drugs or alcohol, however I have abused alcohol infrequently.	
2.	
3.	
4.	
5.	
6.	

**SECTION 8: INMATE DISCIPLINE RECORD**

List any and all disciplinary write-ups and outcomes you have received in the last five years since your incarceration on the conviction for which you are seeking clemency. Include all minors and majors.

Discipline (Note if Major or Minor)	Explanation
NONE	

**Section 9: POSITIVE ACCOMPLISHMENTS  
INMATE WORK HISTORY**

1. What is your current work assignment and how long have you been in this assignment?

2. If you are not working, please explain.

**INMATE PROGRAMMING**

1. List any and all inmate education classes and/or inmate programs you have completed since in the last 3 years.

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

INMATE RELEASE PLAN

1. If the Board recommends a commutation of sentence to the Governor, what is your plan for release?

**RESIDENCE:** I would like to go back to live at my parents residence, however this is on the same street as the victims. I am willing to get an apartment in Yuma and my parents and grandparents will help with that. My parents residence is 197 E. Virginia Street (PO Box 8475) San Luis, Arizona 85349.

**WORK:** I have a job stocking bread on shelves at the grocery stores immediately when I get out.

## COMMUTATION OF SENTENCE APPLICATION SIGNATURE PAGE

FORWARD THIS APPLICATION DIRECTLY TO: ARIZONA DEPARTMENT OF CORRECTIONS, TIME COMPUTATION UNIT, 1601 West Jefferson, Phoenix, Arizona 85007. Please list current offense(s) to be considered for Commutation of Sentence. Applicant must have served a minimum of two (2) years on his/her current offense(s) and is not within one (1) year of his/her parole eligibility or mandatory release date for sentences more than 3 years. Exceptions to this are special orders by the court (A.R.S. 13-603L) or imminent danger of death. Future sentences (consecutive terms) WILL NOT be considered for reduction UNLESS the sentences are under the same criminal case number and the total sum of the future sentences equals 50 years or more.

I completed this application with no assistance.  Yes  No

If you answered no, please provide the following information:

Name of individual/group that assisted you in completing this application:

Jeremy J. Claridge, Esq. 1405 W. 16th St. Suite G Yuma, AZ 85364

Relationship: My Attorney

Reason for assistance: He and I have discussed this case over and over again and we decided that we should rely on the mercy of the clemency board.

This is to certify that I have applied for a Governor's commutation of sentence with the Arizona Board of Executive Clemency and have completed this application fully, truthfully, and accurately. **\*If I am filing under imminent danger of death, I understand and agree that my medical records will become public record and discussed in open forum and may be forwarded to the Governor's office and reviewed by Governor's office staff.**

  
\_\_\_\_\_  
Applicant Signature

Dated this 16<sup>th</sup> day of October, 2021



[https://www.yumasun.com/news/attorney-appealing-clients-conviction-and-seeking-change-in-laws/article\\_7923c574-05f4-11ec-a9b0-93375e2f0a09.html](https://www.yumasun.com/news/attorney-appealing-clients-conviction-and-seeking-change-in-laws/article_7923c574-05f4-11ec-a9b0-93375e2f0a09.html)

featured

# Attorney appealing client's conviction and seeking change in laws

By JAMES GILBERT SUN STAFF WRITER

Aug 28, 2021



The lawyer for a San Luis man plans to appeal the 51-year prison sentence his client recently received for being convicted of having sexual contact with other children when he too was an underage minor at the time.

Yuma attorney Jeremy Claridge, who represents the now 23-year-old Jose Adrian Agundez-Martinez, is also working on lobbying the state Legislature to make a change in the law.

The change he is seeking would prohibit someone aged 13 or younger who committed a sexual act as a minor, from being prosecuted for it when they become an adult.

“The same law that protects children was used against (Agundez-Martinez) as a child, and the balancing scales of justice were so slanted to one side that it shocks the conscience of the public,” Claridge said.

He added that, “the jury found that he did these things, but was not allowed to know that his sentence would put him in jail until he was 74-years-old for something he did as a kid.”

Agundez-Martinez was found guilty of three counts of molestation of a child and two counts of sexual conduct with a minor on Aug. 12 following a trial that began the second week of June in Yuma County Superior Court.

He was arrested on June 3, 2019, after three individuals who are now ages 16, 18, and 20 came forward and told San Luis police that when they were children, and being babysat by his mother at their home, he would sexually molest them.

Claridge’s reasoning is that if the inappropriate pre-pubescent sexual contact his client had with other children was reported at the time, the charges would have been adjudicated in the juvenile court system.

He explained that for a minor, which his client was at the time, to be prosecuted as an adult a transfer hearing would have had to have been held in juvenile court.

Because that didn’t happen, Claridge argued that his client should not have been prosecuted as an adult, more than a decade after he committed the crimes as a minor.

“The inconsistency in the law is that because no one told for eleven years, he was arrested as an adult, held in jail for over two years, and then sentenced to 51 years prison as if he was an adult fully cognizant of what he was doing to a child,” Claridge said. “Even the child who inappropriately touches another child should be protected and rehabilitated.”

What has ultimately happened, according to Claridge, is that his client’s life has been destroyed for something he did as a child, which he did not know was wrong.

James Gilbert can be reached at [jgilbert@yumasun.com](mailto:jgilbert@yumasun.com) or 539-6854. Find him on Facebook at [www.facebook.com/YSJamesGilbert](https://www.facebook.com/YSJamesGilbert) or on Twitter @YSJamesGilbert.

James Gilbert

## Attorney seeks review of ruling involving local case

By James Gilbert Sun Staff Writer  
Jun 8, 2020

Yuma attorney Jeremy Claridge has filed an expedited petition to the Arizona Supreme Court asking it to review a Court of Appeals decision that has denied his client’s right to have exculpatory evidence presented to the grand jury.

Claridge represents now 23-year-old Jose Adrian Agundez-Martinez, who has been charged with three counts of molestation of a child and two counts of sexual conduct with a minor.

He has been in custody at the Yuma County jail on a \$500,000 cash-only bond, which his family cannot afford to pay, for nearly a year now

In his seven-page petition, Claridge wrote that when the case was initially presented to the Yuma County Grand Jury, the prosecution did not include that his client was only 12 years and nine months old at the time he allegedly committed the offenses.

By not doing so, Claridge argues that it misled members of the grand jury to believe that the person being accused was an adult, not a child, which he contends was highly prejudicial to his client.

“The question is whether this intentional misdirection by the prosecution was preclusive of a proper indictment,” he wrote.

He further contends that the grand jury did not receive a proper explanation of the law when the case was presented to it, because if it had, it would have been included in the transcripts of the proceedings, and it was not.

Claridge tried to have the case remanded back to the grand jury last year for a new determination of probable cause, based on these two issues, but the Yuma Superior Court judge presiding over the case denied the request.

He then filed a motion with the Arizona Court of Appeals for a Special Action to reverse the Superior Court’s decision, but it ruled neither issue amounted to what was a reversible error.

Agundez-Martinez, who is a San Luis resident, was arrested on June 3, 2019, after three individuals who are now ages 16, 18, and 20 came forward and told San Luis police that when they were children, and being babysat by his mother at their home, he would sexually molest them. His trial in Yuma County Superior Court is set to begin the second week of June.

This is not the first time Claridge has filed a motion with the Arizona Supreme Court on his behalf of his client in the case. One of the major disputes he raised in a previous pleading was whether the Yuma County Attorney’s Office could prosecute his client as an adult, more than a decade after the crimes were allegedly committed as a child.

“In other words, if the state prosecutor cannot prosecute a child while they are still a minor, can the state wait until the child reached age 18 to prosecute,” Claridge wrote in that petition.

The other issue he raised centered on the matter of whether the Yuma County Superior Court even had jurisdiction over the case in the first place, writing that under Arizona law a juvenile judge determines during what is known as a transfer hearing, if minors under the age of 15 are to be tried as adults, not the prosecution. Because that didn’t happen, Claridge argued that it constituted a violation of his client’s rights to due process. Since his client was a minor at the time of the alleged offenses, Claridge was seeking to have the case to be before the Yuma County Juvenile Court, where the laws pertaining to children involved in sexual acts are much different, as opposed to Superior Court, where he is now facing lengthy prison-mandatory sentences.

It is not known when Claridge’s most recent motion will be heard, but it was filed as an expedited request in the hope a ruling will be made before the start of his client’s trial.

James Gilbert



October 6, 2021

Stake-Holders, Senators, Representatives, and Governor Ducey

*Re: Criminal Justice Reform – a Bipartisan Proposal*

Dear Fellow-Arizonans:

My name is Jeremy Claridge and I am an attorney in Yuma, AZ. I am a fourth-generation native Arizonan seeking juvenile justice reform in our beloved state. I love Arizona and I am very proud to call her home. We are the leader among the other 49 states in many areas. Juvenile justice reform is one of those areas in which we lead, but we can do better. In my thirteen years practicing law, I have worked as both prosecutor and defense attorney. I have worked both sides of the aisle. I also was fortunate to spend time working in the Juvenile Justice system, dealing with both delinquencies and dependency matters. I have been a foster parent and have nine children of my own and have been active in scouting for over twenty years. It is because of my experience that I was able to identify a problematic and contradictory part of Arizona law that needs to be addressed. As fellow advocates for the protection and well-being of children I hope you will take time to consider my proposal.

Please let me draw your attention to the attached case as published in the Yuma Sun Newspaper. This is not an isolated case of children acting out on things they have seen in the media; it happens all the time and frequently goes unreported. This issue is of state-wide concern and that is why I am calling upon you to reform our laws to prevent a bad situation from becoming worse. I hope by the end of this letter that you will see, as I do, how the statute of limitations (A.R.S. § 13-107) can be improved, as it pertains to prosecuting adults for things they did as young children.

**Problem:** Title 8 contains provisions to deal with child sex-offenders in Juvenile Court. However, it only has language that is enforceable/applicable if the delinquent sex-act is reported while the offender is still a child. Provisions for prosecution of these delinquent sex-acts allow for the State's prosecutor to direct file into adult criminal court if the offender was 14 years of age or older at the time of the commission of the offense or to petition the Juvenile court for a transfer hearing if the juvenile was age 13 or younger at the time of the offense. In a delayed reporting situation, an adult who committed a delinquent sex-act at age 13 or younger must be prosecuted, if at all, as an adult without being afforded a transfer hearing; this is a violation of due process. The protections for youth offenders are stripped away when they turn 18 and there is no grace afforded to the defendant. A 25-year-old defendant in the adult criminal system who, when he was eleven years

old, touched the private parts of another child of similar age is subject to the same penalties as if he was a 25-year-old molesting an 11-year-old child. The determination of which child should be severely punished and which child should be protected arbitrarily and capriciously rests solely with the prosecutor. In the Agundez case, referenced in the attached article, the defendant was eleven and one of the victims was nine. He asked her if she would kiss his penis and she agreed. He did not threaten her or force her and reported that he remembered thinking it was weird and he zipped up his pants and left. Under the law, a person is guilty of sexual conduct with a minor if they make oral sexual contact with any person who is under eighteen years of age. The nine-year-old girl was given victim status and was not prosecuted for making oral sexual contact with the eleven-year-old boy, although she could have easily been prosecuted under a strict interpretation of the same statute. Mr. Agundez was found guilty of the charge and was subjected to mandatory sentencing guidelines, receiving 51 years of incarceration with no early release available. Mr. Agundez did not receive just and deserved punishment for what he did when he didn't even know it was prohibited by law. This does not follow the purposes outlined in A.R.S. § 13-101.

**Resolution:** The Statute of Limitation found under A.R.S. § 13-107 makes class 2 felony offenses listed in chapter 14 available for prosecution “at any time.” This should be changed as follows:

Add paragraph “H.” to the Time Limitations Statute under A.R.S. § 13-107.

H. Notwithstanding the provisions of this section, a prosecution shall not be commenced under this title after age eighteen for any activity giving rise to the commission of any crime listed in chapter 14 of this title if the defendant was under the age of fourteen at the time of the commission of the crime. Prosecution may commence within the Juvenile Court if the defendant is under age eighteen and be moved to Adult Criminal Court upon judicial approval at a transfer hearing held in Juvenile Court.

**Why should the Legislature amend the Statute of Limitations?** Changing the statute of limitations to prevent adult prosecution of delinquent sex acts of offenders who committed the act/(s) prior to age 14 will create consistency within the law.

- a. A.R.S. § 15-711 requires children, beginning in the 7<sup>th</sup> grade, to learn sex education which includes a primer on criminal law. Seventh graders are generally 13 years old. We don't teach them this curriculum prior to age 13 because children generally are not mature enough to understand the mature concepts. It doesn't appear to be consistent in the law that we will punish a 12-year-old with the same penalties as an adult when we don't even teach them it is wrong in the schools until 7<sup>th</sup> grade.
- b. A.R.S. § 8-201(12) defines Delinquent Act as an act by a juvenile that if committed by an adult would be a criminal offense or a petty offense but not offenses under A.R.S. 13-501. A chapter 14 crime under title 13 committed by a child under age 14 is not covered by A.R.S. § 13-501 unless there is a transfer hearing. There is no provision under the law for a transfer hearing for an offender that has attained the age of majority. The act that was committed by the juvenile under age 14 was a delinquent act and not a crime because there was no transfer hearing. The very definition of “Crime” is “a misdemeanor or felony” **not a delinquent act**. (See A.R.S. § 13-105(7)) It is not

- consistency in the law to say that the act committed by Mr. Agundez was a delinquent act and not a crime by definition until he reaches 18 years of age. This sounds like an *ex post facto* law as it severely changes the legal consequence of Mr. Agundez's actions done as a child, solely by virtue of him turning 18.
- c. A.R.S. § 8-327 provides the mechanism for the prosecutor to prosecute a child under 14 as an adult. Even if the child was 13 at the time of the act and turns 17, the prosecutor must request an order of the juvenile court to transfer jurisdiction of the criminal prosecution to the criminal division of the superior Court. The Juvenile Judge must make certain findings, as required by statute, in order to transfer the case to the Superior Court criminal division. Perpetrators of delinquent acts are not afforded the protections of a transfer hearing in cases of delayed reporting.
  - d. A.R.S. § 8-201(15)(iv) describes a dependent child as a minor under age eight who commits a delinquent act. Without the proposed prohibition added to the statute of limitations, a prosecutor could prosecute an adult person who committed a criminal sex act when they were age 7 according to A.R.S. § 13-107. There is no distinction between dependent child, delinquent child, and criminal adult when it comes to prosecution of sex crimes.
  - e. A minor child who commits sex acts with other children is also a victim. To be prosecuted in the criminal division of Superior Court is an affront to justice. **ALL CHILDREN SHOULD BE PROTECTED** and childhood offenders who are also touched in their private parts by other children should be afforded rights under Article II ¶ 2.1 of the Arizona Constitution.
  - f. Article II ¶ 10 of the Arizona Constitution states that “No person shall be compelled in any criminal case to give evidence against himself[.]” Clearly a juvenile offender under age 14 could have benefited from having his case handled in juvenile court and would have been afforded a transfer hearing as part of his due process. In the case of delayed reporting by the other children involved, the marked offender could have only been given his due process, afforded in Juvenile Court, if he gave up his most sacred “right to remain silent.”
  - g. Article II ¶ 15 of the Arizona Constitution prohibits cruel and unusual punishment. The example case attached hereto shows that this young man is sentenced to 51 years of prison (flat time) for something he did when he was eleven or twelve years old. When going through the jury questionnaires, one prospective jurist stated that the defendant must have been guilty or he wouldn't have been accused of such a heinous crime. (Paraphrasing) ‘Even if he was only twelve at the time, people like him should “be shot.”’ The Prosecutor, in the presence of both defense counsel and the judge, replied, “I can't say I disagree.” Since she couldn't kill the defendant, the Prosecutor got the next best thing, which was to take away 51 years of his life. Because the stakes don't match the crime and there is too much room for prosecutors to use the law to create cruel and unusual punishment, the law should be changed to take this power out of the hands of the prosecution.

