

CAUSE NO. D17-25705-CV

COLLIN STREET BAKERY, INC., § **IN THE DISTRICT COURT OF**
§
Plaintiff, §
§
vs. § **NAVARRO COUNTY, TEXAS**
§
JOSE MANUEL SANTOYO, §
§
Defendant. § **13TH JUDICIAL DISTRICT**

PLAINTIFF COLLIN STREET BAKERY, INC.'S FIRST AMENDED PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Plaintiff Collin Street Bakery, Inc. (“Plaintiff”), and files this First Amended Petition against Defendant Jose Manuel Santoyo (“Defendant”) and in support thereof would respectfully show the following:

I. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery pursuant to Texas Rule of Civil Procedure 190.2, Level 1.

II. CLAIM FOR RELIEF

2. Plaintiff seeks monetary relief of less than \$100,000 and non-monetary relief and deems this action subject to Texas Rule of Civil Procedure 169.

III. PARTIES AND PROCESS

3. Plaintiff is a Texas corporation duly authorized to do business in the State of Texas with its principal place of business located in Navarro County, Texas.

4. Defendant is an individual who has been served with process and appeared herein.

IV. JURISDICTION AND VENUE

5. Jurisdiction is proper because the relief sought by Plaintiff is within the jurisdiction of this Court. Pursuant to Texas Civil Practice and Remedies Code Section 15.017, venue is proper in Navarro County, Texas, because Plaintiff resided in Navarro County, Texas, at the time its cause of action against Defendant accrued.

V. FACTS

6. Plaintiff has been in business for over one hundred twenty years serving customers through its retail stores, direct mail sales and internet sales. Plaintiff has the privilege of shipping its products to customers around the world and takes great pride in its excellent reputation with the public. Plaintiff's reputation is very important to Plaintiff's business.

7. In November 2012, Defendant applied for part-time, seasonal employment with Plaintiff at Plaintiff's call center located in Plaintiff's corporate offices in Corsicana, Texas. Defendant completed the Federal Government's Employment Eligibility Verification form ("I-9 Form") as part of Plaintiff's hiring process prior to being hired. Defendant represented to Plaintiff on his I-9 Form that he had a lawful permanent resident card and signed the I-9 Form, attesting under penalty of perjury that he was a "lawful permanent resident," eligible to work in the United States. Defendant also identified a Social Security Number on his I-9 Form. Upon presenting Plaintiff a copy of lawful permanent resident documentation, which he represented to be his, Defendant was hired by Plaintiff. Defendant worked in Plaintiff's call center from November 12, 2012 to December 18, 2012.

8. Defendant has made numerous untrue and unlawful statements about Plaintiff's hiring and employment practices related to his employment with Plaintiff. He has made these statements both to the media and by publications on his personal Facebook page.

9. On November 10, 2016, The Texas Tribune published an article containing Defendant's untrue and unlawful statements related his employment with Plaintiff. The article featured Defendant's recollection about working for Plaintiff, claiming that Plaintiff "hired [Defendant] even though he was undocumented and at the time didn't have DACA status." A true and correct copy of the subject Texas Tribune article published on November 10, 2016 is attached hereto as Exhibit "A" and incorporated herein by reference. This same day, Defendant also shared and promoted the article on his Facebook page. A true and correct copy of the relevant excerpts from Defendant's Facebook page demonstrating this post is attached hereto as Exhibit "B" and incorporated herein by reference. The article was also later published by the Texas Tribune's Business Insider publication on November 13, 2016. A true and correct copy of the Business Insider article is attached hereto as Exhibit "C" and incorporated herein by reference.

10. On December 6, 2016, the Texas Tribune published yet another story featuring Defendant's untrue and unlawful statements related to his employment with Plaintiff. Within the article, Defendant claims that he was hired by and worked for Plaintiff when Plaintiff knew he was an undocumented worker. A true and correct copy of the December 6, 2016 Texas Tribune article is attached hereto as Exhibit "D" and incorporated herein by reference. Defendant also once again took to his Facebook page on December 6, 2016, promoting this second Texas Tribune article. A true and correct copy of the relevant excerpts from Defendant's Facebook page is attached hereto as Exhibit "E" and incorporated herein by reference.

11. Defendant's untrue and unlawful statements related to his employment with Plaintiff wrongfully accuse Plaintiff of knowingly hiring him as an undocumented worker in violation of federal law. While Plaintiff chose not to act upon Defendant's first few untrue and unlawful statements regarding his employment with Plaintiff, expecting Defendant would simply

stop making such statements, Defendant continues to make such erroneous statements for some reason, requiring Plaintiff to file this lawsuit to set the record straight.

12. Defendant's untrue and unlawful, malicious statements at issue constitute allegations that Plaintiff has committed a crime because knowingly hiring an "unauthorized alien" is illegal under 8 U.S.C. § 1324a(a)(1)(A). Thus, Defendant's statements at issue constitute defamation per se.

13. Plaintiff did not hire Defendant knowing he was an unauthorized worker. Plaintiff's hiring practice related to Defendant followed the government's "Employment Verification System" requirements set forth in the Immigration Reform and Control Act ("IRCA"). *See* 8 U.S.C. § 1324a(b). In this regard, Plaintiff performed the following tasks required by 8 U.S.C. § 1324a(b) before hiring Defendant:

- i. Defendant completed and signed an I-9 Form, attesting subject to the penalty of perjury that he was not an unauthorized alien and had the required documentation to legally work in the United States;
- ii. Plaintiff examined the required employment authorization verification document(s) set forth in 8 U.S.C. § 1324a(b)(1)(A)-(D), which Defendant presented;
- iii. Plaintiff completed and signed Defendant's I-9 Form confirming that it had verified that Defendant represented he was not an unauthorized alien based on the I-9 Form completed by Defendant and the required documentation Defendant presented;
- iv. Plaintiff retained Defendant's I-9 Form; and
- v. Plaintiff complied in good faith with all requirements of 8 U.S.C. § 1324a(b) with respect to Defendant's employment.

See 8 U.S.C. § 1324a(b).

