

Rediscovering: Killed through the border fence

Episode 1: A metal cross and a painful memory

Nat Sounds at location at night

The streets are mostly desolate. Few lights illuminate the sidewalks, cars sporadically zoom past on Calle Internacional – a street that runs parallel to the international boundary fence in Nogales, Sonora, Mexico. The street is just south of the border from its twin city of Nogales, Arizona.

Rafael Carranza: *“Like both of these cities are very hilly. They’re built into canyons. And so in this particular point, this is one of the areas where the border fence is towering above the Mexican side of Nogales.”*

Standing on the sidewalk on the Mexican side, the 22-foot rust-colored fence looms towers above the street. It’s perched atop a 14-foot cliff. The street lights from the Arizona side peek through the metal slats in the fence casting long shadows along Calle Internacional.

Hombre: *“Ustedes que están haciendo?”*

Rafael Carranza: *“Un reportaje.”*

Hombre: *“Periodistas?”*

Rafael Carranza: *“Sí, de Phoenix.”*

Hombre: *“Ohhh”*

A man approaches to ask what we’re doing. He claims to work for the Mexican government – but he doesn’t wear a uniform or have a badge. Still, he says he’s patrolling the border.

Hombre: *“Tenemos que tomar fotos y reportar todo pues.”*

Rafael Carranza: *“Sí? ¿A quien se reporta, a la ciudad o el gobierno?”*

Hombre: *“Al gobierno.”*

(Cue music)

There are always eyes watching along the border between Mexico and the United States. They could come from fixed cameras on the US side mounted atop 80 feet tall surveillance towers, like the one located about a football field away from where we’re standing.

It could be from Mexican police or armed soldiers riding trucks – who drive along Calle Internacional every so often.

Rafael Carranza: *“Two, two patrol cars passing by...”*

Or it could be cartel scouts making sure no migrants attempt to reach the U.S. without first paying the “cuota de plaza,” a fee anyone is required to pay before crossing the border illegally...

Standing here in Nogales, it’s hard to say for sure who the man is. He’s certainly not the U.S. Border Patrol or a Mexican soldier. What we do know is that we are standing in the middle of a

major trafficking corridor where smugglers try daily to sneak in drugs or people into the United States.

CNN: *“Over the years it’s been a cat and mouse game with law enforcement and drug smugglers.”*

(out cue music)

(Cue theme music)

It was one of those drug smuggling incidents – nearly 10 years ago – that upended life in these twin border cities known collectively as Ambos Nogales. A U.S. Border Patrol agent fired 16 shots in a span of 34 seconds. By the end, a teenager lay dead on the Mexican side.

Welcome to season three of Rediscovering, a podcast from The Arizona Republic and azcentral.com.

This time, we’re focusing on a cross border shooting that would change the way the U.S. patrols its southern boundary with Mexico. It involves a U.S. border agent, a Mexican teenager and the firestorm that erupted after he was killed through the border fence.

(music pause)

I’m Rafael Carranza. I write about border and immigration issues and have been covering the U.S.-Mexico borderlands for over a decade. Our team has been putting together this podcast for the past three years.

Over the next four episodes, we’ll take a closer look at the cross border shooting of José Antonio Elena Rodríguez, a Mexican teenager killed through the border fence, and the aftermath of his death 10 years later.

NATS - Gathers singing Los colores at the 2019 anniversary memorial,

It has become a yearly ritual for the family of José Antonio. Every year on October 10 - they gather at the corner of Calles Internacional and Ingenieros in Nogales, Sonora, Mexico to mark the anniversary of his death.

NATS - Audio of a person playing the pan flute

During this memorial, back in 2019, they were joined by dozens of people from throughout the Arizona-Mexico borderlands. They prayed and sang songs and called for justice.

NATS - Chants: “José Antonio vive la lucha sigue.”

This was the last large celebration the family held before the COVID-19 pandemic at the site where José Antonio was killed back in 2012. Since then they’ve scaled down the memorial celebrations, but they still gather as a family to mark that date.

His mother, Araceli Rodríguez says it’s a painful memory. But it’s still important to her.

Araceli Rodríguez: *“Yo siempre he dicho que ausencia no significa olvido, que aunque no esté él siempre estará en sus corazones y en nuestro pensamiento.”*

She said his absence doesn't mean she'll forget him and that he would always be in their hearts and thoughts.

Araceli Rodríguez: *“Tengo fotos de él, tengo su ropa, tengo sus tenis. El que no esté físicamente no quiere decir que no lo tenga.”*

She still has his clothes and shoes. Even though he's no longer here physically, Araceli said he is still present in their lives. José Antonio was 16 years old the night that he died on October 10, 2012. The site of his death, along this busy street contains several reminders of that tragic night.