**Call to Action.** By amending the statute of limitations to prohibit prosecution of delinquent acts in criminal court for acts committed at the tender age of 13 or younger, we will be creating greater harmony within the law. “When I was a child, I spake as a child, I understood as a child, I thought

as a child: but when I became a man, I put away childish things.” (1 Corinthians 13:11) Please do not conflate the culpability of children with that of adults. To hold an adult criminally liable for something he did as a young child is sinister and we cannot allow it to stand in Arizona. I call on all Arizona legislators to amend the statute as outlined above in order to create consistency within the law, fidelity to the Criminal Policy found in A.R.S. § 13-101, and to protect all Arizona children, even the ones designated by a prosecutor as an offender.

Sincerely,



Jeremy Claridge, Esq.

Encl.

Mailing List:

Richard C. Andrade; Brenda Barton; Leo Biasiucci; Walter "Walt" Blackman; Jasmine Blackwater-Nygren; Reginald Bolding, Jr.; Shawna Bolick; Russell "Rusty" Bowers; Judy M. Burges; Kelli Butler; Andrés Cano; Frank P Carroll; Joseph Chaplik; César Chávez; Regina E. Cobb; David L. Cook; Andrea Dalessandro; Domingo DeGrazia; Tim Dunn; Mitzi Epstein; Diego Espinoza; Charlene R. Fernandez; John M. Fillmore; Mark W. Finchem; Randall Friese; Travis Grantham; Gail Griffin; Alma Hernandez; Melody Hernandez; Daniel Hernandez, Jr.; Jake Hoffman; Jennifer Jermaine; Joel John; Steve Kaiser; John Kavanagh; Aaron Lieberman; Jennifer L. Longdon; Robert Meza; Quang H. Nguyen; Becky A. Nutt; Joanne Osborne; Jacqueline Parker; Jennifer Pawlik; Kevin Payne; Beverly Pingerelli; Pamela Powers Hannley; Frank Pratt; Bret M. Roberts; Diego Rodriguez; Athena Salman; Judy Schwiebert; Amish Shah; Lorenzo Sierra; Stephanie Stahl Hamilton; Arlando S. Teller; Raquel Terán; Ben Toma; Myron Tsosie; Michelle Udall; Jeff Weninger; Justin Wilmeth; Lela Alston; Nancy Barto; Sonny Borrelli; Sean Bowie; Paul Boyer; Lupe Contreras; Karen Fann; Rosanna Gabaldon; Sally Ann Gonzales; David Gowan; Rick Gray; Sine Kerr; Vince Leach; David Livingston; Christine Marsh; Juan Mendez; J.D. Mesnard; Tony Navarrete; Lisa Otondo; Tyler Pace; Jamescita Peshlakai; Warren Petersen; Martin Quezada; Rebecca Rios; Wendy Rogers; Thomas Shope; Victoria Steele; Kelly Townsend; Michelle Ugenti-Rita; & Governor Douglas A. Ducey

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5 *Attorney for Defendant*

6 **ARIZONA EXECUTIVE BOARD OF CLEMENCY**

7 STATE,

Case:

8 PLAINTIFF,

Superior Court Case No.:  
S1400CR201900622

9 V.

10 JOSE ADRIAN AGUNDEZ-MARTINEZ,

**PETITION TO THE BOARD OF  
EXECUTIVE CLEMENCY WITH  
REGARD TO JOSE AGUNDEZ  
(A.R.S. § 13-603(L))**

11 DEFENDANT.

12  
13 COMES NOW, Jose Adrian Agundez-Martinez, by and through the undersigned  
14 counsel and hereby petitions the board of executive clemency for a commutation of sentence  
15 and sets forth the reasons for this request in the attached Memorandum of Points and  
16 Authorities. Mr. Agundez-Martinez, **DOC#350004**, was committed to the department of  
17 Corrections on August 17, 2021. This Petition is within the 90 days' time limit prescribed in  
18 A.R.S. § 13-603(L).

19 Submitted this 8<sup>th</sup> day of October, 2021

20   
\_\_\_\_\_  
Jeremy J. Claridge

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 *Brief History of Case*

3 Mr. Agundez was arrested on June 3, 2019 at age 23 for acts he committed when he  
4 was eleven (11) or twelve (12) years old. This was a delayed reporting of acts committed  
5 between children more than 11 years prior. One of the allegations was that when Jose was  
6 11 he asked a 9 year old girl to kiss his penis. He did not force her or threaten her and the  
7 State's prosecution chose to prosecute him even though he was a child himself. A.R.S. § 13-  
8 1405 prohibits engaging in oral sexual contact with any person who is under eighteen years  
9 of age. Mr. Agundez's counsel asked the police to take a report and afford Mr. Agundez  
10 victim status for this act since the little girl voluntarily made sexual oral contact with him  
11 when he was eleven and he was not old enough to consent to it. The San Luis Police  
12 Department conferred with the County Attorney's office who refused to allow them to do  
13 what was requested. Counsel for Mr. Agundez agrees that in a situation where an adult  
14 encourages a minor to make oral sexual contact that the adult should be prosecuted for this,  
15 however Mr. Agundez was not an adult, but a minor at the time, and the case should have  
16 been treated as such. It is the opinion of Mr. Agundez's attorney that had Mr. Agundez's  
17 case been severed so that the jury did not hear the stories of the three different victims, that  
18 Mr. Agundez would not have been found guilty. The Court denied Mr. Claridge's  
19 uncontested motion to sever counts and the jury heard evidence of all interactions between  
20 the defendant and the children his mother babysat when determining guilt and intent.

21 Authority for filing this petition comes from Judge Nelson's Order dated October 7,

1 2021. See Exhibit “A.”

2 *Support for Clemency*

3 A 51-year sentence for something Mr. Agundez did prior to becoming a teenager is  
4 cruel and unusual punishment. His father had been sentenced to prison and his mother had  
5 to work to make ends meet. She began babysitting in her home. Jose would generally play  
6 ball with the children outside or would play with hot wheels indoors or outdoors. There was  
7 no systematic abuse but rather these inappropriate encounters were isolated. Mr. Agundez is  
8 not at risk to reoffend. Please see attached psychosexual evaluation attached as Exhibit “B.”

9 Mr. Agundez’s counsel has laid out inconsistencies within the law in a letter to the  
10 Arizona State Legislature that is attached as Exhibit “C.” In summation, this case would  
11 have been better handled when Jose was a child and not as an adult.

12 The Trint Kleinman case is a case that is attached hereto as Exhibit “D.” Kleinman  
13 has many similar facts to Mr. Agundez’s case. The only difference is that Kleinman’s  
14 victim’s mother was also Kleinman’s mother. One of the victims in Agundez’s case is  
15 satisfied with the 51-year sentence while the other two appear to be in favor of rehabilitation.

16 Prior to his jail incarceration on June 3, 2019, Mr. Agundez was going to school and  
17 working. He was a law-abiding citizen except for when he smoked marijuana with his  
18 friends for which he was caught and for which he suffered misdemeanor consequences.  
19 When his mother started working at the local grocery store (June 14, 2008) Mr. Agundez  
20 ceased any and all sexualized behaviors. There was no on-going sexual activity with any  
21 children since this time. Law enforcement applied for a search warrant to look for child

1 pornography and other indicia of guilt. They executed this search warrant on June 3, 2019  
2 and found no physical evidence of any wrongdoing and ended up arresting Mr. Agundez in  
3 his home without an arrest warrant or without Mr. Agundez being listed on the search  
4 warrant.

5 IN CONCLUSION, having been the attorney throughout the pendency of this case,  
6 Mr. Claridge shares the opinion that Mr. Agundez has not been given a fair shake, some of  
7 the reasons have been mentioned in this petition. While the Clemency Board may not know  
8 what a good young man Mr. Agundez grew up to be, there are many people who know Jose  
9 that have written in support of him. This is attached as Exhibit "E." If the board places Jose  
10 on Home Arrest, he will comply with all conditions placed on him even living in another  
11 location since the victim lives on his block. He currently has an appeal pending at the  
12 Arizona Court of Appeals as well as an attempt to change the law this upcoming legislative  
13 season. With the board's assistance we can help reclaim this young man from the system, he  
14 is currently in maximum security at Eyman SMU I Unit. We appreciate the good you do for  
15 these downtrodden people and are thankful for your attention to Mr. Agundez's matter.

16 Dated October 8, 2021.

17 /S/ Jeremy J. Claridge  
18 Jeremy J. Claridge, Esq.  
19 Attorney for Defendant  
20  
21

**From:** AACCENTDESIGN1 <aaccentdesign1@earthlink.net>

**Sent:** Tuesday, July 06, 2021 5:36 AM EDT

**To:** kkobach@gmail.com <kkobach@gmail.com>; bsmith@co.kinney.tx.us <bsmith@co.kinney.tx.us>; info@irli.org <info@irli.org>; kimberly.dusek@mcmullencounty.org <kimberly.dusek@mcmullencounty.org>; dwpoole@mapalaw.com <dwpoole@mapalaw.com>; sheriffbradcoe@co.kinney.tx.us <sheriffbradcoe@co.kinney.tx.us>; awest@hudspethsheriff.org <awest@hudspethsheriff.org>; rwiles@epcounty.com <rwiles@epcounty.com>; pcsheriff\_1997@co.presidio.tx.us <pcsheriff\_1997@co.presidio.tx.us>; jdcsojd1@co.jeff-davis.tx.us <jdcsojd1@co.jeff-davis.tx.us>; sheriff.dodson@co.brewster.tx.us <sheriff.dodson@co.brewster.tx.us>; santiago.gonzalez@co.terrell.tx.us <santiago.gonzalez@co.terrell.tx.us>; jfmartinez@valverdecountry.texas.gov <jfmartinez@valverdecountry.texas.gov>; sheriff@maverickcountysheriff.com <sheriff@maverickcountysheriff.com>; martincuellar@webbcountytx.gov <martincuellar@webbcountytx.gov>; raydelbosque@zapatacountytx.gov <raydelbosque@zapatacountytx.gov>; lfuentes@starrcountysos.org <lfuentes@starrcountysos.org>; rfuentes@starrcountysos.org <rfuentes@starrcountysos.org>; sheriff.guerra@hidalgo.org <sheriff.guerra@hidalgo.org>; eric.garza@co.cameron.tx.us <eric.garza@co.cameron.tx.us>; mdannels@cochise.az.gov <mdannels@cochise.az.gov>; mark.dannels@cochisecountyaz.gov <mark.dannels@cochisecountyaz.gov>; chris.nanos@sheriff.pima.gov <chris.nanos@sheriff.pima.gov>; Leon.Wilmot <Leon.Wilmot@ycso.yumacountyaz.gov>; Jonathan.W.Lines <Jonathan.Lines@yumacountyaz.gov>; Dgowan@azleg.gov <Dgowan@azleg.gov>; chris.cabrera@rgv3307.org <chris.cabrera@rgv3307.org>; greg.capers@co.san-jacinto.tx.us <greg.capers@co.san-jacinto.tx.us>; Susan.Tully <tullys@fairus.org>

**CC:** Andy.Biggs@mail.house.gov <Andy.Biggs@mail.house.gov>; Debbie.Lesko@mail.house.gov <Debbie.Lesko@mail.house.gov>; chris.delbeccaro@mail.house.gov <chris.delbeccaro@mail.house.gov>; Louie.Gohmert@mail.house.gov <Louie.Gohmert@mail.house.gov>; Yvette.Herrell@mail.house.gov <Yvette.Herrell@mail.house.gov>; jilian.plank@mail.house.gov <jilian.plank@mail.house.gov>; Dan.Crenshaw@mail.house.gov <Dan.Crenshaw@mail.house.gov>; Ted\_Cruz@cruz.senate.gov <Ted\_Cruz@cruz.senate.gov>; Marco\_Rubio@rubio.senate.gov <Marco\_Rubio@rubio.senate.gov>; Marjorie.Greene@mail.house.gov <Marjorie.Greene@mail.house.gov>; Jim.Jordan@mail.house.gov <Jim.Jordan@mail.house.gov>; sborrelli@azleg.gov <sborrelli@azleg.gov>; wrogers@azleg.gov <wrogers@azleg.gov>; mfinchem@azleg.gov <mfinchem@azleg.gov>

**Subject:** TRASH...ILLEGAL ALIEN CROSSERS...and VIOLATIONS of The Endangered Species Act of 1973

**Attachment(s):** "ENDANGERED SPECIES - 3 - THE 2021 PELICAN BRIEF - PDF.pdf", "ENDANGERED SPECIES - 2 - 2 - THE 2021 PELICAN BRIEF - AZ - NM - TX - CA - LIST OF FEDERALLY ENDANGERED - PDF.pdf"

**CAUTION:** This email originated from outside Yuma County.

Do not click on links or open attachments unless you recognize the sender and know the contents are safe.

**TRASH LEFT BY "ILLEGAL ALIENS" AT BORDER STATES  
is leading to SPECIES' EXTINCTIONS  
AND A VIOLATION OF THE ENDANGERED SPECIES ACT OF 1973!**

While most of America is thinking about the border in terms of "immigration" and Joe Biden's "open border policies" relative to "catch & release"... **THERE IS A HUGE overlooked ITEM THAT CAN LITERALLY**

- ENABLE local law enforcement along the border TO BE ABLE TO ARREST illegal "crossers" including Coyotes**
- ENABLE a lawsuit against Biden, his administrators and agencies
- ENABLE "amended complaints" already filed against Biden et al

**Similar to Al Capone getting sent to prison for "tax fraud", THERE IS A TECHNICALITY that can be litigated...and it is FOR VIOLATIONS OF The Endangered Species ACT OF 1973**

(7 U.S.C. § 136, 16 U.S.C. § 1531 et seq., Public Law 93-205).