14. The United States Supreme Court has held that "[g]ood-faith compliance with IRCA's I-9 document review requirements provides an employer with an affirmative defense if charged with a § 1324a violation." *Chamber of Commerce of U.S. v. Whiting*, 563 U.S. 582 (2011). Thus, Plaintiff's good-faith compliance with the IRCA's Employment Verification

System in hiring Defendant establishes that Plaintiff did not hire Defendant knowing or being willfully blind to the fact that Defendant was really an unauthorized worker at the time.

15. If Defendant was not legally authorized to work in the United States at the time Plaintiff hired him, Plaintiff did not know this to be true. Plaintiff took every step required by law regarding Defendant's employment eligibility prior to hiring Defendant. Plaintiff required Defendant to complete and execute an I-9 Form and provide the required documentation evidencing his legal authorization to work in the United States prior to being hired. Plaintiff reasonably relied upon said I-9 Form and the lawful permanent resident documentation Defendant provided to Plaintiff at that time. Thus, if Defendant was actually an undocumented alien at the time Plaintiff hired him, Defendant must have provided Plaintiff with false documentation which represented that he was allegedly legally authorized to work in the United States. If Defendant indeed provided false documentation to Plaintiff, under penalty of perjury, then Defendant was the only person who "knowingly" committed a crime.

VI. REQUEST FOR CORRECTION, CLARIFICATION, OR RETRACTION

16. Pursuant to Texas Civil Practice and Remedies Code § 73.055, Plaintiff hereby demands that Defendant take the following actions: (1) require the Texas Tribune and Business Insider to retract all of Defendant's untrue and unlawful remarks related to Defendant's employment with Plaintiff referenced herein, which he made in articles published by the Texas Tribune and The Texas Tribune's Business Insider on November 10, 2016, November 13, 2016, and December 6, 2016; (2) retract and remove the subject December 6, 2016 malicious, defamatory post from his Facebook page; and (3) publish a new post on his Facebook page admitting that his unlawful statements regarding Plaintiff's employment practices related to Defendant's employment with Plaintiff made on his Facebook page and to The Texas Tribune have no factual basis. Plaintiff

demands that this retraction and the related correction be published on Defendant's Facebook page in the same manner and medium as Defendant's original publications at issue.

VII. CAUSE OF ACTION – DEFAMATION

17. Plaintiff incorporates the foregoing paragraphs by reference.
18. Defendant published false, defamatory remarks regarding Plaintiff's hiring practices related to Defendant's employment with Plaintiff.
19. Defendant's false, malicious statements related to his employment with Plaintiff are defamatory per se because they explicitly and unambiguously claim that Plaintiff committed a crime and violated federal law and were made with the intent to cause injury to Plaintiff's reputation. Specifically, Defendant alleges that Plaintiff knowingly employed him as an unauthorized worker in violation of 8 U.S.C. § 1324a(a)(1).
20. Defendant made the subject defamatory, malicious statements knowing they were false. Defendant's intent was clearly to substantially injure Plaintiff's reputation in the community.
21. Plaintiff is entitled to damages because Plaintiff's reputation has been injured by Defendant's defamatory per se statements.

VIII. NOMINAL DAMAGES

22. As a result of Defendant's publication of his defamatory per se statements, Plaintiff is entitled to recover nominal damages in addition to retraction of the statements at issue.

WHEREFORE, PREMISES CONSIDERED, Plaintiff Collin Street Bakery, Inc. requests that Defendant Jose Manuel Santoyo be cited to appear and answer herein; and that upon the trial of this lawsuit the Court enter Judgment against Defendant as follows:

- (1) judgment against Defendant requiring the retraction of the subject aforementioned untrue and unlawful statements Defendant made to the media and posted on his Facebook page;
- (2) judgment against Defendant for nominal damages to Plaintiff for making and publishing the subject defamatory, malicious statements;
- (3) pre-judgment interest at the appropriate legal rate on the nominal damages awarded to Plaintiff;
- (4) post-judgment interest at the appropriate legal rate on the nominal damages awarded to Plaintiff until paid in full;
- (5) cost of suit; and
- (6) such other and further relief, both at law and in equity, to which Plaintiff may show itself justly entitled.

Respectfully submitted,

HIERSCHE, HAYWARD, DRAKELEY & URBACH, P.C.

By: /s/ Craig A. Harris
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Natalie A. Sears
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**ATTORNEYS FOR PLAINTIFF COLLIN
STREET BAKERY, INC.**

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above and foregoing document has been served on Defendant's counsel through the Electronic Service Provider (ESP) and regular first class mail on this the 5th day of April, 2017, pursuant to the Texas Rule of Civil Procedure 21a.

Stephen E. Fox (sfox@polsinelli.com)

Daniel D. McGuire (dm McGuire@polsinelli.com)

LaToya Alexander (lalexander@polsinelli.com)

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Dallas, Texas 75201

/s/ Craig A. Harris
Craig A. Harris



Menu



Immigrant 'dreamers' fear deportation nightmare under Trump

Some undocumented immigrants brought here as kids were granted a sort of legal status by President Barack Obama. They're in a state of shock and panic now that Donald Trump has won the White House. [f](#) [t](#)

BY **JAY ROOT AND TRAVIS PUTNAM HILL** NOV. 10, 2016 12:01 AM



José Santoyo at his mother's home in Corsicana on Oct. 23, 2016. Gabriel Cristóver Pérez for The Texas Tribune



BORDERING ON
INSECURITY

EXHIBIT "A"

<https://www.texastribune.org/2016/11/10/immigrant-dreamers-fear-deportation-nightmare/>

1/19/2017

The Texas Tribune is taking a yearlong look at the issues of border security and immigration. This part of the project focuses on how violent gang warfare and grinding poverty are driving new waves of Central American immigration to the United States. Sign up to get story alerts.

Of all the people worried about a Donald Trump presidency, few are freaking out more than the young undocumented immigrants who were granted relief from deportation under President Barack Obama's 2012 executive order.

Trump promised during his smash-talking presidential run to wipe away the order with a stroke of a pen, and with it the dreams of all those so-called "dreamers" who came out of the shadows under Deferred Action for Childhood Arrivals, or DACA.

On Wednesday, when Trump pulled off a historic upset against pro-DACA candidate Hillary Clinton, the fear that dreamers tried to push out of their minds for the last few months came spewing out. By next year, they could all be facing deportation — in some cases to countries they mostly know from pictures, if at all.