NATS - Cars on Calle Internacional

A white metal cross fixed to the sidewalk marks the spot where José hangs just below the international border fence. The mural shows José Antonio, as a younger child, looking straight ahead. His face is painted in hues of blue over an orange background.

(cue music)

Today, José Antonio's name is largely associated with the cross-border shooting that ended with his untimely death. But for his family, he continues to be Toñito. They remember him as a joyful teenager who loved sweets, chocolate above all.

Taide Elena: *“El se podía tomar la olla entera de champurrado y el montón de tamales de dulce le gustaban mucho.”*

That's José Antonio's paternal grandmother, Taide Elena. She thinks back on how he could drink an entire pot of champurrado, a hot Mexican drink, and eat sweet tamales...

His younger sister Angélica remembers his love of milk with cookies and sweet bread.

Angélica Rodríguez: *“Le gustaban las galletas con leche, los panes con los panecillos, los chocolates.”*

His aunt Gabriela Lopez...

Gabriela Lopez: *“He loved all the sweets he could eat but it was mostly chocolate cake chocolate, uh panecitos. Anything that was chocolate he would love.”*

José Antonio grew up in the shadow of the U.S.-Mexico border fence. The home that he lived in is located just a few blocks south of the fence separating Nogales Sonora from Nogales Arizona. He lived there with his other Aunt Lourdes and her family and with his older brother Diego.

Taide said José Antonio was very social and full of aspirations. He was especially close to Diego. The pair were only two years apart. They would often play basketball at a concrete court near their house.

(outcue music)

Even after Diego got a job at a convenience store, they'd find ways to spend time together, Taide said.

Taide Elena: *"Él bajaba y le ayudaba a cerrar porque a su hermano le tocaba cerrar y le ayudó a cerrar."*

José Antonio would help his brother close up shop at night and afterwards they'd treat themselves to a late night snack.

Taide Elena: *"Se venían caminando por ese mismo lado para llegar a los hot dogs que estaba un hotdoguero ahí se comían un hot dog. Que José Antonio se comía el pan con el winny no más porque no le gustaba la mayonesa ni todo lo demás, pero bueno, se lo comían y ya se subían."*

José Antonio would eat just the hotdog and bun because he didn't like any other toppings. That was their nightly routine.

Taide lives on the U.S side of Ambos Nogales - where she has been cleaning houses for the better part of 30 years. She regularly crossed into Mexico to spend time with her family, including José Antonio.

The father of the two boys passed away several years earlier. Their mother Araceli was working in Navojoa, a city in southern Sonora nearly seven hours away from the border town. So their family in Nogales were closest to him, his aunt Gabriela said.

Gabriela Lopez: *"He was very united to the family. He. He was very good. He was, he was my nephew. What can I say? Just like all you guys say about your nephews you guys love them. We loved him. We never saw anything. That was you know bad for him and he was, he was a good boy. He was hardworking. He loved school. He wanted to be in the army and all those dreams were taken away from him. One night that he didn't even know he was going to die, you know. He had dreams. He had, he was ambitious."*

(Music interlude)

The border fence that José Antonio grew up around and that separates the twin cities of Nogales is key to understanding what happened the night that he died. Changing versions of the fence say a lot about the two cities' relationship to each other too. Locals on both sides of the fence refer to the twin cities as Ambos Nogales - or the two Nogaleses.

Nats - Train heard from Pimeria Alta museum

They've always been a meeting point for Mexican and American cultures, for cross-border commerce and for families like Taide's straddling both sides of the international boundary.

Both cities were founded in the 1880s with the construction of the Sonoran Railway which links commerce in northern Mexico to the rest of the United States. It's the oldest railroad crossing along the southern border.

Sigrid Maitrejean: *"Nogales has always been unique."*

That's Sigrid Maitrejean - a local historian with the Pimeria Alta Historical Society Museum...

Sigrid Maitrejean: *"We are geographically the same. The valley that goes south, which is why the train is here, is the same on both sides of the border and our topography on both sides of the border is the same."*

Her family has lived in Ambos Nogales for six generations. She grew up on the U.S. side and then moved back in 1994, after retiring from the U.S. Foreign Service.

Sigrid explained how the border and the fence that divides the twin communities has changed over time.

Sigrid Maitrejean: *"The first fence was put up by Mexico to protect against American rustlers who were taking advantage of upheaval during the Revolution. And so we've, we grew up with the fence. But the fence I grew up with when I was here as a child was a hurricane fence, and hurricane fences are strong, but they are see-through."*

Photos of that early period in the history of Ambos Nogales show the chain link fence barely visible as the demarcation line of the border. It reinforced the notion that Ambos Nogales was a single community.

(cue music)

Border enforcement was lax for decades as Nogales remained a small, tight-knit community. But then in the 1990s, as unauthorized immigration began to rise dramatically along the southern border the U.S. government began to crack down. In 1995, President Bill Clinton addressed concerns over illegal immigration during his State of the Union speech.