**PLEASE SEE ATTACHED TWO (2) PDF's for particulars:**

- THE 2021 "PELICAN BRIEF" ( with Points, Authorities and Rationale)
- ENDANGERED SPECIES – **listed for all counties IN EACH STATE along the southern USA border...from the Pacific Ocean to the Gulf of Mexico ...**(listing Federally Endangered habitat plants, animals, fish, etc. that just HAPPEN TO COINCIDE WITH "travel routes used by "illegals" **where there are no border walls and/or barriers.**

Feel free to share this with other law enforcement & legislative personnel that are concerned about stopping human and drug trafficking, etc. and, of course, reinstating the Trump policies that were devoted to protecting America, American sovereignty and Making America Great Again.

**Concerned Citizens of America**

PS

The Arizona Border Trash website was created IN 2012 to assist stakeholders with facilitating and tracking border trash cleanups.

Correlating the data using their figures of 6-8 lbs. of trash (9 sq. ft.) being dumped BY EACH ILLEGAL CROSSER. **you get a shocking 27 FOOTBALL-FIELDS of trash 1 " thick...**

AZ-YUMA-22-0984-A-000038

**just for the month of March and the “capture” of 171,000 illegal.**

**You just can’t “unsee” that!!!!**

So while the liberals and #46 are keen to call conservatives “racists”... PETA, the “naturalists” and hikers may just have a “new opinion” on why we should, indeed, BUILD THE WALL **(with 8” x 12” animal *PASS-THROUGHS* as was retrofitted by Arizona** at approx. every 1-mile along the new fencing in a settlement agreement with nature preservers.

**1 MILLION “illegal aliens” CAUGHT THRU June 25, 2021**(not including “got-aways”)

**= 178 FOOTBALL FIELDS OF TRASH (plastic, diapers, etc.) 1” thick**

And, with each passing day, more and more “habitat” and/or species is dumped upon, trampled on and destroyed and/or scared out of their nesting/spawning/mating/roaming territories.

# TRASH LEFT BY “ILLEGAL ALIENS” AT BORDER STATES is leading to SPECIES’ EXTINCTIONS!

## The **Endangered Species Act (ESA)** of 1973 protects imperiled species

The ESA has prevented the extinction of 99 percent of its listed species. However, **human interference has adversely impacted the habitats of many plants, birds, animals, etc., including but not limited to** the trampling and destruction of historical pathways taken across the landscape and migratory patterns.

[https://en.wikipedia.org/wiki/Habitat\\_destruction](https://en.wikipedia.org/wiki/Habitat_destruction)

*When a habitat is destroyed, the **carrying capacity** for **indigenous** plants, animals, and other organisms is reduced so that **populations decline**, sometimes up to the level of **extinction**.*

*Habitat loss is perhaps the greatest threat to organisms and biodiversity*

<https://www.azbordertrash.gov/>

## ARIZONA BORDER TRASH - Started in 2012 to coordinate and keep track of the state's trash cleanup operations.

The Arizona Border Trash website was created to assist stakeholders with facilitating and tracking border trash cleanups.

Funding for elements of this website were provided by the State of Arizona, the U.S. Environmental Protection Agency's (EPA) Border 2012 Program, the U.S. Bureau of Land Management (BLM) Arizona State Office, and the Border Environment Cooperation Commission (BECC), which has since merged with the North American Development Bank.

This website was created through input by various stakeholder groups, including the Borderlands Management Task Force (BMTF), overseen by the BLM. BMTF consists of over 15 member agencies and Native American tribes with an active interest in issues surrounding border trash and options for mitigating environmental damage caused by illegal border crossings in Arizona. The support of these partners is appreciated.

According to ADEQ (Arizona Dept. of Environmental Quality), **each ton of trash requires landfill fees of \$37 to \$49, which are footed by Arizona taxpayers.** That does not include fees for materials, transportation, or labor.

## **SIGNIFICANT FINDINGS** (*trash data conversion to “visual perspectives”*)

**March, 2021:** 171,000 “illegals” caught = **27 FOOTBALL FIELDS of Trash 1” thick**

**April, 2021:** 178,000 “Illegals” caught = **31 FOOTBALL FIELDS of Trash 1” thick**

**May, 2021:** 180,034 “Illegals” caught = **32 FOOTBALL FIELDS of Trash 1” thick**

**CBP officials also estimate 250,000+ illegal aliens HAVE EVADED APPREHENSION and are now in the U.S.A. as well.**

**WASHINGTON, June 25, 2021 (Reuters)** - U.S. authorities have made more than 1 MILLION arrests of migrants at the U.S.-Mexico border so far in fiscal year 2021, according to figures shared with Reuters.

<https://www.reuters.com/world/americas/us-border-arrests-top-1-million-fiscal-year-2021-2021-06-25/>

**1 MILLION “illegal aliens” CAUGHT THRU June 25, 2021 (not including “got-aways”)  
= 178 FOOTBALL FIELDS OF TRASH (plastic, diapers, etc.) 1” thick**

**CONTINUE FOR LISTINGS of Federally Endangered SPECIES (FE)  
using unique IDENTIFYING NUMBERS (in red at end of url’s) in the states of  
Arizona, New Mexico, Texas and California**

## ARIZONA Federally Endangered (FE):

- [Yuma County](#)
- [Pima County](#)
- [Santa Cruz County](#)
- [Cochise County](#)

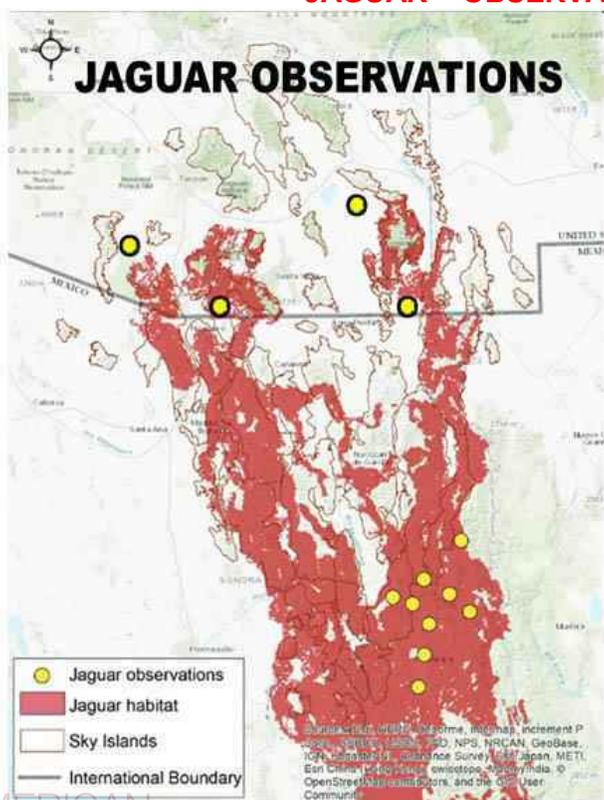
**MAMMAL -FE - Jaguar (*Panthera onca*) America's RAREST MAMMAL**

<https://ecos.fws.gov/ecp/species/3944>

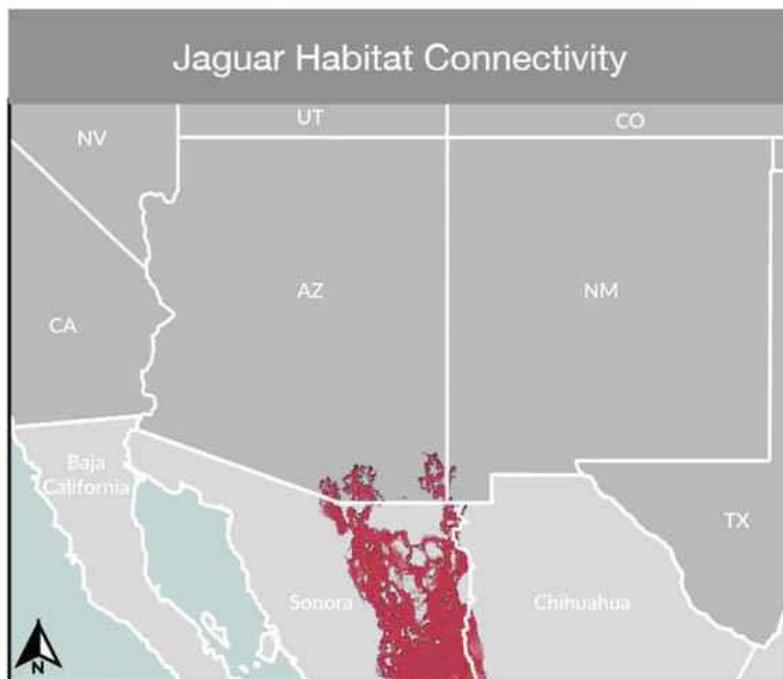
One of the most “rare” mammals in the United States; has been observed via trail cameras with sightings shown on map by yellow circles. The species historical range included Arizona, California, Louisiana, New Mexico, and Texas. However, *only Arizona has had “sightings” in the past decade.* **Diminished sightings coincide with increased “illegal alien” border crossing sites and TRASH - damaged habitat and/or damaged migration pathways in past decade.**



JAGUAR - OBSERVATIONS - AZ - MEXICO CORRIDOR



### SPECIES' BINATIONAL HABITATS



Source: Stoner et al. 2015 Jaguar Habitat Connectivity report to U.S. Fish & Wildlife Service/ F14PX00340

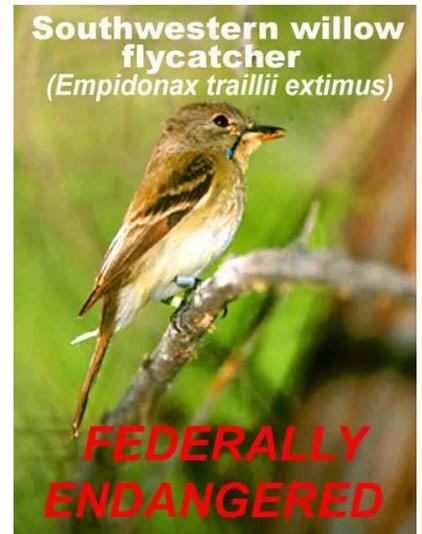
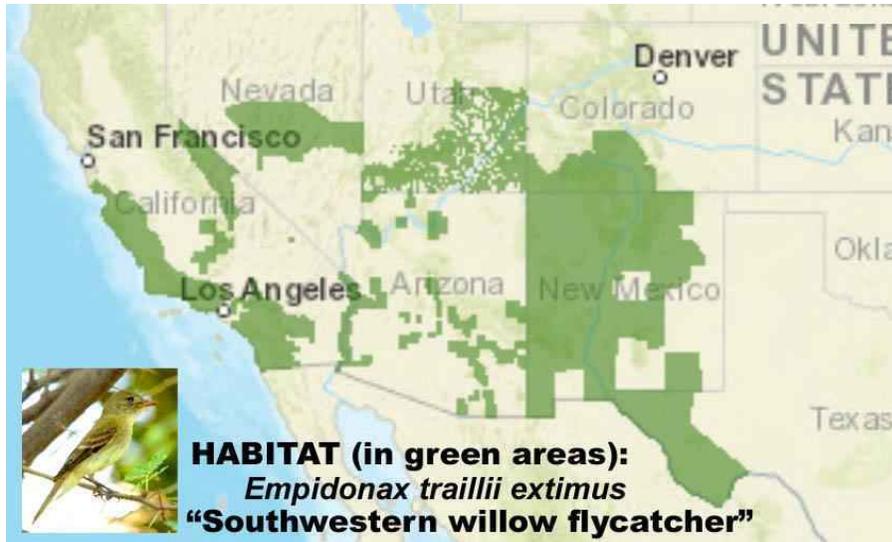
**MAMMAL -FE - Ocelot** (*Leopardus (=Felis) pardalis*)  
(second rarest mammal in AZ)

<https://ecos.fws.gov/ecp/species/4474>



**BIRD - FE** - Southwestern willow flycatcher (*Empidonax traillii extimus*)

<https://ecos.fws.gov/ecp/species/6749>



**BIRD - FE** - Masked bobwhite (quail) (*Colinus virginianus ridgwayi*)

SW of Tucson, AZ to border...(no wall area)

<https://ecos.fws.gov/ecp/species/3484>

(overlapping JAGUAR TERRITORY as well as SOUTHWESTERN WILLOW FLYCATCHER area of AZ)



**BIRD -FE** - Yuma Ridgways (clapper) rail (*Rallus obsoletus* [=longirostris] yumanensis)

- Yuma, AZ along border to MEXICALI & CA

<https://ecos.fws.gov/ecp/species/3505>



**FISH -FE** - Desert pupfish (*Cyprinodon macularius*)

Small (2 inches) smoothly rounded body shape

<https://ecos.fws.gov/ecp/species/7003>

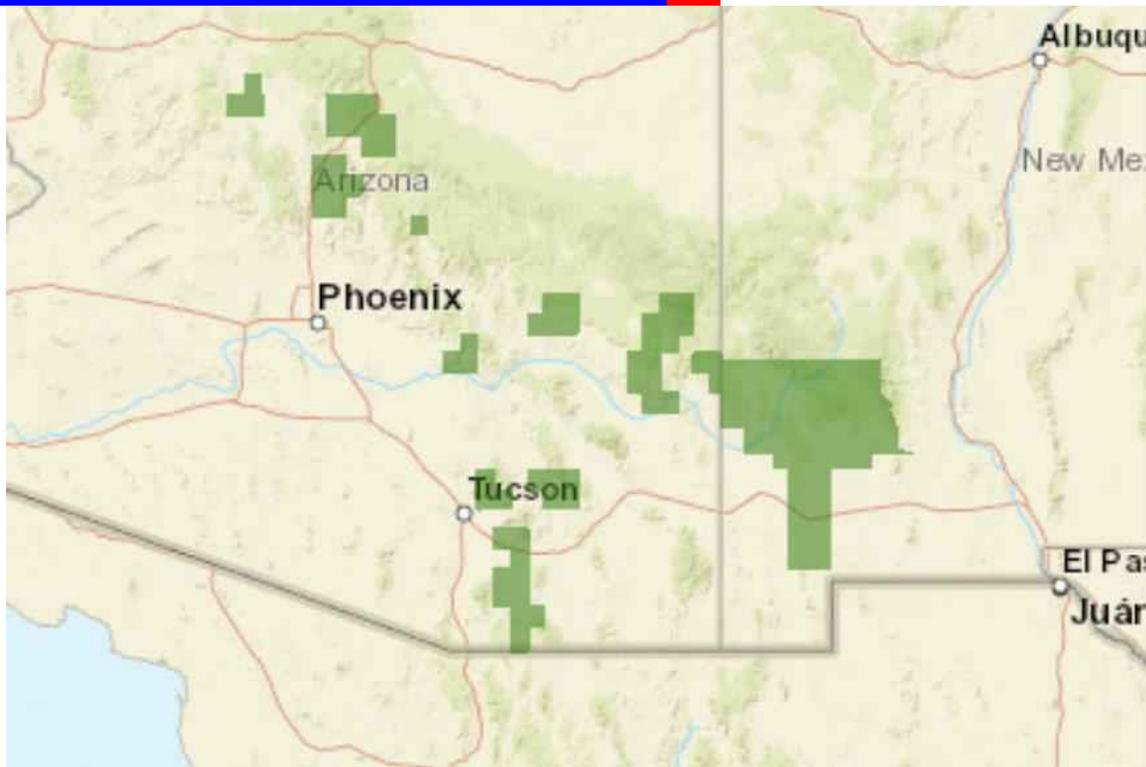
BELOW TUSCON, AZ...large swath above MX border; also small spot 1/2 state over