"I wouldn't even know how to get around Mexico right now. I have no sense of how things work there, how society works there," said José Manuel Santoyo, 24, who grew up in Corsicana and hasn't been back to his native Mexico since he left as a child in 2001. "Every society runs differently, and I wouldn't know what to do if I was there."

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Santoyo's voice cracked when he contemplated his precarious future. He is scheduled to graduate from Southern Methodist University in December, a matter of days before Trump takes the oath of office. He has no idea if he'll be able to get a job or what his legal status will be after that.

"People are just afraid of what's going to happen. I feel like that's the worst thing: not knowing what's going to happen. That's what really kills you inside because you want things

to be okay, but you don't know what these politicians will actually do in order to maintain their power," he said. "So that's what's impacting a lot of people. It's breaking them down mentally."

Santoyo joined thousands of fellow DACA beneficiaries who, in the span of a few hours, saw the unthinkable materialize into palpable fear.

Jessica Azua went to bed not knowing who won the presidential race Tuesday night and spent Wednesday in a state of shock and worry. She came to the United States from Tampico, Mexico, at the age of 14 to be reunited with a father she hadn't seen in three years.

She graduated early from Brackenridge High School in San Antonio and got a business management degree from Texas A&M University.

"People are just afraid of what's going to happen. I feel like that's the worst thing: not knowing what's going to happen. That's what really kills you inside."

— José Manuel Santoyo

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"I'm sad. I'm angry. I'm scared," said Azua, 25, a community organizer at the Texas Organization Project, or TOP, which fights for immigrants and low-income minorities. "I'm worried about what's going to happen to my family. I'm worried about what's going to happen to my job."

Omar Perez, 26, who recently graduated from University of Houston with a degree in mathematics, said he was planning to go to graduate school to study engineering but now figures that's "a really far-fetched idea." He doubts Trump will actually follow through with threats to deport people like him. What he fears instead is returning to the underground economy as an undocumented immigrant with no work authorization.

"Once you're undocumented you're treated like a second-class citizen in this country," he said. "It looks like that's going to be the reality."

Obama's 2012 order granted relief from deportation to roughly 700,000 undocumented immigrants who arrived here as children. Nearly 200,000 of them are in Texas. The recipients of the relief are named "dreamers" because they were targeted for DACA-like

help by the DREAM Act, legislation that was introduced but never passed by the U.S. Congress.

DACA was restricted to immigrants without any serious criminal record and who had high school degrees, were on track to get them or an equivalent, or were honorably discharged U.S. military veterans. Besides shielding the immigrants from deportation, DACA gave recipients work permits, allowing them to leave jobs in which they often faced low wages and exploitation.

A July 2015 study published by the Center for American Progress, a progressive Washington-based think tank, found that 45 percent of DACA recipients reported a higher wage after receiving the benefit, while about 90 percent said they were able to get a state-issued ID. Another 90 percent said they were offered more educational opportunities with DACA than without.

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benefited from it.

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"They have to go," he said of those who

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It's a scary prospect for Edgar Navarrete, 22, a University of Texas at Austin student who helps other immigrants navigate their DACA cases. Navarette hasn't been to his native Coahuila, Mexico, since he was a toddler and couldn't even name the hospital where he was born. He continues to nurture hope that Trump will reverse course, but in the meantime he's had to contemplate the unimaginable: what to do if he is deported.

"I would contact a distant relative that I still have over there, and ask them for refuge for a while to figure things out," he said. "And I guess restart my life in Mexico."

Mary Moreno, another community organizer working for TOP, said revoking DACA would deal a blow not only to those who are shielded from deportation but also to the employers who are

counting on them to show up for work no matter who's in the White House. She said DACA recipients are spread through the state and national economy — working as teachers, nurses and even doctors.

"It's still going to be a painful practice to extract that many people from the above-ground economy," she said. "They're doing essential jobs, and if they lose their status they lose their livelihoods, and it's going to have a significant impact on our economy and our state."

Despite hearing Trump's tough rhetoric for months, DACA supporters say they will fight to keep the benefit, through protests, community organizing and even direct appeals to Trump.

"Our hope is we can appeal to him to not be so cruel and callous about this and have some humanity," said Moreno. "I haven't seen any firm plans yet, but we are definitely going fight to preserve DACA."

Read related Tribune coverage here:

- Undocumented immigrants in Texas are taking a glass-half-full approach as a 2012 initiative that has benefited hundreds of thousands of immigrants marks its four-year anniversary. But will that optimism last after the November election?
- Marcos Valencia was raised in Indiana, but in the eyes of the law, his home is the cartel-infested state of Tamaulipas, Mexico, where he was born. Now he's stuck in Mexico, unable to return to the country where he grew up.

Reporter Julián Aguilar contributed to this story.

This story is part of The Texas Tribune's yearlong Bordering on Insecurity project.



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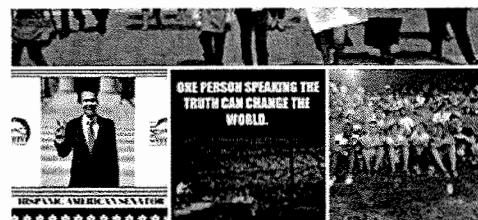
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José Manuel Santoyo shared Texas Tribune's post.

November 10 · Dallas

This is the last story I will share on this topic. I'm tired. I slept a few hours last night-- more than the night before. I've heard and read stories. Some people have become targets. We must work together and overcome this.

"A July 2015 study published by the Center for American Progress, a progressive Washington-based think tank, found that 45 percent of DACA recipients reported a higher wage after receiving the benefit, while about 90 percent said they were able to get a state-issued ID. Another 90 percent said they were offered more educational opportunities with DACA than without."