**FISH -FE - Gila chub (*Gila intermedia*)**

**(overlapping with JAGUAR TERRITORY)**

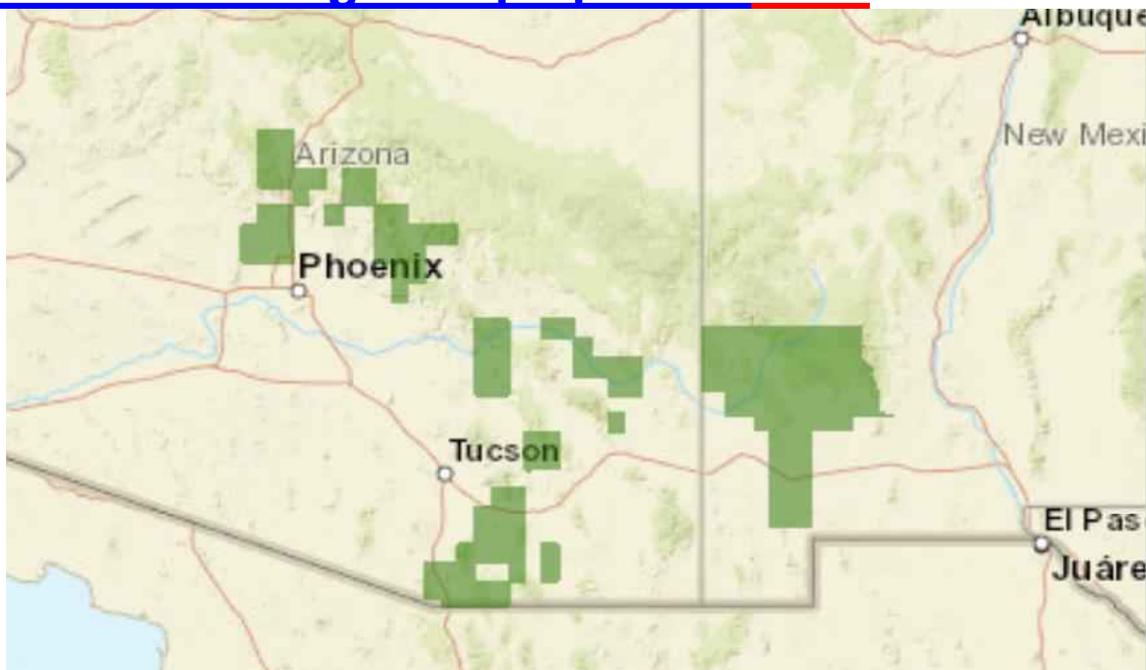
<https://ecos.fws.gov/ecp/species/51>



**FISH -FE - Gila topminnow (incl. Yaqui) (*Poeciliopsis occidentalis*)**

**(overlapping with JAGUAR TERRITORY)**

<https://ecos.fws.gov/ecp/species/1116>



**AMPHIBIAN -FE -** Sonora tiger Salamander (*Ambystoma tigrinum stebbinsi*)  
JUST ABOVE Nogales, MX at the BORDER & E & up  
(overlapping with JAGUAR TERRITORY) (NO BORDER WALL in area)  
<https://ecos.fws.gov/ecp/species/2096>



**Plant -FE -** Pima pineapple cactus (*Coryphantha scheeri* var. *robustispina*)  
Tucson, AZ to Nogales, MX  
<https://ecos.fws.gov/ecp/species/4919>



**Plant - FE - Kearney's blue-star (*Amsonia kearneyana*)**

**- WEST of Tucson, AZ ST down to MX border**

**(overlapping with JAGUAR TERRITORY)**

**<https://ecos.fws.gov/ecp/species/7485>**



**Plant - FE - Huachuca water-umbel (*Lilaeopsis schaffneriana* var. *recurva*)**

**...Tucson, AZ east to NM border...also Tucson DOWN to MX border**

**(overlapping with JAGUAR TERRITORY)**

**<https://ecos.fws.gov/ecp/species/1201>**



Plant - **FE** - Beardless chinch weed (*Pectis imberbis*)

(overlapping with JAGUAR TERRITORY)

<https://ecos.fws.gov/ecp/species/1348>



**Beardless chinch weed**  
**(*Pectis imberbis*)**

**AZ "habitat" - Federally Endangered**

Plant - **FE** - Canelo Hills ladies-tresses (*Spiranthes delitescens*)

(overlapping with JAGUAR TERRITORY) just above Nogales, MX to east

<https://ecos.fws.gov/ecp/species/8098> (NO BORDER WALL here)



Plant **-FE-** Acuna Cactus (*Echinomastus erectocentrus* var. *acunensis*)  
BELOW Phoenix, AZ to MX border (NO BORDER WALL in this plants' area)

<https://ecos.fws.gov/ecp/species/5785>



**CONTINUE TO NEXT PAGES FOR  
New Mexico, Texas and California “border counties”  
with **FEDERALLY ENDANGERED SPECIES & HABITATS**  
threatened AND disturbed by “illegal aliens”  
as they tromp across USA/Mexico border habitats  
AND DUMP 6-8 lbs. (9 sq.ft.) of TRASH per person**

**SIGNIFICANT FINDINGS** (trash data conversion to “visual perspectives”)

**March, 2021:** 171,000 “illegals” caught = **27 FOOTBALL FIELDS of Trash 1” thick**

**April, 2021:** 178,000 “Illegals” caught = **31 FOOTBALL FIELDS of Trash 1” thick**

**May, 2021:** 180,034 “Illegals” caught = **32 FOOTBALL FIELDS of Trash 1” thick**

**CBP officials also estimate 250,000+ illegal aliens HAVE EVADED APPREHENSION  
and are now in the U.S.A. as well.**

WASHINGTON, June 25, 2021 (**Reuters**) - U.S. authorities have made more than 1 MILLION arrests of migrants at the U.S.-Mexico border so far in fiscal year 2021, according to figures shared with Reuters ,

<https://www.reuters.com/world/americas/us-border-arrests-top-1-million-fiscal-year-2021-2021-06-25/>

**1 MILLION “illegal aliens” CAUGHT THRU June 25, 2021 (not including “got-aways”)  
= 178 FOOTBALL FIELDS OF TRASH (plastic, diapers, etc.) 1” thick**

# NEW MEXICO Federally Endangered (FE):

Hidalgo COUNTY, Grant COUNTY, Luna COUNTY, Doña Ana COUNTY, Otero COUNTY

## The Endangered Species Act (ESA) Protects Imperiled Species

The ESA has prevented the extinction of 99 percent of its listed species. However, human interference has adversely impacted the habitats of many plants, birds, animals, etc., including but not limited to the trampling and destruction of historical pathways taken across the landscape and migratory patterns.

[https://en.wikipedia.org/wiki/Habitat\\_destruction](https://en.wikipedia.org/wiki/Habitat_destruction)

When a habitat is destroyed, the carrying capacity for indigenous plants, animals, and other organisms is reduced so that populations decline, sometimes up to the level of extinction. Habitat loss is perhaps the greatest threat to organisms and biodiversity

## Stem The MASS EXTINCTION Of Wildlife:

A crisis driven by human activity

<https://www.blm.gov/programs/natural-resources/native-plant-communities/rare-and-cultural-plant-conservation/new-mexico>

New Mexico lists 235 plant species as rare and imperiled, with 103 species that are considered globally imperiled, and 109 species that occur only in New Mexico and nowhere else in the world. New Mexico's rare and imperiled species include 13 federally listed (PLANT) species, 37 plant species listed as endangered in the State of New Mexico, 35 species listed as sensitive by the Bureau of Land Management, and 75 species listed as sensitive by the Forest Service (EMNRD – Forestry Division, 2017). Due to the many documented threats to native plants in New Mexico, we are directing our attention towards proactive and effective conservation of rare and endangered plants.

## NECTAR FEEDING BATS –

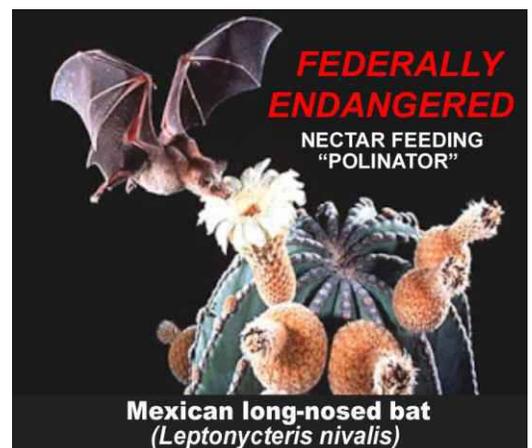
Like hummingbirds, these bats are very important pollinators of important desert plants and are important to the eco-system. Adequate habitat should be maintained in both northern migratory corridors and winter-birth migratory locations to conserve these bats and their role as pollinators and seed dispersers in arid ecosystems. These migrant nectarivores travel along "latitudinally broad paths of blooming plants" called nectar corridors (Fleming et al. 1993).

**MAMMAL - FE - Mexican long-nosed bat (*Leptonycteris nivalis*)**

– NM "key" border area AS WELL AS Big Bend border area in TX

known to occur in HIDALGO CO, NM

<https://ecos.fws.gov/ecp/species/8203>



**FISH -FE - Spikedace (*Meda fulgida*) - AT NEW MEXICO extreme left BOTTOM at MX BORDER & ALONG AZ joining "key" border... known to occur in HIDALGO CO, NM**

<https://ecos.fws.gov/ecp/species/6493>



**Plant -FE - Sneed pincushion cactus (*Coryphantha sneedii* var. *sneedii*) Las Cruces, NM to ELPASO, TX area,**

<https://ecos.fws.gov/ecp/species/4706>



**Sneed pincushion cactus (*Coryphantha sneedii* var. *sneedii*) NM & TX "habitat" - Federally Endangered**

**Plant - FE - Todsens's pennyroyal (*Hedeoma todsenii*) ...Las Cruces, NM area...just above El Paso, TX**

<https://ecos.fws.gov/ecp/species/1081>

**CONTINUE TO NEXT PAGES FOR Texas and California  
"border counties"  
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## TEXAS Federally Endangered (FE):

- [El Paso County](#)
- [Hudspeth County](#)
- [Jeff Davis County](#) (border at only one point, i.e., border length is zero)
- [Presidio County](#)
- [Brewster County](#)
- [Terrell County](#)
- [Val Verde County](#)
- [Kinney County](#)
- [Maverick County](#)
- [Webb County](#)
- [Zapata County](#)
- [Starr County](#)
- [Hidalgo County](#)
- [Cameron County](#)

[https://tpwd.texas.gov/publications/pwdpubs/media/pwd\\_bk\\_w7000\\_0013.pdf](https://tpwd.texas.gov/publications/pwdpubs/media/pwd_bk_w7000_0013.pdf)



**MAMMAL -FE - Sinaloa Jaguarundi** (*Herpailurus (=Felis) yagouaroundi tolteca*) - one of the rarest cats in Texas - **HABITAT from Brownsville, TX past Alamo / McAllen, TX**

<https://ecos.fws.gov/ecp/species/3080>

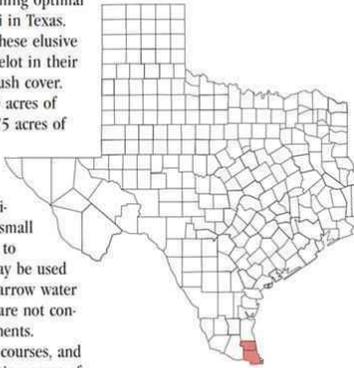
6/14/76 • TX State Status: **Endangered ... a small, slender-bodied, unspotted cat, slightly larger than a domestic cat (7-22 pounds).** **Less than 5% of the original vegetation remains in the Rio Grande Valley.** **HABITAT from Brownsville, TX past Alamo / McAllen, TX**

The Jaguarundi is **one of the rarest cats in Texas**, with only **the Jaguar** (*Panthera onca*), which has not been reported in TX in recent years, **being rarer.**



in identifying suitable habitat. Little information exists concerning optimal habitat for the Jaguarundi in Texas. Scientists speculate that these elusive cats are similar to the Ocelot in their requirement for dense brush cover.

Tracts of at least 100 acres of isolated dense brush, or 75 acres of brush interconnected with other habitat tracts by brush corridors, are considered important habitat. Even brush tracts as small as 5 acres, when adjacent to larger areas of habitat, may be used by Jaguarundis. Roads, narrow water bodies, and rights-of-way are not considered barriers to movements. Brushy fence lines, water courses, and other brush strips connecting areas of habitat are very important in provid-



**MAMMAL -FE - Ocelot** (*Leopardus (=Felis) pardalis*)

**TX from Val Verde County to Brownsville, TX**

<https://ecos.fws.gov/ecp/species/4474>

**Federal Status: Endangered, • State Status: Endangered**

The **Ocelot** population **in Texas is very small, probably no more than 80 to 120 individuals.** Approximately 30 to 35 live in the chaparral remaining at or near the **Laguna Atascosa National Wildlife Refuge.** **(63 MILES EAST OF MCALLEN, TX).** Unless vigorous conservation measures are taken soon, this beautiful cat may join the list of species extirpated from the United States....

For More Information Contact **Texas Parks and Wildlife Department Wildlife Diversity** Branch 4200 Smith School Road, **Austin, Texas** 78744(512) 912-7011 or **(800) 792-1112**



**BIRD -FE - Golden-cheeked warbler (=wood)** (*Dendroica chrysoparia*)

**Val Verde CO to FT Worth AREAS ... also Val Verde CO to San Antonio, TX**

<https://ecos.fws.gov/ecp/species/33>

**BIRD - FE** - Yellow-billed Cuckoo (*Coccyzus americanus*)

- Entire AZ and along border to MEXICO, also AZ/NM border to El Paso, TX as well as Rio Grande river area & inland down to Big Bend and including Val Verde County, TX

<https://ecos.fws.gov/ecp/species/3911>

Listed species believed to or **known to occur in EL PASO COUNTY, TX**

<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48141>

**BIRD - FE** - Southwestern willow flycatcher (*Empidonax traillii extimus*)

- known to occur in Imperial CO., CA AND PIMO COUNTY, & Yuma CO, & Cochise CO AZ & NM ALSO IN CA, AZ, NM above El Paso and ALONG Rio Grande in TX to Val Verde County

<https://ecos.fws.gov/ecp/species/6749>



**Flowering Plants - FE** - Sneed pincushion cactus (*Coryphantha sneedii* var. *sneedii*) ... known to occur in Las Cruces, NM to ELPASO COUNTY, TX

<https://ecos.fws.gov/ecp/species/4706>



**Sneed pincushion cactus**  
(*Coryphantha sneedii* var. *sneedii*)  
NM & TX "habitat" - **Federally Endangered**

Listed species believed to or **known to occur in Hudspeth County, TX**

<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48229>

**BIRD - FE - Southwestern willow flycatcher (*Empidonax traillii extimus*)**  
 - known to occur in Imperial CO., CA AND PIMO COUNTY, & Yuma CO, & Cochise CO AZ & NM  
 ALSO IN CA, AZ, NM above El Paso and ALONG Rio Grande in TX to Val Verde County  
<https://ecos.fws.gov/ecp/species/6749>



**Flowering Plants – FE - Guadalupe fescue (*Festuca ligulata*)**  
 known in JEFF DAVIS & Presidio COUNTY, TX  
<https://ecos.fws.gov/ecp/species/8068>

**Culberson County, Texas** [https://en.wikipedia.org/wiki/Culberson\\_County,\\_Texas](https://en.wikipedia.org/wiki/Culberson_County,_Texas)  
 VAN HORN section had most ILLEGALS CAUGHT - 400% increase in April 2021



**BIG BEND REGION: Texas' Most REMOTE SECTOR SEES UNPRECEDENTED BORDER CROSSINGS, Says Chief Patrol Agent**

Illegal border crossings in Texas' most remote sector reached unprecedented levels as most attempt to avoid apprehension by Border Patrol. The Big Bend Sector chief says **LARGE NUMBERS OF THOSE APPREHENDED ARE SINGLE ADULTS — MANY WEARING CAMOUFLAGE TO BLEND WITH THE DESOLATE SURROUNDINGS.** "We have seen a significant increase in traffic coming into the Big Bend Sector," **Chief Patrol Agent Sean L. McGoffin** told Breitbart Texas in an interview this week. "It's new for us. It's new for our communities. It's something we haven't seen in the past."

Big Bend Sector **AGENTS WITNESSED A NEARLY 400 PERCENT INCREASE IN BORDER APPREHENSIONS THROUGH THE END OF APRIL,** according to the CBP Southwest Border Encounters reported. The apprehension of **single adult migrants INCREASED BY 422 PERCENT.**

**Listed species believed to or known to occur in JEFF DAVIS COUNTY, TX**  
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48243>

**BIRD - FE - Southwestern willow flycatcher (*Empidonax traillii extimus*)**  
**- known to occur in Imperial CO., CA AND PIMO COUNTY, & Yuma CO, & Cochise CO AZ & NM**  
**ALSO IN CA, AZ, NM above El Paso and ALONG Rio Grande in TX to Val Verde County**  
<https://ecos.fws.gov/ecp/species/6749>



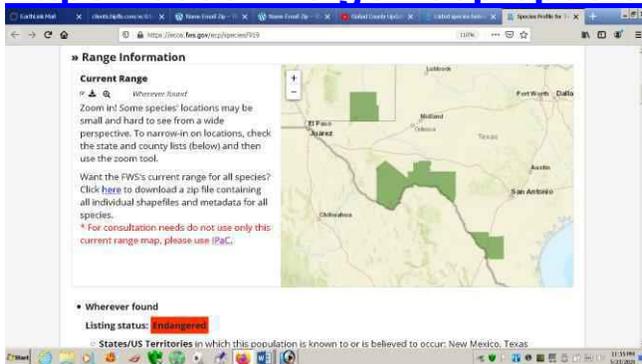
<https://ecos.fws.gov/ecp/>

**Listed species believed to or known to occur in PRESIDIO COUNTY, TX**  
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48377>

**Flowering Plants - FE - Guadalupe fescue (*Festuca ligulata*)**  
**...known to occur in JEFF DAVIS & Presidio County, TX**  
<https://ecos.fws.gov/ecp/species/8068>

**Listed species believed to or known to occur in BREWSTER COUNTY, TX**  
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48043>

**Clams - FE - Texas Hornshell (*Popenaias popeii*)**  
<https://ecos.fws.gov/ecp/species/919>



**FISH - FE - Big Bend gambusia (*Gambusia gagei*)**  
<https://ecos.fws.gov/ecp/species/6634>



## **NECTAR FEEDING BATS – Big Bend area in TX**

Like hummingbirds, these bats are **very important pollinators** of important desert plants and are important to the eco-system. Adequate habitat should be maintained in both northern migratory corridors and winter-birth migratory locations to conserve these bats and **their role as pollinators and seed dispersers in arid ecosystems.** These migrant nectarivores travel along "latitudinally broad paths of blooming plants" called nectar corridors (Fleming et al. 1993).

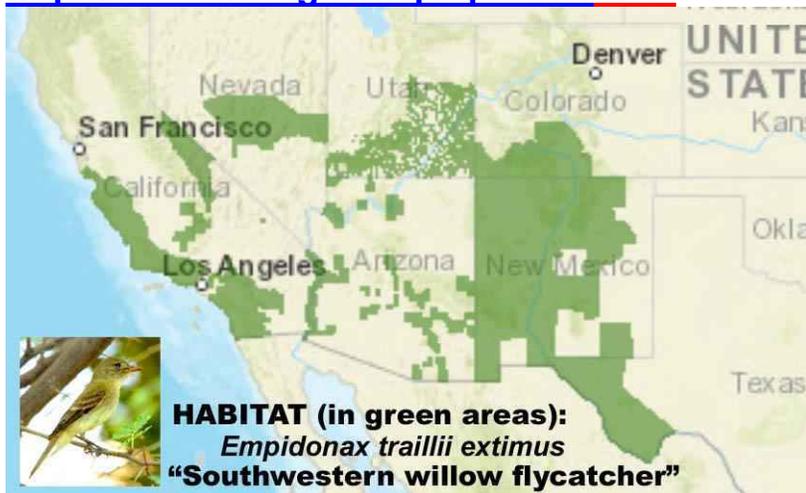
**MAMMAL - FE - Mexican long-nosed bat (*Leptonycteris nivalis*)**  
**known to occur in HIDALGO CO, NM AS WELL AS Big Bend border area in TX**

<https://ecos.fws.gov/ecp/species/8203>



**BIRD - FE - Southwestern willow flycatcher (*Empidonax traillii extimus*)**  
**- known to occur in Imperial CO., CA AND PIMO COUNTY, Yuma CO, & Cochise CO AZ & NM above El Paso and ALONG Rio Grande in TX to Val Verde County**

<https://ecos.fws.gov/ecp/species/6749>



**Flowering Plants – FE - Guadalupe fescue (*Festuca ligulata*)**  
<https://ecos.fws.gov/ecp/species/8068>  
**known in JEFF DAVIS & Presidio & Brewster Counties, TX**

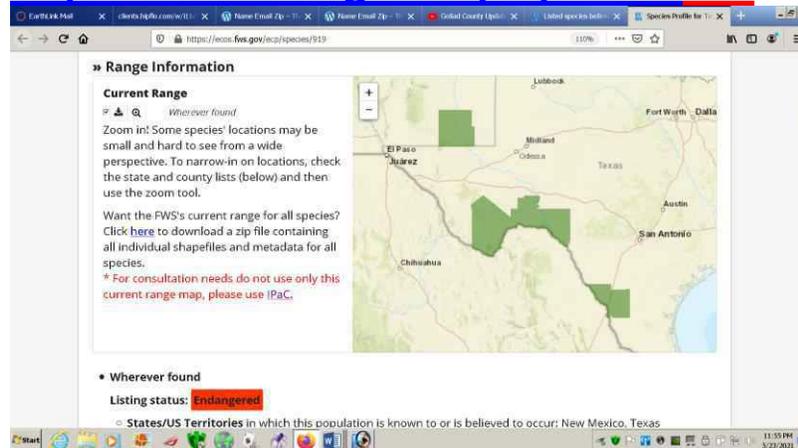
Listed species believed to or **known to occur** in TERRELL COUNTY. TX  
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48443>

## Clams – FE - Texas Hornshell (*Popenaias popeii*)

... known to occur in BREWSTER & TERRELL CO'S in TX... also NM

A rare freshwater mussel, the last remaining native mussel in New Mexico... and Texas

<https://ecos.fws.gov/ecp/species/919>



Listed species believed to or known to occur in VAL VERDE COUNTY, Texas

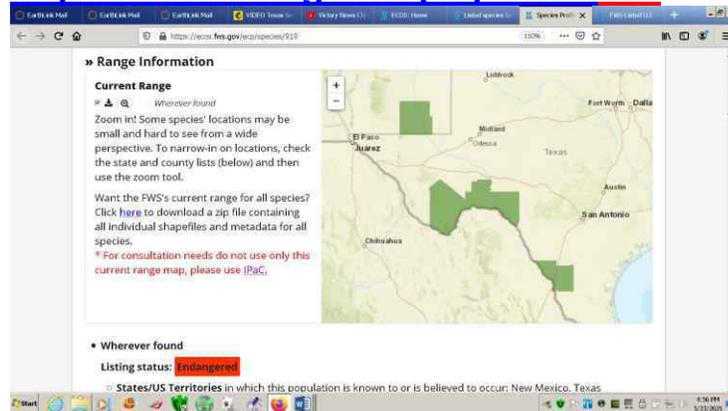
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48465>

## Clam – FE - Texas Hornshell (*Popenaias popeii*) -

A rare freshwater mussel, the last remaining native mussel in New Mexico... and Texas

The species historical range included New Mexico and Texas.

<https://ecos.fws.gov/ecp/species/919>



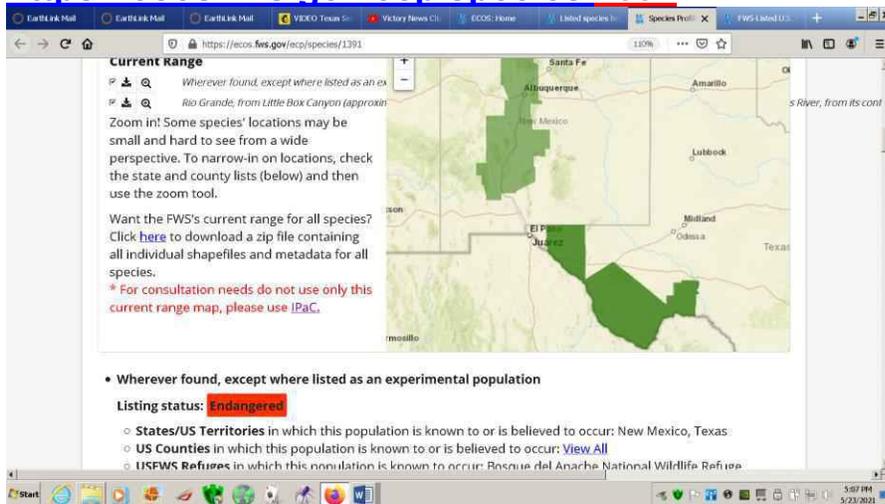
## Bird – FE - Golden-cheeked warbler (=wood) (*Dendroica chrysoparia*)

- known to occur in Val Verde & Kinney COUNTIES, Texas

<https://ecos.fws.gov/ecp/species/33>



**FISH -FE - Rio Grande Silvery Minnow (*Hybognathus amarus*)... ENTIRE RIO GRANDE river area from El Paso to Val Verde COUNTY... THEY ARE "experimentally re-introducing from NM to Big Bend/Val Verde County area OF MEXICO BORDER!!!! (see TX 2<sup>nd</sup> listing there)**  
<https://ecos.fws.gov/ecp/species/1391>



**Flowering Plants - FE - Texas snowbells (*Styrax texanus*)**  
...known to occur in **Kinney, Val Verde, Edwards & Real COUNTIES, TX**  
<https://ecos.fws.gov/ecp/species/5214>

<https://ecos.fws.gov/ecp/>

Listed species believed to or **known to occur in KINNEY COUNTY, TX**

**from Rio Grande border – below are what is at border**

<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48271>

**Flowering Plants -FE - Texas snowbells (*Styrax texanus*)**  
- known to occur in **Val Verde & Kinney COUNTIES, Texas**  
<https://ecos.fws.gov/ecp/species/5214>

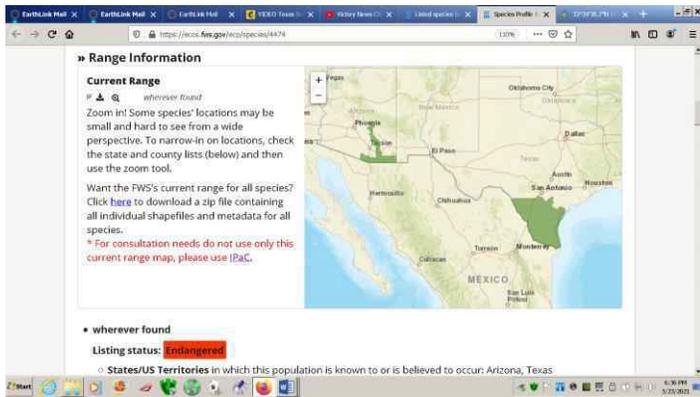
**Bird -FE - Golden-cheeked warbler (=wood) (*Dendroica chrysoparia*)**  
- known to occur in **Val Verde & Kinney COUNTIES, Texas**  
<https://ecos.fws.gov/ecp/species/33>



Listed species believed to or **known to occur in MAVERICK COUNTY, TX**  
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48323>

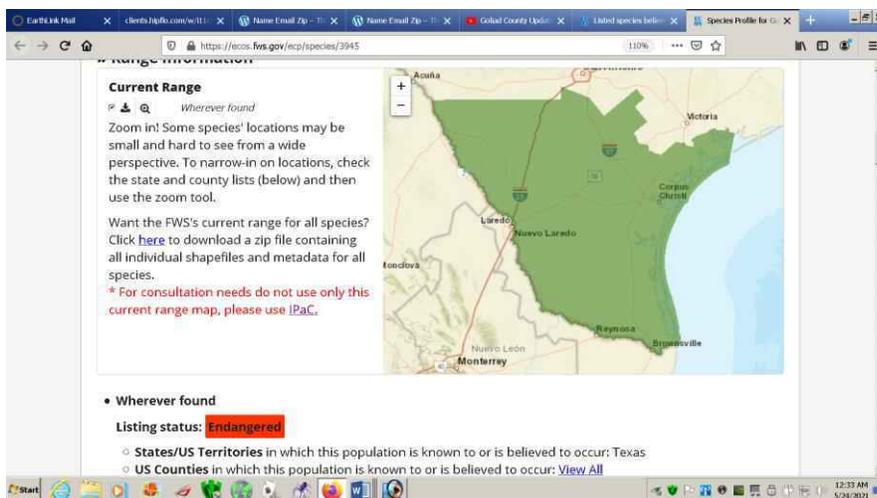
**MAMMAL - FE - Ocelot (*Leopardus (=Felis) pardalis*)**

occur: **Arizona, Texas** <https://ecos.fws.gov/ecp/species/4474>



**Gulf Coast jaguarundi (*Herpailurus (=Felis) yagouaroundi cacomitli*)**  
**known to occur in MAVERICK CO to Gulf of MX along the Rio Grande River**  
<https://ecos.fws.gov/ecp/species/3945>

A small, slender-bodied, **unspotted cat, slightly larger than a domestic cat (7-22 pounds)**.  
The Jaguarundi is **one of the rarest cats in Texas**, with only **the Jaguar** (*Panthera onca*), **being rarer**.