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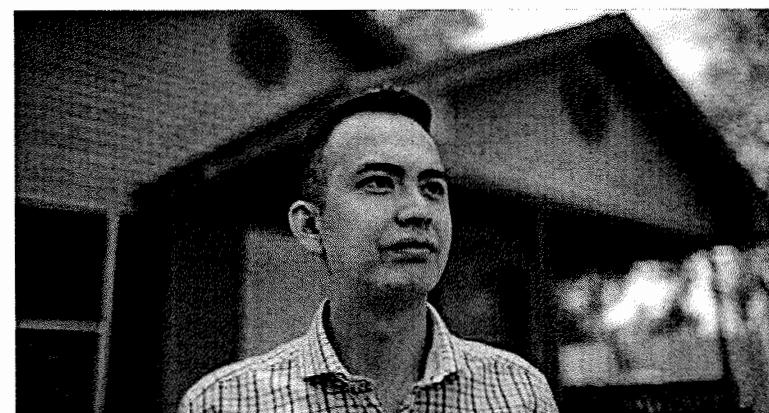


Texas Tribune

November 10



We spoke to undocumented immigrants who fear deportation under Donald J. Trump. Here's what they said.



Immigrant 'dreamers' fear deportation nightmare under Trump

Some undocumented immigrants brought here as kids were granted a sort of legal status by President Barack Obama. They're in a state of shock and panic now that...

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BUSINESS INSIDER

Immigrant 'dreamers' fear deportation nightmare under Trump



JAY ROOT AND TRAVIS PUTNAM HILL, TEXAS TRIBUNE

NOV. 13, 2016, 3:16 PM

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EXHIBIT "C"



José Santoyo at his mother's home in Corsicana

Gabriel Cristóver Pérez/Texas Tribune

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Immigrants take the oath of citizenship to the United States in the Great Hall of Ellis Island.

John Moore/Getty Images

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BUSINESS INSIDER

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Reporter Julián Aguilar contributed to this story.

This story is part of The Texas Tribune's yearlong Bordering on Insecurity project.

Read the original article on Texas Tribune. The Texas Tribune is a nonpartisan, nonprofit media organization that informs Texans — and engages with them — about public policy, politics, government and statewide issues.

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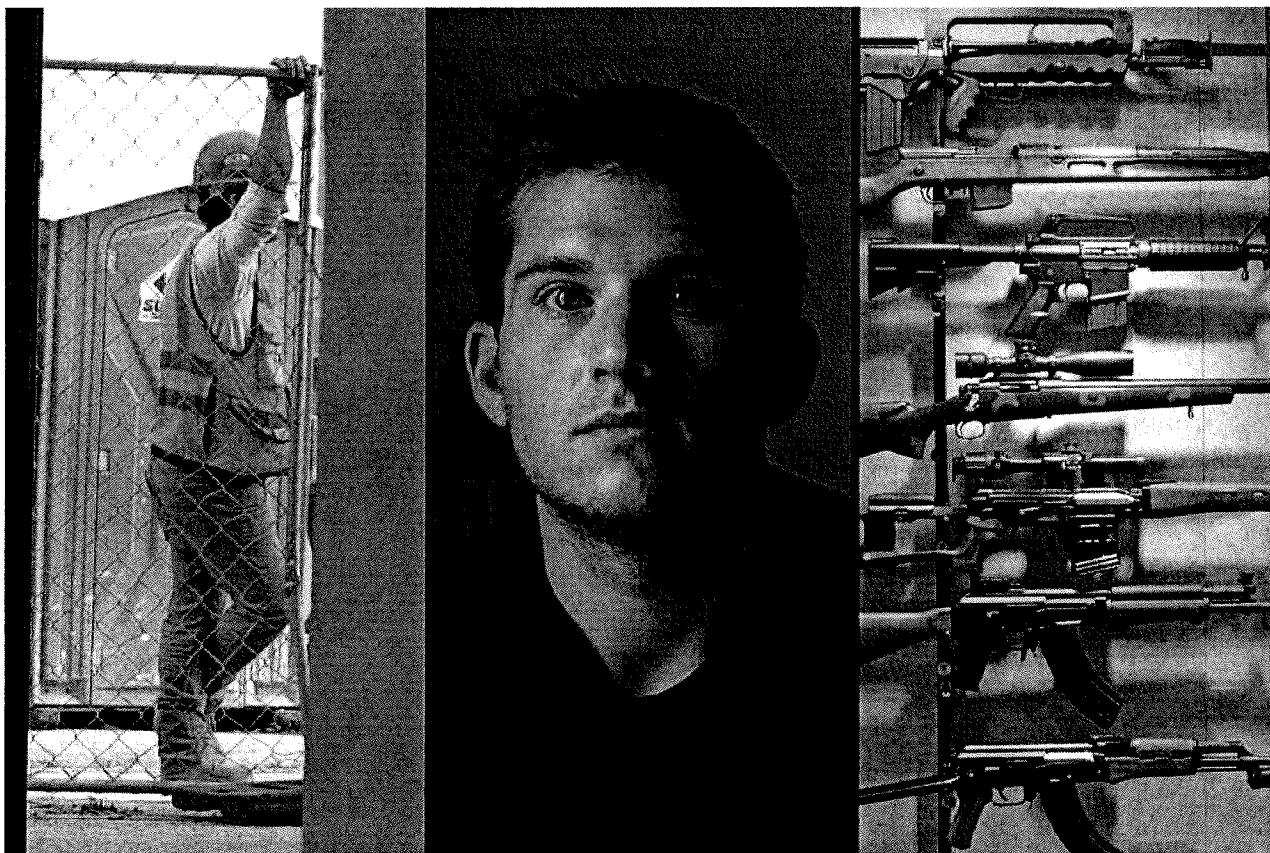
18

Menu

If we hire them, they will come: The demand side of border security

A fundamental truth underlies the nation's collective failure to stop illegal immigration and smuggling over the southern border: The United States demands the cheap labor and drugs. [f](#) [t](#)

BY JAY ROOT, JOLIE MCCULLOUGH AND JULIÁN AGUILAR DEC. 6, 2016 12:01 AM



BORDERING ON
INSECURITY

The Texas Tribune is taking a yearlong look at the issues of border security and immigration. In this part of the project we look at how our insatiable demand for illegal drugs and cheap labor make the border less secure. Sign up to get story alerts.

EXHIBIT "D"

<https://www.texastribune.org/2016/12/06/demand-side-border-policy/>

12/7/2016

Businessman Thomas McNutt's run for political office began as a classic tale of an upstart young conservative taking on the Texas political establishment.

It was among the most closely watched primaries for Texas House seats this year, and for good reason: McNutt was mining the same bubbling outrage over the porous border and illegal immigration that fueled the rise of Donald Trump. And his opponent, powerful GOP incumbent Rep. Byron Cook, was a top target of the immigration hardliners.