**Less than 5% of the original vegetation / HABITAT remains in the Rio Grande Valley.**

Listed species believed to or **known to occur in Webb County, TX**  
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48479>

(CONTINUE TO NEXT PAGE)

## Flowering Plants -FE - Ashy dogweed (*Thymophylla tephroleuca*)

<https://ecos.fws.gov/ecp/species/7696>

**» Range Information**

**Current Range**

Wherever found

Zoom in! Some species' locations may be small and hard to see from a wide perspective. To narrow-in on locations, check the state and county lists (below) and then use the zoom tool.

Want the FWS's current range for all species? Click [here](#) to download a zip file containing all individual shapefiles and metadata for all species.

\* For consultation needs do not use only this current range map, please use IPaC.

• Wherever found

Listing status: **Endangered**

States/Territories in which this population is known to or is believed to occur: New Mexico, Texas

## Clam - FE - Texas Hornshell (*Popenaias popeii*)

- known to occur in Val Verde & Webb COUNTIES, TX

<https://ecos.fws.gov/ecp/species/919>

The species historical range included New Mexico, Texas.

**» Range Information**

**Current Range**

Wherever found

Zoom in! Some species' locations may be small and hard to see from a wide perspective. To narrow-in on locations, check the state and county lists (below) and then use the zoom tool.

Want the FWS's current range for all species? Click [here](#) to download a zip file containing all individual shapefiles and metadata for all species.

\* For consultation needs do not use only this current range map, please use IPaC.

• Wherever found

Listing status: **Subendangered**

States/Territories in which this population is known to or is believed to occur: New Mexico, Texas

## Listed species believed to or known to occur in Zapata County, TX

<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48505>

## Flowering Plants -FE - Zapata bladderpod (*Lesquerella thamnophila*)

...known to occur in Zapata & Starr COUNTIES, TX

<https://ecos.fws.gov/ecp/species/7332>

**» Range Information**

**Current Range**

Wherever found

Zoom in! Some species' locations may be small and hard to see from a wide perspective. To narrow-in on locations, check the state and county lists (below) and then use the zoom tool.

Want the FWS's current range for all species? Click [here](#) to download a zip file containing all individual shapefiles and metadata for all species.

\* For consultation needs do not use only this current range map, please use IPaC.

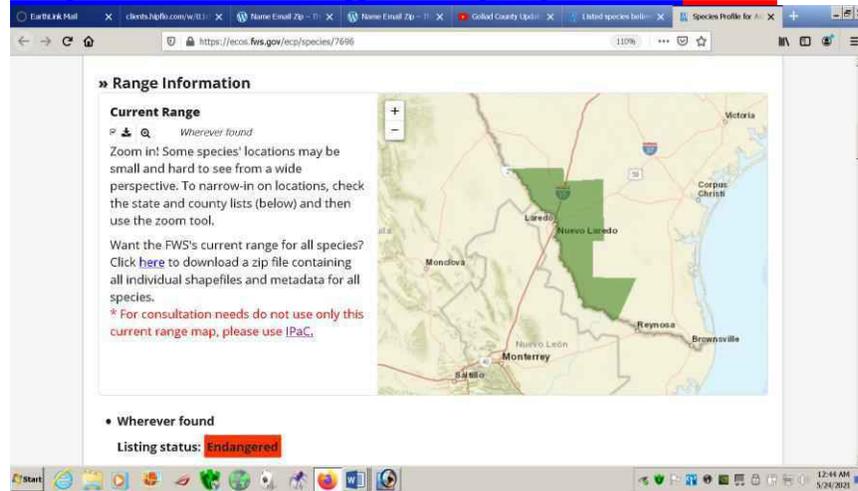
• Wherever found

Listing status: **Endangered**

States/Territories in which this population is known to or is believed to occur: New Mexico, Texas

**Flowering Plants -FE - Ashy dogweed (*Thymophylla tephroleuca*)**

<https://ecos.fws.gov/ecp/species/7696>

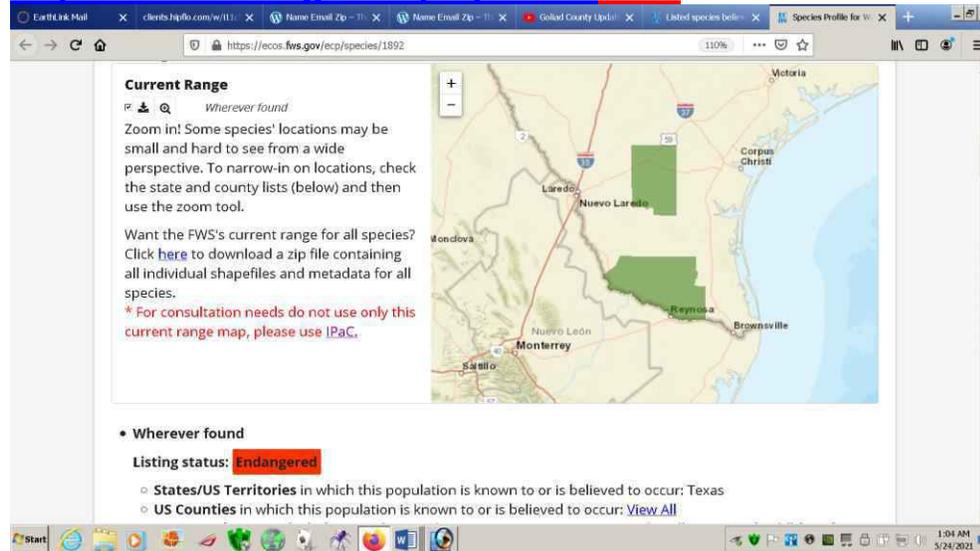


**Listed species believed to or known to occur in Starr County, TX**

<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48427>

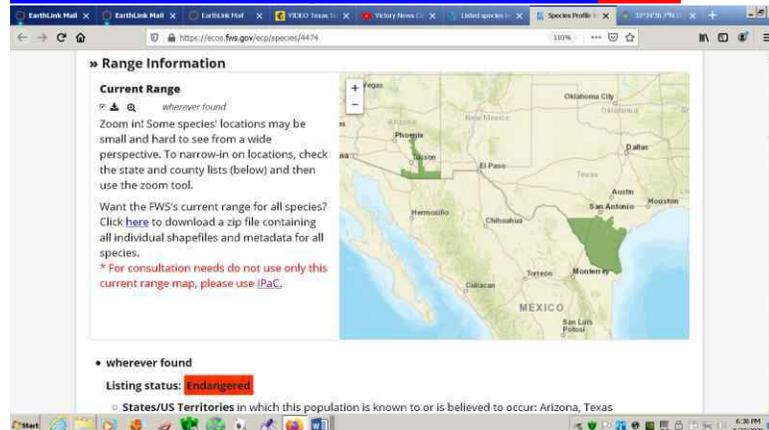
**Flowering Plants -FE - Walker's manioc (*Manihot walkerae*)**

<https://ecos.fws.gov/ecp/species/1892> known to occur in Starr & Hidalgo CO's, TX



**MAMMAL - FE - Ocelot (*Leopardus (=Felis) pardalis*) occur: Arizona, Texas**

<https://ecos.fws.gov/ecp/species/4474> known to occur in Cochise CO, AZ & TX

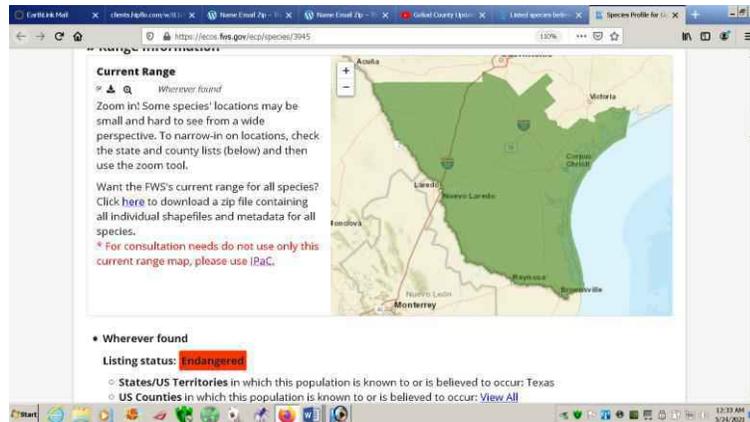


**MAMMAL** —**FE**- Gulf Coast jaguarundi (*Herpailurus (=Felis) yagouaroundi cacomitli*)

<https://ecos.fws.gov/ecp/species/3945>

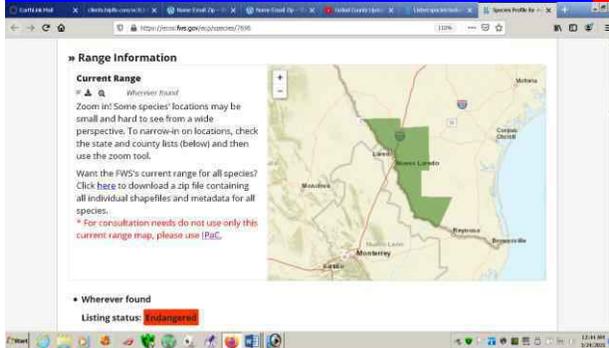
known to occur in **MAVERICK CO** all the way to Gulf of MX along the Rio Grande River a small, slender-bodied, unspotted cat, *slightly larger than a domestic cat* (7-22 pounds).

**Less than 5% of the original vegetation / HABITAT remains in the Rio Grande Valley.**



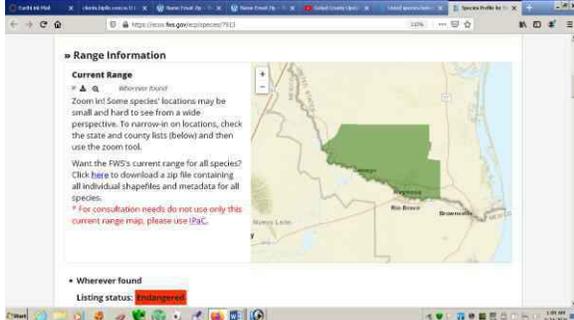
**Flowering Plants** -**FE** - Ashy dogweed (*Thymophylla tephroleuca*)

<https://ecos.fws.gov/ecp/species/7696>



**Flowering Plants** -**FE** - Star cactus (*Astrophytum asterias*)

<https://ecos.fws.gov/ecp/species/7913> known to occur in **Starr County, TX**



**Flowering Plants** -**FE** - Zapata bladderpod (*Lesquerella thamnophila*)

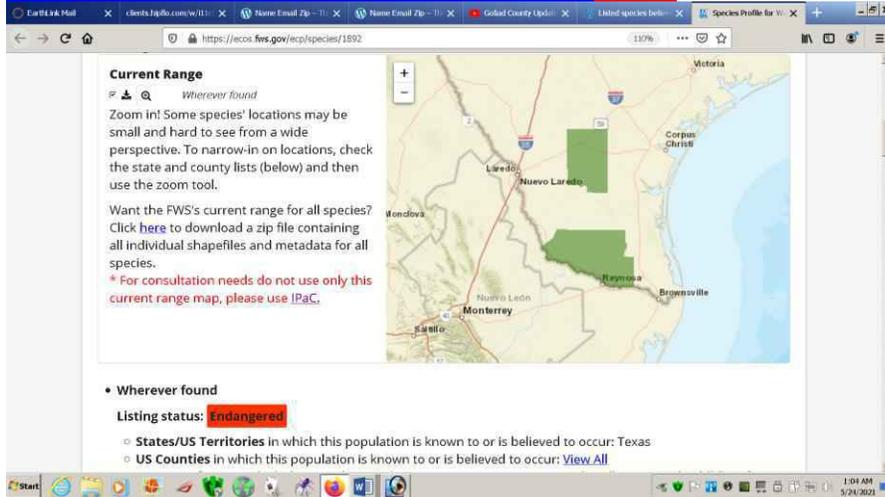
<https://ecos.fws.gov/ecp/species/7332> known to occur in **Zapata & Starr COUNTIES, TX**



Listed species believed to or known to occur in HIDALGO County, TX  
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48215>

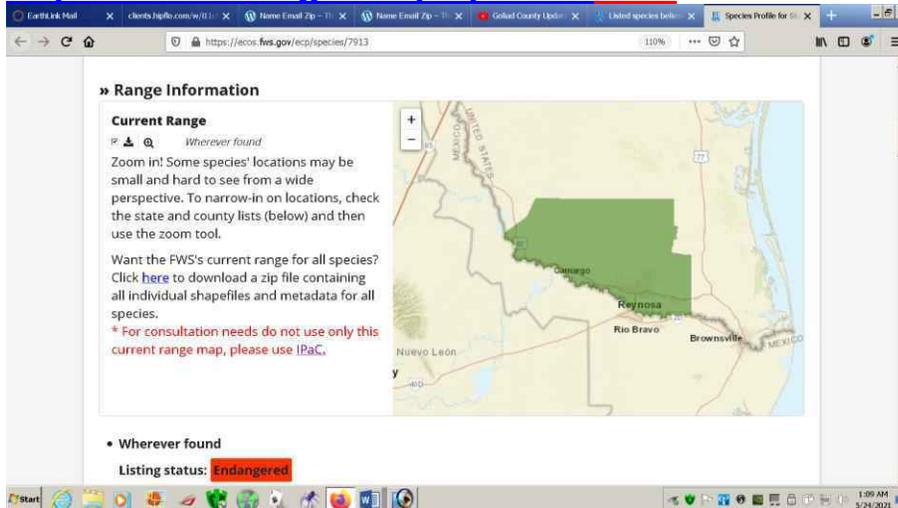
Flowering Plants -FE - Walker's manioc (*Manihot walkerae*)

<https://ecos.fws.gov/ecp/species/1892> known to occur in Starr & Hidalgo CO's, TX



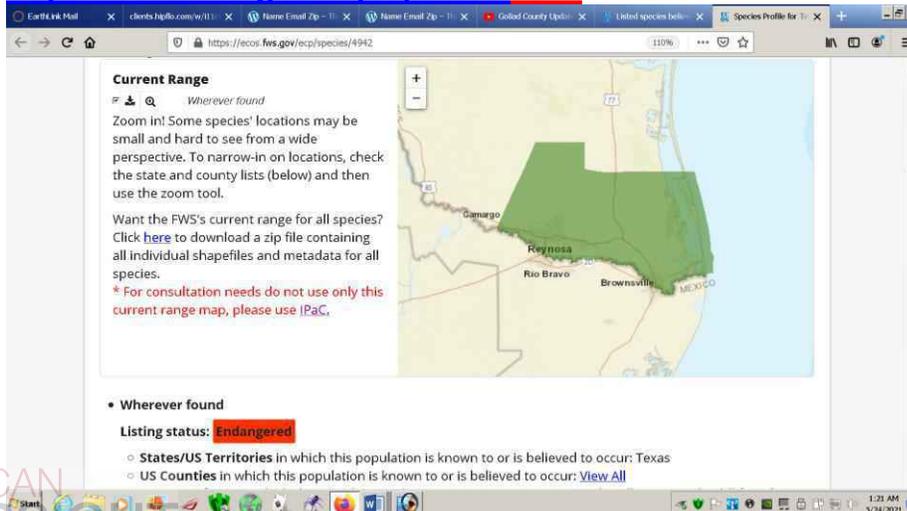
Flowering Plants -FE - Star cactus (*Astrophytum asterias*)

<https://ecos.fws.gov/ecp/species/7913> known to occur in Starr & Hidalgo CO's, TX



Flowering Plants -FE - Texas ayenia (*Ayenia limitaris*)

<https://ecos.fws.gov/ecp/species/4942>

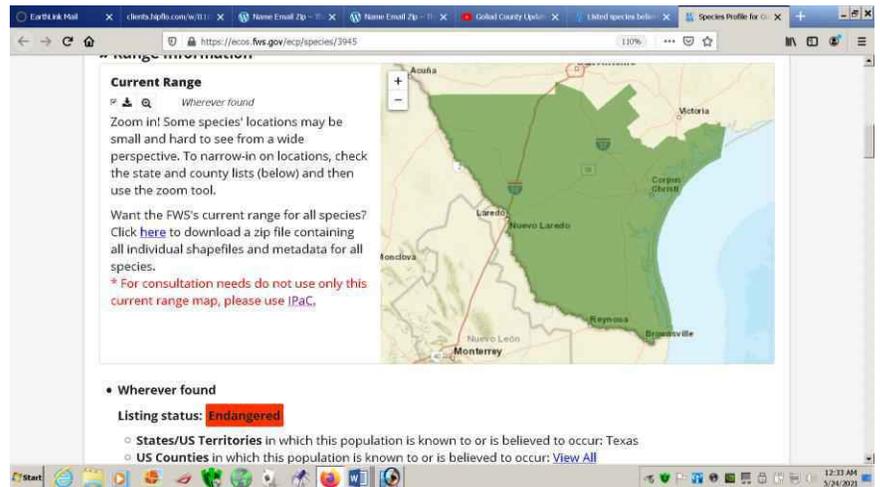


Listed species believed to or **known to occur in CAMERON COUNTY, TX**  
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=48061>

**MAMMAL –FE- Gulf Coast jaguarundi** (*Herpailurus (=Felis) yagouaroundi cacomitli*)  
<https://ecos.fws.gov/ecp/species/3945>

**known to occur in MAVERICK CO all the way to Gulf of MX** along the Rio Grande River  
a small, slender-bodied, unspotted cat, *slightly larger than a domestic cat (7-22 pounds)*.

**Less than 5% of the original vegetation / HABITAT remains in the Rio Grande Valley.**



<https://ecos.fws.gov/ecp/report/species-listings-by-tax-group?statusCategory=Listed&groupName=All%20Plants>

**Plant –FE - Star cactus** (*Astrophytum asterias*)

**In ZAPATA and STAR COUNTIES** but **NOW EXTINCT** in Hidalgo & Cameron COUNTIES

<https://ecos.fws.gov/ecp0/profile/speciesProfile?sld=7913>

## Star cactus (*Astrophytum asterias*)



**Federally Endangered PLANT**

<https://ecos.fws.gov/ecp0/profile/speciesProfile?sld=7913>

**Flowering Plants -FE - Texas ayenia (*Ayenia limitaris*)**

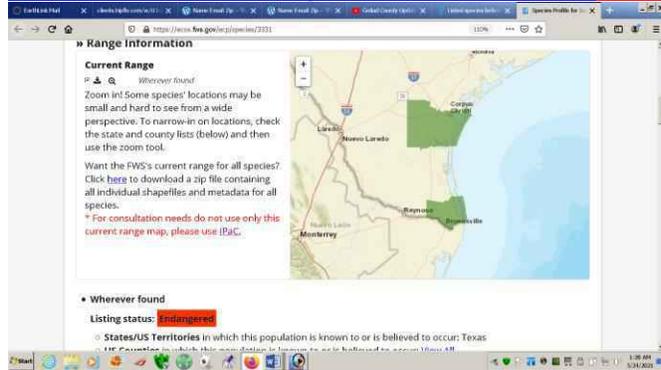
[https://tpwd.texas.gov/huntwild/wild/wildlife\\_diversity/nongame/listed-species/plants/texas\\_ayenia.phtml?o=ayenia](https://tpwd.texas.gov/huntwild/wild/wildlife_diversity/nongame/listed-species/plants/texas_ayenia.phtml?o=ayenia)

<https://ecos.fws.gov/ecp/species/4942>



**Flowering Plants -FE - South Texas ambrosia (*Ambrosia cheiranthifolia*)**

<https://ecos.fws.gov/ecp/species/3331>



**Plant -FE - Zapata bladderpod (*Lesquerella thamnophila*)**

<https://ecos.fws.gov/ecp0/profile/speciesProfile?slid=7332>



**Federally Endangered PLANT**  
**Zapata bladderpod**  
**(*Lesquerella thamnophila*)**

<https://ecos.fws.gov/ecp0/profile/speciesProfile?slid=7332>

**Plant -FE - Walker's manioc (*Manihot walkerae*)**

<https://ecos.fws.gov/ecp0/profile/speciesProfile?slid=1892>



**Walker's manioc**  
**(*Manihot walkerae*)**  
**Federally Endangered PLANT**

<https://ecos.fws.gov/ecp0/profile/speciesProfile?slid=1892>

**Plant -FE - Ashy dogweed (*Thymophylla tephroleuca*)**

**Loredo, TX to Reynosa ALONG RIO GRANDE**

<https://ecos.fws.gov/ecp/species/7696>



**Plant -FE - Terlingua Creek cat's-eye (*Cryptantha crassipes*) west TX small area along Rio Grande**

<https://ecos.fws.gov/ecp0/profile/speciesProfile?sld=7707>



**Plant -FE - Sneed pincushion cactus (*Coryphantha sneedii* var. *sneedii*)**

**ELPASO, TX & Las Cruces, NM area**

<https://ecos.fws.gov/ecp/species/4706>

**FISH -FE - Rio Grande Silvery Minnow (*Hybognathus amarus*)...**

**One of the most endangered fish in North America**, according to the U. S. Fish and Wildlife Service (USFWS). They are **now are found in less than 5 percent of their natural habitat** in the [Rio Grande](#).

**Historically, the minnow was found from Española, New Mexico, to the Gulf of Mexico in Texas.**

Now it can only be seen between the [Cochiti Dam](#) and the [Elephant Butte Reservoir](#).

**RIO GRANDE river area from El Paso to Val Verde COUNTY...**

<https://ecos.fws.gov/ecp/species/1391>

### Federally Endangered FISH



**ONE OF THE MOST endangered fish in North America**

[https://en.wikipedia.org/wiki/Rio\\_Grande\\_silvery\\_minnow](https://en.wikipedia.org/wiki/Rio_Grande_silvery_minnow)

**Rio Grande Silvery Minnow**  
(*Hybognathus amarus*)

<https://ecos.fws.gov/ecp/species/1391>

**FISH -FE - Big Bend gambusia (*Gambusia gaigei*)**

**TX Bid Bend area of RIO GRANDE border & inland NORTH**

<https://ecos.fws.gov/ecp/species/6634>

**FISH -FE - Pecos gambusia (*Gambusia nobilis*)**

**TX Bid Bend area of RIO GRANDE border & inland NORTH** <https://ecos.fws.gov/ecp/species/460>

**FISH -FE - Comanche Springs pupfish (*Cyprinodon elegans*) ...**

**MX Rio Grande hypotenuse to Midland inland in NE direction way above Big Bend**

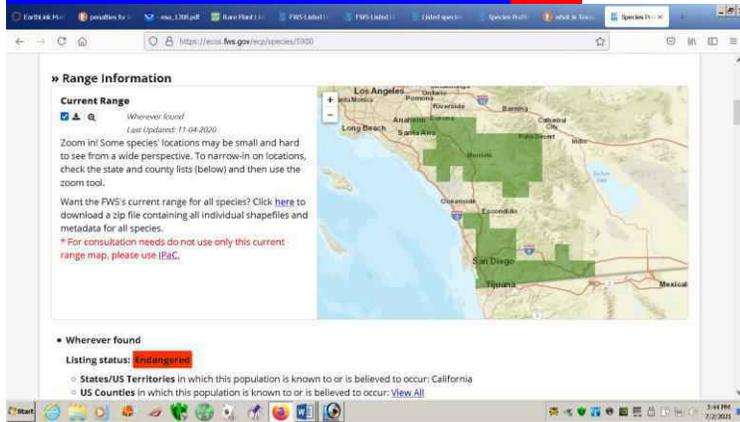
Visit Balmorhea State Park to learn more about the pupfish.

<https://ecos.fws.gov/ecp/species/7282>

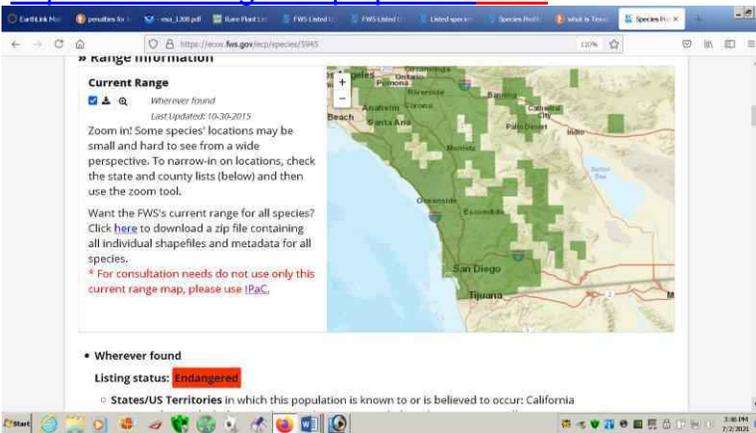
# CALIFORNIA Federally Endangered (FE):

Listed species believed to or **known to occur in Imperial and San Diego COUNTIES, CA**  
<https://ecos.fws.gov/ecp/report/species-listings-by-current-range-county?fips=06025>

**INSECT - FE -** Quino checkerspot butterfly (*Euphydryas editha quino* (=E. e. wrighti))  
- **known to occur in Imperial & San Diego COUNTIES, California**  
<https://ecos.fws.gov/ecp/species/5900>

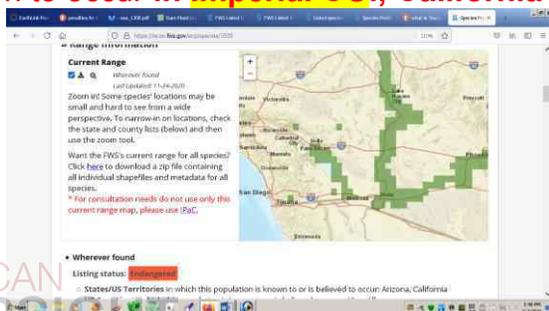


**BIRD - FE -** Least Bell's vireo (*Vireo bellii pusillus*)  
- **known to occur in Imperial CO, California** – OVER TO TECATE, CA  
<https://ecos.fws.gov/ecp/species/5945>



**BIRD - FE -** Southwestern willow flycatcher (*Empidonax traillii extimus*)  
- **known to occur in Imperial CO., California**  
**ALSO IN** Arizona, NM above El Paso **and ALONG** Rio Grande in TX to Val Verde County  
<https://ecos.fws.gov/ecp/species/6749>

**BIRD - FE -** Yuma Ridgways (clapper) rail (*Rallus obsoletus* [=longirostris] yumanensis)  
<https://ecos.fws.gov/ecp/species/3505>  
- **known to occur in Imperial CO., California**



# THE 2021 "PELICAN BRIEF" \*

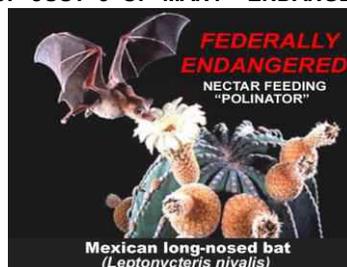
## Points, Authorities and Rationale for:

- 1) **NEW LAWSUIT** against **Joe Biden, Kamala Harris, Secy. Of The Interior, Govt. agencies, etc.** for violations of at least **The Endangered Species Act (ESA) of 1973**, (7 U.S.C. § 136, 16 U.S.C. § 1531 et seq., Public Law 93-205).
- 2) **AMENDING** existing **COMPLAINT** *Sheriff Brad Coe et al. v. Joseph R. Biden Jr. et al.*, Case Number 3:21-cv-00168, Filed on 07/01/21 in the U.S. District Court for the Southern District of Texas. **TO INCLUDE** violations of **The Endangered Species Act (ESA) of 1973**  
<https://storage.courtlistener.com/recap/gov.uscourts.txsd.1835154/gov.uscourts.txsd.1835154.1.0.pdf>
- 3) **AMENDING** existing **COMPLAINT** *State of AZ v Mayorkas et al* **TO INCLUDE** violations of **The Endangered Species Act (ESA) of 1973**  
<https://dockets.justia.com/docket/arizona/azdce/2:2021cv00617/1264061>  
[https://www.pacermonitor.com/public/case/39777155/Arizona,\\_State\\_of\\_v\\_Mayorkas\\_et\\_al](https://www.pacermonitor.com/public/case/39777155/Arizona,_State_of_v_Mayorkas_et_al)
- 4) **ENABLING local LAW ENFORCEMENT** to arrest "illegal crossers" **AND "Coyotes"** for violations of **The Endangered Species Act (ESA) of 1973** (7 U.S.C. § 136, 16 U.S.C. § 1531 et seq., Public Law 93-205).