Cook has been a supporter of the long-standing state policy allowing young undocumented immigrants to pay in-state college tuition rates. He chairs the important House committee where, in 2011, a ban on so-called sanctuary cities fizzled out amid opposition from major business figures. Then last year, he authored a bill that would have let thousands of people living here illegally drive their vehicles legally. (They still can't.)

Cook "supports illegal immigrants," McNutt claimed in a February interview in the Palestine Herald newspaper, right before the two Corsicana businessmen squared off in the March Republican primary.

"I am offering the voters in our district a conservative choice who will fight to stop illegal immigrants from entering our state," he said.

It was a solid political strategy, save for one problem.

The famous company McNutt's family owns and operates — Collin Street Bakery in Corsicana — had itself hired undocumented immigrants, according to news reports and Texas Tribune interviews. And when some of them began speaking out, the dynamics of the race shifted.

Illegal immigration and border security remained the top issues, but the focus moved from Cook's voting record to McNutt's alleged hypocrisy.

"He says he's for border security," an announcer mockingly intoned in a negative ad aired against McNutt. "But his bakery hires cheap illegal workers."

When the smoke cleared on the March 2016 primary, Cook had eked out a victory, winning by a little more than 200 votes.



Former Texas House candidate Thomas McNutt inside his family business, the Collin Street Bakery, in 2013. CORVICANA DAILY SUN

Not surprisingly, McNutt and the workers see things differently today — each pointing fingers at the other.

Beyond the particulars of the case, though, the controversy reveals a fundamental truth about illegal immigration and the nation's collective failure to stop it. No matter how many hurdles are erected at the border, once immigrants get past them they find plentiful jobs — and often exploitation — in the nation's workplaces.

The Texas Legislature's almost \$800 million border security apparatus — not unlike the one developed in Washington, D.C., the town Texas politicians love to bash — relies on stopping the supply of uninspected people and drugs. It's all about boots on the ground, assets in the air, boats in the water.

But addressing the country's demand for cheap labor and drugs? Or its role in supplying the weapons drug cartels and smugglers use to protect their loads? Not so much.

It's not a minor flaw in the strategy. The steady demand for people and illegal products nourishes a giant international smuggling ecosystem. And until policymakers reduce American demand for Latin American supply, experts say the 2,000-mile U.S.-Mexico border will remain porous.

"You can only do so much at that border," said Jerry Robinette, former special agent in charge of Homeland Security Investigations in San Antonio. "You could never have enough enforcement personnel to deal with this as long as that magnet or that attraction is still there."

Demand side failures



Border Patrol Agents load a large package of marijuana seized near Roma, Texas, into their service vehicle on March 8, 2016. MARTIN DO NASCIMENTO FOR THE TEXAS TRIBUNE

The systematic failure to confront demand for foreign workers and illegal drugs is neither new nor confined to Texas.

Despite the untold billions spent worldwide trying to reduce the supply of illegal narcotics, the United Nations' 2016 World Drug Report found that more people than ever are addicted to them, yet only one in six problem drug users has access to treatment. In the United States, 5 percent of the world's population is consuming 80 percent of the opioids, and in cities like Dallas, first responders get more emergency calls for overdoses than for fires.

"We have an insatiable demand for drugs in this country. We are the largest market in the world," said William Kelly, founding director of the Center for Criminology and Criminal Justice Research at the University of Texas at Austin. "And the reason the cartels and other organized criminal enterprises dealing with drug crimes or drug transportation are so successful is because there is so much money to be made."

On the employment front, look no further than the U.S. House of Representatives, where Republicans have yet to use their sizable majority to pass U.S. Rep. Lamar Smith's

proposal to make electronic employment verification (E-Verify) mandatory for most U.S. employers. The San Antonio Republican has proposed it year after year, but his own GOP House leaders have never put the bill on the floor.

Asked why several months ago, he said, “that you would have to talk to Republican leadership about.” AshLee Strong, a spokeswoman for U.S. House Speaker Paul Ryan, did not directly answer why the bill has never been taken up in the chamber but said, “House Republicans will be working closely with the Trump transition team on policies to better enforce our laws.” She referred questions about scheduling future E-Verify bills to the office of House Majority Leader Kevin McCarthy, R-California. McCarthy’s office did not respond to email inquiries from the Tribune.

Democrats have generally opposed expanding E-Verify if it’s not paired with comprehensive immigration reform that would legalize millions of unauthorized immigrants.

Trump advocated expanding E-Verify, and his top immigration adviser told Bloomberg BNA after the election that making it mandatory was on the “to-do list.” If that happens and is backed up with real enforcement, the reforms would represent a sea change in the traditionally soft approach to immigrant hiring practices in Congress and the federal bureaucracy.

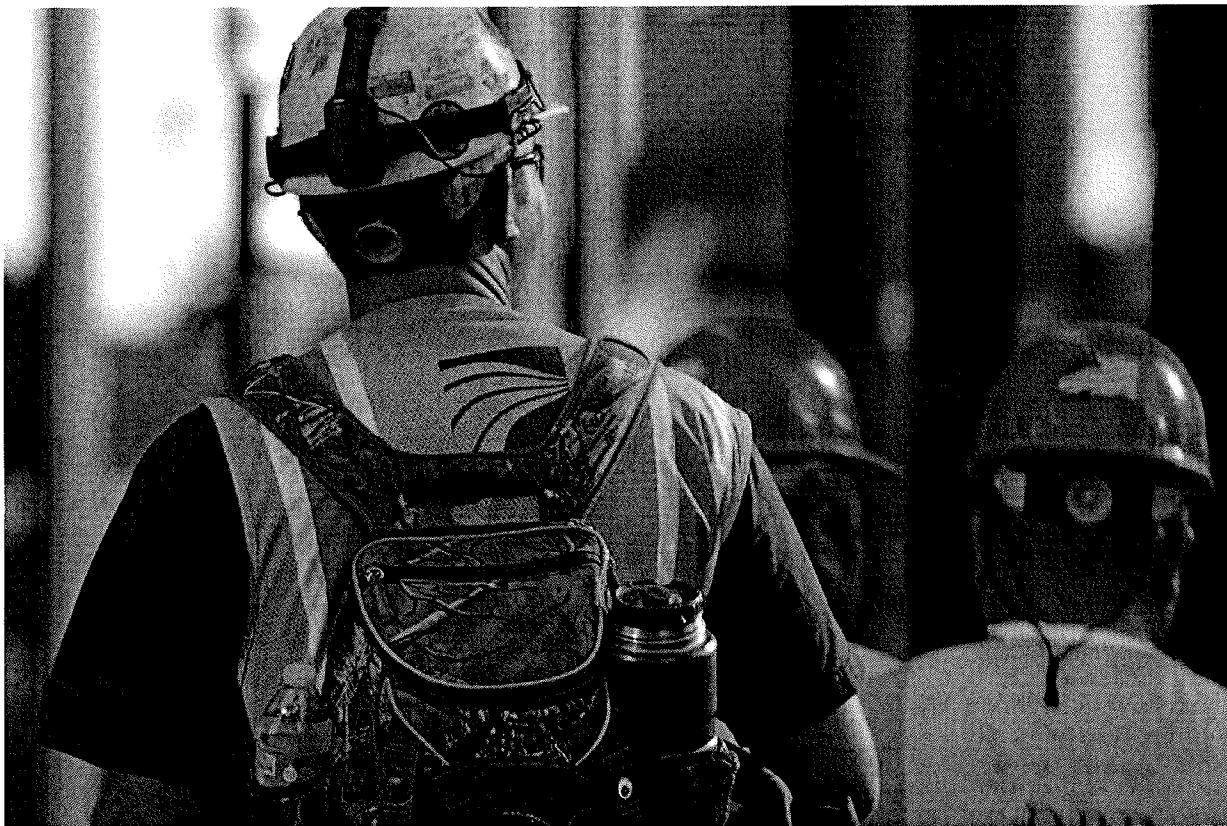
It’s been just as lax in the traditionally pro-business Texas Legislature, where adding new regulations for employers is about as welcome as the bubonic plague.

What is new, politically speaking, is that tough and even strident talk on border and immigration issues is moving American voters like never before, and hard-liners like Trump and Texas Lt. Gov. Dan Patrick have risen to power in part by promising to at last “secure the border.”

Texas has set itself apart from all other states by putting taxpayer money where the politicians’ mouths are, allocating \$800 million over the 2016 and 2017 fiscal years to stop migrants and drugs from crossing into the United States.

But more than a year after the program was launched, statistics and news reports have questioned the effectiveness of a strategy that has produced little visible impact in the vast market for illegal drugs and labor. A KXAN investigation called “Border Splurge” found that only 6 percent of the border-area arrests involved felony drug cases and less than 1 percent involved human smuggling.

| Lawlessness in the workplace



About 5 percent of the U.S. workforce is estimated to be in the country illegally, and one survey found half of Texas construction workers were undocumented. TODD WISEMAN / TEXAS TRIBUNE

The outrage over lawlessness at the border generally stops at the doors of the American workplace.

Knowingly employing people without work authorization became a federal crime in 1986, but Congress inserted a major loophole into the law. It doesn't require employers to vouch for the authenticity of the documents job applicants show them when filling out the I-9 form, which is supposed to help screen for undocumented workers.

Though some employers no doubt innocently hire people without knowing they're undocumented, in many industries skirting the law has become a way of life.

"Overwhelmingly, the employer knows," said Bill Beardall, whose Equal Justice Center in Austin represents undocumented immigrants when they inevitably get exploited and ripped off. "It has given rise to a don't-ask-don't-tell policy."

The Pew Research Center estimates undocumented immigrants represent 5 percent of the civilian workforce. But they are heavily concentrated in industries such as agriculture, food preparation/service, construction, hospitality and janitorial services. Half of all crop workers are undocumented, the government estimates. Closer to home, researchers at the

Workers Defense Project and the University of Texas at Austin reported in 2013 that half of the workers they surveyed at Texas construction sites were here illegally.

Sensational workplace raids or investigative news reports occasionally pull back the curtain on the vast underground of illegal employment, whether it's at meatpacking plants of the American Midwest or the checkout lines at Chipotle restaurants and Subway franchises. During the 2016 presidential contest, news reports surfaced about the undocumented Polish immigrants who helped build Trump Tower in Manhattan and the Latin American immigrants — some of whom told the Washington Post they were in the country without authorization — who worked on the president-elect's newest hotel in Washington, D.C. Even the billionaire politician's foreign-born wife, Melania Trump, was said to have worked illegally in the United States.

Over the years, legislative efforts to crack down on the workplace have met fierce resistance from business interests, often in conjunction with liberal civil rights groups and worker advocates.

As a result, the chances of actually getting caught hiring — or working as — an undocumented immigrant remain remote. According to a 2015 study by the Congressional Research Service, only .02 percent of U.S. employers are subjected to a “final order” requiring them to pay a civil penalty. Meanwhile actual arrests of both undocumented workers and their employers (representing both administrative and criminal violations) “plummeted between 2008 and 2009,” and since 2011 there’s been a “steady decline” in them, the study found.

“[Immigration and Customs Enforcement] administrative and criminal arrests in worksite enforcement operations represent a very small percentage of the potential population of violators,” the Congressional Research Service report concluded. There’s even less workplace oversight emanating from the border security-obsessed Texas Legislature, where bills to expand E-Verify to the private sector didn’t even get a public hearing in 2015 and the minimal hiring controls adopted for state government have no enforcement mechanism.

“The chances of being caught are very small, very slim,” said Robinette, the former Homeland Security Investigations chief in San Antonio. “If you can make it into the [U.S.] interior and you stay out of trouble, you’re not going to really pop up on anybody’s radar.”

Even in the town of Corsicana, population 24,000, which sits in a Texas county Trump won with 73 percent of the vote, illegal

employment is widespread and tolerated, according to Jose Manuel Santoyo, one of the young Mexican immigrants who worked at Collin Street Bakery.

Santoyo, who came to the United States when he was eight, said he'd worked at local franchises for Sonic, McDonalds, Home Depot and other places before working at the bakery.

"Corsicana has a big undocumented population at the moment," he said. "This is a place that hires a lot of undocumented immigrants." He said they find out about job opportunities mostly through word of mouth. That's how he got the job at Collin Street Bakery.