## \* THE WIPING OUT of ENDANGERED SPECIES and THEIR HABITATS ALONG THE ENTIRE SOUTHERN U.S./MEXICO BORDER BY VIOLATING U.S. FISH & WILDLIFE laws:

1. with Joe Biden's Executive Orders and/or Memorandums
2. "open border policies" and
3. **FAILING TO ENFORCE EXISTING LAWS**  
(immigration, public health & safety, federally endangered species, etc.)

### EXAMPLES OF JUST 3 OF MANY "ENDANGERED" SPECIES



SUBMITTED BY: Concerned Citizens of America

AZ-YUMA-22-0984-A-000069

This document is styled after “The Pelican Brief” submitted by Darby Shaw in the movie of the same name starring Julia Roberts and Denzel Washington, featuring a “federally endangered pelican.” [https://en.wikipedia.org/wiki/The\\_Pelican\\_Brief\\_\(film\)](https://en.wikipedia.org/wiki/The_Pelican_Brief_(film))

While there are no people being assassinated in this “2021 Pelican Brief”, **there are, however, PLANTS, ANIMALS, BIRDS and other species BEING ENDANGERED if not on the way to becoming EXTINCT due to political reasons by the current Biden administration to effectuate an almost “no holds barred” open-borders-policy AND THE abandonment of many current U.S. laws, codes and former U.S. immigration policies.**

**A notable excerpt REGARDING THE ENVIRONMENT** from [State of AZ v Mayorkas et al](#) (starting at lines 16-17 of page 15) “...the agencies must analyze the impacts of the increased demand attributable to the additional runway...” **prompted the Concerned Citizens of America to think about the TRASH TONNAGE “ mass accumulation of discarded items/articles INCLUDING BUT NOT LIMITED TO plastic bottles, soiled diapers, discarded clothing, and plastic “cartel ID wrist-bands” of tens of thousands of “illegal aliens” trampling through the hills, stream beds, waterways and/or nesting places and habitats of animal & plant species currently on the Federally Endangered list** (the species of which are living in “human & drug trafficking corridors” across the southern U.S. border from the Pacific Ocean to the Gulf of Mexico).

**Biden and his administrators’/agencies’ actions are causing IRREPARABLE HARM & INJURY to Federally Endangered plants’ and animals’ & their habitats** along the southern border counties from the Pacific Ocean to the Gulf of Mexico (*see attached document listing AZ, NM, TX & CA info.*).

## FACTS:

- 1. TRASH LEFT BY ILLEGALS CROSSING OUR BORDER poses a threat not only to the environment *BUT ALSO TO Federally ENDANGERED SPECIES* and their habitats and/or nesting areas in each border state from the Pacific Ocean to the Gulf of Mexico.**
  - a) The **Arizona Department of Environmental Quality** estimates that **each illegal migrant contributes 6-8 pounds of trash during their journey across the desert.** This waste often doesn’t disintegrate and poses serious risks to wildlife in the border region, some of which are endangered species. <https://www.immigrationreform.com/2021/06/04/illegal-immigration-impact-environment-immigrationreform-com/>
  - b) The **Arizona Department of Environmental Quality** estimates border crossers dump 2,000 tons (**4 MILLION POUNDS**) of trash each year (**including discarded clothing, water bottles, and food containers.** REUTERS/Krista Niles <https://www.reuters.com/article/us-immigration-usa-trash/migrant-trash-piles-up-at-remote-u-s-mexico-border-areas-idUSTRE80SQB20120129>
  - c) In March, 2021, approximately 171,000 “illegal aliens” were apprehended at our southern border. **Using a matrix of 6-8 lbs. of trash dumped by each ILLEGAL alien,** that is the equivalent of 9 square feet per person at roughly 1 inch deep. Using those calculations, that **represents 27 FOOTBALL FIELDS OF TRASH left by 171,000 illegals just for the month of March** and that doesn’t include the “got-aways.”

## POINTS & AUTHORITIES:

**FEDERAL LAWS / CODES WERE ENACTED BY CONGRESS to protect animals and their habitat, among other things.** The below laws and codes are pinnacle in wildlife and habitat protection and which Joe Biden AND his administration have largely disregarded if not abandoned, thus contributing to **the endangerment and/or reduction and/or extinction** of Federally protected species and their habitats:

a) **The Endangered Species Act (ESA) of 1973,**

(7 U.S.C. § 136, 16 U.S.C. § 1531 et seq., Public Law 93-205).

This act is designed to protect both the species and “the ecosystems on which endangered species and threatened species depend.” To be considered for listing, the species must meet one of five criteria (section 4(a)(1)):

There is the present or threatened destruction, modification, or curtailment of its habitat or range. [https://www.law.cornell.edu/wex/endangered\\_species\\_act\\_%28esa%29](https://www.law.cornell.edu/wex/endangered_species_act_%28esa%29)

**The U.S. Fish and Wildlife Service (FWS) has declared that “harm” includes “significant habitat modification or degradation.”** Violations of the ESA are FELONIES (subject to prison and up to \$20,000 fines) \*

\* **BABBITT v. SWEET HOME (1995)** <https://www.law.cornell.edu/supct/html/94-859.ZO.html>

**(Public Law 93-205) see Section 11 –PENALTIES AND ENFORCEMENT;**

**(Public Law 93-205) see Section 11 (g) (1) (A) CITIZEN SUITS)** ...any person may commence a civil suit on his own behalf— [ (A) to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act or regulation issued under the authority thereof; <https://uscode.house.gov/statutes/pl/93/205.pdf>

- b) the **Fish and Wildlife Act of 1956** (16 U.S.C. 742a-j) - Among other things, it directs a program of continuing research, extension, and information services on fish and wildlife matters, both domestically and internationally. Section 7(a) of the Act (**16 U.S.C. 742f; 70 Stat. 1122**) requires the Secretary of the Interior to: **4) take steps "required for the development, advancement, management, conservation, and protection of the fisheries resources," and take steps "required for the development, management, advancement, conservation, and protection of fish and wildlife resources" through research, acquisition of land and water or interests therein, development of existing facilities, and other means.** <https://www.fws.gov/laws/lawsdigest/FWACT.HTML>

### **RATIONALLE:**

The original lawsuits (*State of AZ v Mayorkas et al* filed April 11, 2021...and *Sheriff Brad Coe et al. v. Joseph R. Biden Jr. et al.*, filed 07/01/21) **DO NOT ADDRESS** matters handled by the U.S. Fish & Wildlife Service (i.e.: laws that protect Federally endangered species and their habitats **PLUS** their felony penalties), nor do they address the FOOTBALL FIELDS OF TRASH that are ever accumulating and which create a financial burden on taxpayers and/or volunteer groups to collect and dispose of properly and legally.

**Amending** *State of AZ v Mayorkas et al* ...and *Sheriff Brad Coe et al. v. Joseph R. Biden Jr. et al.* **to include violations of at least The Endangered Species Act (ESA) of 1973**, (7 U.S.C. § 136, 16 U.S.C. § 1531 et seq., Public Law 93-205), **WITH HEAVY EMPHASIS ON FOOTBALL FIELDS OF TRASH would provide another layer of incontrovertible legal arguments to withstand “strict scrutiny” and render a “win” for injunctive relief, aid in renewed efforts for border wall construction (to INCLUDE 8” X 12” ANIMAL “PASS-THROUGHS” (as was done along the AZ new border wall roughly 1 per mile in 2020 as a retrofit) to help secure our American southern border from more illegal immigration (human trafficking) and drug smuggling.**

**Similar to the technicality for which Al Capone was sent to jail (tax fraud), violations of The Endangered Species Act (ESA) of 1973 can have an equally devastating effect for those in the Biden administration who have largely disregarded many, many laws for their political agenda.** Also, **the leveraging of a violation of The Endangered Species Act** against an illegal alien (i.e.: dumping trash at the border versus simply entering illegally) ... **could have a profound deterrent effect when “illegal crossers” would face either “jail” or “deportation”,** yes?

PETA and “nature aficionados” love furry animals. Can you imagine the visceral reaction when folks find out that **3 OF AMERICA’S RAREST FELINES are on the brink of extinction on our southern border** (**Arizona’s Jaguar** (*Panthera onca*) and **Ocelot** (*Leopardus (=Felis) pardalis*) and **Texas’s Sinaloa Jaguarundi** [*Herpailurus (=Felis) yagouaroundi tolteca*] **because their habitats are constantly being trampled upon or otherwise disturbed** plus **BEING DESTROYED BY THE TONNAGE OF TRASH left by illegals crossing over their migratory paths** from Mexico?

**SEE ATTACHED FOR significant Federally Endangered (FE) SPECIES for Arizona, New Mexico, Texas and California.** The list (plus government source websites) for each state’s Federally Endangered species is compelling and includes **MANY MORE THAN** the above-mentioned rarest **MAMMALS** in America.



September 9, 2022

**VIA EMAIL**

Ian McGaughey  
County Administration Bldg.  
198 South Main Street  
Yuma, AZ 85364  
[Ian.McGaughey@yumacountyaz.gov](mailto:Ian.McGaughey@yumacountyaz.gov)

**Re: Public Records Request**

Dear Public Records Officer:

Pursuant to the Arizona Public Records Law, A.R.S. §§ 39-121 *et seq.*, American Oversight makes the following request for records.

**Requested Records**

American Oversight requests that your office promptly produce the following records:

All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) and text messages or messages on messaging platforms (such as Slack, GChat or Google Hangouts, Lync, Skype, Twitter direct messages, Facebook messages, WhatsApp, Signal, Telegram, or Parler) between (a) Supervisors Jonathan Lines and Darren Simmons and (b) Arizona Representative Mark Finchem, including, but not limited to, communications from [mfinchem@azleg.gov](mailto:mfinchem@azleg.gov), [markfinchem@me.com](mailto:markfinchem@me.com), or [markfinchem@protonmail.com](mailto:markfinchem@protonmail.com).

Please provide all responsive records from November 1, 2020, through the date the search is conducted.

**Statement of Noncommercial Purpose**

This request is made for noncommercial purposes. American Oversight seeks records regarding communications county officials may have had with a legislator who spread the false claim that the 2020 election was stolen. Records with the potential to shed light on this matter would contribute significantly to public understanding of operations of the government, including whether and to what extent these communications have taken place and had any influence on the official's work.

Because American Oversight is a 501(c)(3) nonprofit, this request is not in American Oversight's financial interest and is not made for a commercial purpose. American Oversight's mission is to promote transparency in government, to educate the public

about government activities, and to ensure the accountability of government officials. American Oversight uses the information gathered, and its analysis of it, to educate the public through reports, press releases, or other media. American Oversight also makes materials it gathers available on its public website and promotes their availability on social media platforms, such as Facebook and Twitter.<sup>1</sup>

Because this request is made for noncommercial purposes, American Oversight requests that any fees charged in connection with processing this request be limited to copying and postage charges, if applicable.<sup>2</sup> Please notify American Oversight of any anticipated fees or costs in excess of \$100 prior to incurring such costs or fees.

### **Guidance Regarding the Search & Processing of Requested Records**

In connection with its request for records, American Oversight provides the following guidance regarding the scope of the records sought and the search and processing of records:

- Please search all locations and systems likely to have responsive records, regardless of format, medium, or physical characteristics.
- Our request for records includes any attachments to those records or other materials enclosed with those records when they were previously transmitted. To the extent that an email is responsive to our request, our request includes all prior messages sent or received in that email chain, as well as any attachments to the email.
- Please search all relevant records or systems containing records regarding agency business. Do not exclude records regarding agency business contained in files, email accounts, or devices in the personal custody of your officials, such as personal email accounts or text messages.
- If any records are withheld in full or in part, pursuant to A.R.S. § 39-121.01(D)(2), please provide an index of records or categories of records that have been withheld and the reasons the records or categories of records have been withheld.
- In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of

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<sup>1</sup> American Oversight currently has approximately 16,000 followers on Facebook and 119,000 followers on Twitter. American Oversight, Facebook, <https://www.facebook.com/weareoversight/> (last visited Sept. 6, 2022); American Oversight (@weareoversight), Twitter, <https://twitter.com/weareoversight> (last visited Sept. 6, 2022).

<sup>2</sup> A.R.S. § 39-121.01(D)(1); *see also Hanania v. City of Tucson*, 128 Ariz. 135, 624 P.2d 332 (Ct. App. 1980). Furthermore, because this request is for noncommercial purposes, additional fees provided for under A.R.S. § 39-121.03(A) are not applicable and should not be assessed.

the requested records. If a request is denied in whole, please state specifically why it is not reasonable to segregate portions of the record for release.

- Please take appropriate steps to ensure that records responsive to this request are not deleted by the agency before the completion of processing for this request. If records potentially responsive to this request are likely to be located on systems where they are subject to potential deletion, including on a scheduled basis, please take steps to prevent that deletion, including, as appropriate, by instituting a litigation hold on those records.

### **Conclusion**

If you have any questions regarding how to construe this request for records or believe that further discussions regarding search and processing would facilitate a more efficient production of records of interest to American Oversight, please do not hesitate to contact American Oversight to discuss this request. American Oversight welcomes an opportunity to discuss its request with you before you undertake your search or incur search or duplication costs. By working together at the outset, American Oversight and your agency can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in an electronic format by email. Alternatively, please provide responsive material in native format or in PDF format on a USB drive. Please send any responsive material being sent by mail to American Oversight, 1030 15th Street NW, Suite B255, Washington, DC 20005. If it will accelerate release of responsive records to American Oversight, please also provide responsive material on a rolling basis.

We share a common mission to promote transparency in government. American Oversight looks forward to working with your agency on this request. If you do not understand any part of this request, please contact Khahilia Shaw at [records@americanoversight.org](mailto:records@americanoversight.org) or (202) 539-6507.

Sincerely,

*/s/ Khahilia Shaw*  
Khahilia Shaw  
on behalf of  
American Oversight