"I found that job through a friend from college," Santoyo said. "He told me, 'You know what? They will hire anybody.' He literally said it like that."

Santoyo said he felt compelled to speak out about his bakery job after McNutt began putting immigrants in the political crosshairs in his House race — a move Santoyo called hurtful and "hypocritical."

In an email sent to the Tribune, McNutt blamed the media for spreading "baseless attacks" and notes he wasn't working at the bakery at the time the undocumented workers were hired. He also pointed out the company now uses the voluntary federal program that lets employers electronically check the legal status of job applicants.

"These individuals either were legal at the time and have since overstayed their welcome, or they forged government documents, breaking the law," McNutt said. "In order to protect our company from other fraudulent individuals getting into our business, the Collin Street Bakery has implemented E-Verify, going above and beyond what the law requires to ensure only legal residents are hired."

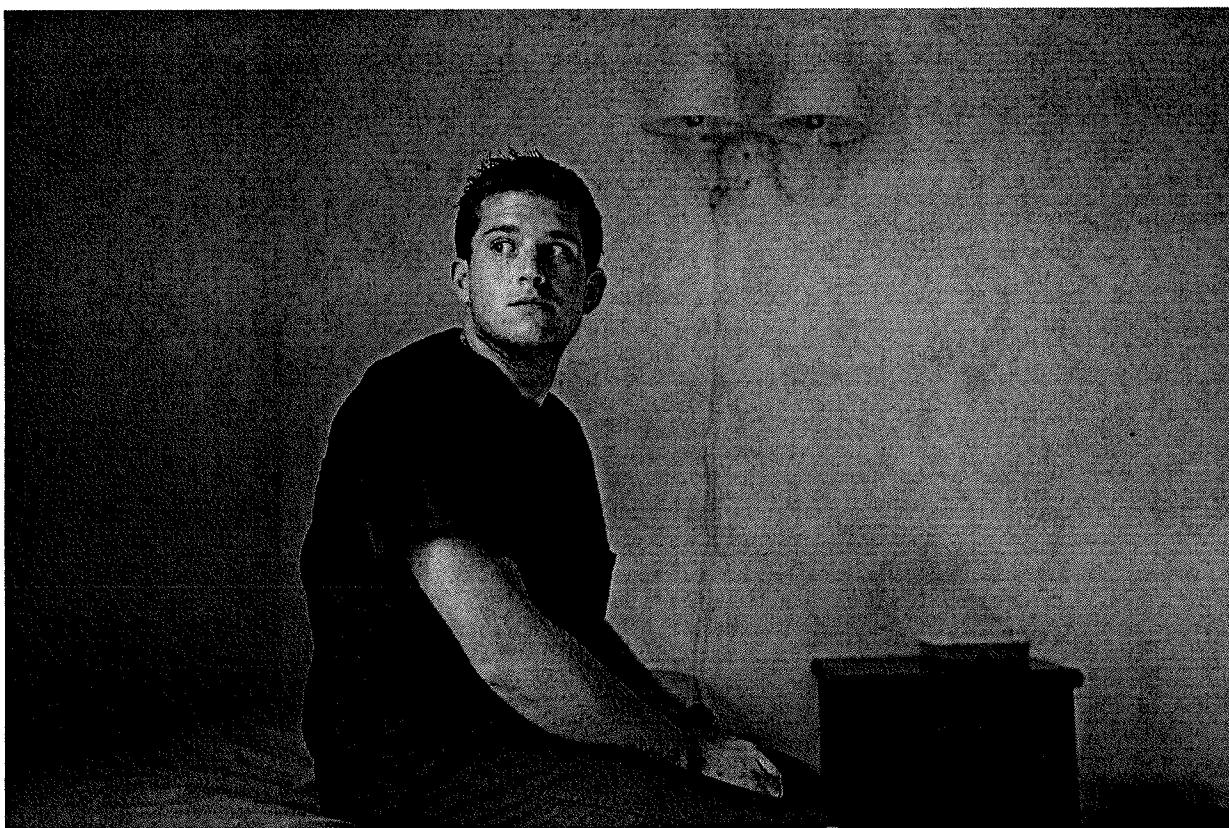
Whether unwittingly or knowingly, though, employers across Texas and the nation provide jobs to immigrants. And the gap between the paltry pay immigrants get at home and what they receive here — even if they're exploited along the way — amounts to what renowned Harvard economist George Borjas calls "the mother lode of incentives." Their low-cost labor has in turn enriched the people and companies who hire them.



Jose Manuel Santoyo, a former undocumented worker who found jobs easily in Corsicana GABRIEL C. PÉREZ FOR TEXAS TRIBUNE

"Many sectors of the economy ... have an insatiable appetite for cheap, low-skill workers," he writes in his latest book, "We Wanted Workers." "And this appetite is a very strong magnet to the poor and huddled masses abroad. As long as there are gains to be had, by both the employers and the potential migrants, and few penalties to pay, by both the employers and the potential migrants, the incentives remain and illegal immigration continues."

Reducing drug demand



Recovering addict Samuel Birdsong at Charlie's Place Recovery Center. TAMIR KALIFA FOR TEXAS TRIBUNE

Americans aren't just snapping up employees from south of the border. They're also buying tons of illegal drugs produced there. The CIA estimates 95 percent of U.S.-bound cocaine passes through Mexico, which is also the largest supplier of methamphetamines, heroin and other opiates making their way to U.S. streets. Federal data shows heroin overdoses have increased sixfold since 2001.

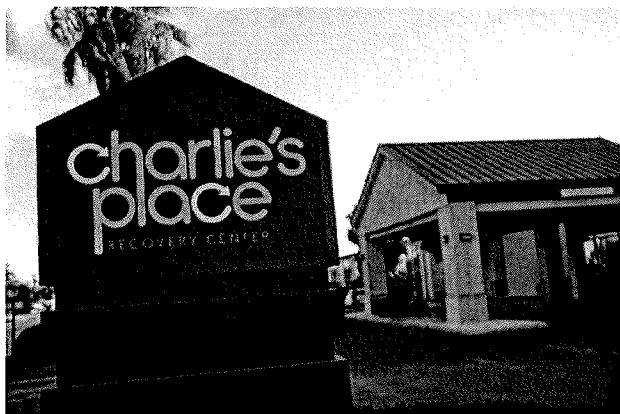
Many heroin users start out on painkillers provided by U.S. doctors, 99 percent of whom say they prescribe highly addictive opioids for more than the recommended three days.

Samuel Birdsong of Corpus Christi started shooting heroin after first getting hooked on hydrocodone that doctors prescribed after he had his wisdom teeth taken out.

"It became harder to get the pills than the heroin. I switched over to that," the 27-year-old told the Tribune hours after checking into a detox clinic. "It was way easier and cheaper."

But while Birdsong ultimately got treatment with the state's help, many Texans can't get help kicking addictions.

An estimated 1.6 million Texans suffer from addiction, according to the state's Department of State Health Services. But only about 6 percent of those who can't afford drug treatment on their own are getting help from the state.



Charlie's Place Recovery Center has provided drug and alcohol rehabilitation services to patients in Corpus Christi since 1965. TAMIR KALIFA FOR TEXAS TRIBUNE

The state's current budget set aside \$400 million aside for substance abuse programs from the general revenue funds, but nearly \$300 million of it went to jails and prisons, leaving little for addicts not behind bars.

The state put about \$90 million into voluntary treatment services funded by the Department of State Health Services — little more than is required to qualify for federal substance abuse dollars, which pads the coffers for voluntary treatment with \$236 million.

Still, voluntary treatment programs outside of the criminal justice system are left scrambling for money, ultimately resulting in a lack of beds and long wait times.

The chief government response to the nation's drug problem has been incarceration. The United States locks up more people than any other country by far, and from 1975 to 2002 the number of people incarcerated for drug offenses went up by more than 1,000 percent (compared to 400 percent for all offenses), wrote Kelly, the UT-Austin professor, in his book "Criminal Justice at the Crossroads."

While policy makers in Texas mandated drug diversion courts to get addicts out of the standard criminal justice context and into treatment and alternative punishment programs, they've provided only 10 percent of the capacity needed to handle the caseload, Kelly said. As a result, the criminal justice system "becomes the repository for drug

addicts, people who have substance abuse disorders, people who have mental health disorders,” he said.

“Addiction, dependence and abuse — those are the kinds of things that feed the demand in this country,” Kelly said. “Putting our head in the sand and thinking that’s going to stop by controlling the supply is ludicrous from a clinical perspective, from a policy perspective, even from a political perspective because how can anybody with a straight face look at our drug policy and say this has been a good thing?”

Selling guns down south



JULIAN AGUILAR / TEXAS TRIBUNE

It's not only the northbound traffic of people and drugs that fuels chaos and violence along the southern border. The United States is a major supplier of the guns smugglers are using to protect their illicit loads.

Texas has been a major supplier of weapons used in crimes in Mexico, according to the Government Accountability Office, the congressional watchdog over the federal government.

From 2009 to 2014, more than 73,600 guns seized in Mexico were from the United States, according to a 2016 report from the GAO. More than 13,600 were confirmed by the Bureau of Alcohol, Tobacco, Firearms and Explosives to have originated in Texas. But that figure could be higher — the report also states that because of factors like altered serial numbers on weapons and incomplete information on records, the states of origin could only be traced for about 45 percent of the U.S. total.

Some of the weapons are stolen and smuggled south, but most are purchased by "straw buyers" at retail gun stores, pawn shops or gun shows that — at least in Texas — occur weekly in major cities like Houston, Dallas and San Antonio.

Gun control proponents blame what they call the "gun-show loophole" — a gray area in federal law they say allows gun sellers to skirt federal regulations and sell without a license. The loophole also lets buyers purchase myriad weapons without being subject to a background check.

But the Texas State Rifle Association, the state affiliate of the National Rifle Association, calls the loophole a myth. Justin Williamson, a Texas State Rifle Association spokesman, told the Tribune that the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives requires dealers who want to sell their guns at shows to have a federal license to sell guns. That license also requires the seller to run background checks, he said.

However, according to the GAO, buyers at makeshift gun shows, flea markets or those who sell through classified ads or private-party Internet postings are the main offenders.

Convincing lawmakers to scale back gun rights in Texas because of the connection to violence in Mexico has been, so far, a nonstarter. In fact, lawmakers reversed course when, in 2015, they expanded gun rights by passing laws allowing 21-year old college students to carry weapons on some college campuses and licensed carriers to tote their guns in plain sight, a practice commonly referred to as open-carry.

Travis Putnam Hill and Eleanor Dearman contributed to this report.

This story is part of The Texas Tribune's yearlong [Bordering on Insecurity](#) project.

Disclosure: The University of Texas at Austin has been a financial supporter of The Texas Tribune. A complete list of Tribune donors and sponsors can be viewed [here](#).



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Write a comment...

**José Manuel Santoyo**

December 6 at 7:27pm ·

This country depends on undocumented labor. I type this as I sit in a building at my school that was built by undocumented immigrants. Growing up in poverty and without documentation meant I had to settle for any employment opportunities I could find. My survival, and my family's survival depended on it.

When I was first contacted for this story, I was very hesitant to do it. I was afraid to speak publicly about undocumented labor. I was afraid people would lose their jobs, or that I would be attacked by people who would not want other to know how much some industries depend on undocumented-low wage labor. This should no longer be a taboo. But when Texas businessman run for office campaigning and attacking the very same people they depend on to build their wealth, we have a problem that needs to be addressed. We can't keep demonizing people who just want to exist. I have no regrets. The Texas Tribune explains it further.

From the article: The Pew Research Center estimates undocumented immigrants represent 5 percent of the civilian workforce. But they are heavily concentrated in industries such as agriculture, food preparation/service, construction, hospitality and janitorial services. Half of all crop workers are undocumented, the government estimates. Closer to home, researchers at the Workers Defense Project and the University of Texas at Austin reported in 2013 that half of the workers they surveyed at Texas construction sites were here illegally.

Read the full story here: <https://www.texastribune.org/.../06/demand-side-border-policy/>

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José Manuel Santoyo, a former undocumented worker who found jobs easily in Corsicana. GABRIEL C. PÉREZ FOR TEXAS TRIBUNE

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