Clinton 1995 state of union: *"That's why our administration has moved aggressively to secure our borders more. By hiring a record number of border guards."*

In urban areas of the border like Nogales, they replaced those early fences with steel landing mats left over from the Vietnam War.

Sigrid Maitrejean: *"They are not see-through. And they are dark. So it was immediately a very different feeling about the border, about the fence. You really couldn't see through it anymore. And that was the... I don't know about other people, but for me, it was a peculiar sensation."*

President George W. Bush's administration made additional investments to the border fence.

George W. Bush: *"The Secure Fence Act builds on this progress. The bill authorizes the construction of hundreds of miles of additional fencing along our southern border."*

By 2011, the solid landing mats gave way to the current version of the fence - and stricter border controls as well.

(outcue music)

The fence today measures about 18 feet in height. It's made of rust-colored steel bollards, which are tall square beams spaced about 4 inches apart. A solid metal plate crowns the top of the fence.

Guadalupe Ramirez arrived three years before the newer fence was installed in Nogales. He oversees Arizona's ports of entry for the U.S. Customs and Border Protection. He's responsible for processing the flow of legal trade and traffic and to keep drugs from coming into the country.

Guadalupe Ramírez: *"And it just became big business. So with that I mean everybody's out to protect their territory. Border violence went up, which was years ago. When I first got here in 2009 there was a lot of border violence. And even today you don't hear as much about it but there's still a lot of killings in Mexico. And it still you know it can be very dangerous at different times in different locations."*

But amid this backdrop, life has continued to flourish in this city. The drug violence has done little to stop the Mexican side from growing rapidly. Immediately past the rust-colored fence that snakes through the hills of Ambos Nogales, colorful houses built into the sides of cliffs and ravines sprawl endlessly.

NATS: *sounds of cars*

Nogales, Sonora is the larger of the two. According to Mexico's 2020 census, its official population is 265,000 people. But nearly everyone believes its actual population is much higher than that, maybe even pushing half a million. On the other hand, Nogales Arizona is a tenth of that size at about 20,000 residents.

For many years Ramirez, the director of border crossings, said business has also been booming.

Guadalupe Ramírez: *"One of the things that really caused the Nogales Sonora to grow was NAFTA. So you have a lot of maquila, maquiladoras, a lot of twin plants. There's also a lot of fruits and vegetables grown in Sonora, Sinaloa that enter through, through Nogales. So as those industries grew the communities grew."*

Nogales has now become the busiest border crossing along Arizona's 372 mile-long border with Mexico. The University of Arizona's research shows more than 24.6 billion dollars in goods passed through here last year.

The prospect of jobs is how Taide Elena ended up settling here. She moved from central Mexico and set up roots in Nogales three decades ago. She bought the house located a few blocks south of the international border fence...

But even as Nogales grew, the neighborhood José Antonio lived in remained very familiar to him. On the night of October 10, 2012, Taide said that José Antonio followed the same routine he had built up.

Taide Elena: *"Pues el hermano cerró temprano y no le avisó. No le habló por teléfono para decirle No vengas y se fue con la novia."*

That day Diego had closed earlier and didn't tell José Antonio not to show up. He then went out with his girlfriend.

Taide Elena: *“Entonces, José Antonio, eso es lo que nosotros suponemos llegó al Oxxo, no lo encontró y se vino solo.”*

His family believes that José Antonio showed up to the store and didn't find him. So he walked back taking the same route he always had.

(cue music)

Most of what we know about what happened next would be closely scrutinized in the coming years. This account is pieced together from interviews, sworn testimonies and court records.

His family said after not having found his brother José Antonio walked back home that night alone on Calle Internacional. As he walked, he came across a smuggling attempt in progress - just past 11 p.m.

The incident involved two men who attempted to sneak marijuana bundles into the U.S. But police in Arizona and Border Patrol agents responded to the scene.

While this is where accounts begin to differ, what is undisputed is this:

At about 11:30 p.m. on October 10, 2012, a Border Patrol agent pulled out his gun. He slipped it through a gap in the metal slats of the fence and he fired 16 shots in about 30 seconds.

Some of those bullets hit a concrete wall, others hit the ground, 10 of those bullets struck and killed José Antonio.

(pause/music)

Jim Calle was the attorney for the Border Patrol agent.

Jim Calle: *“I'm sure there are still people even now that believe, you know, the initial government contention that José Elena Rodríguez was simply walking down the street.”*

Calle says that's not true. The border agent claimed someone was throwing rocks over the fence and that he fired in self-defense. José Antonio's family disputes that it was him.

Taide Elena: *“El hombre metió la mano al cerco porque dijo que que el niño estaba tirando pedradas. Ah, eso ya es un cuento muy viejo. Es lo que usan siempre cuando matan a alguien.”*

Taide said that's an old tale that border agents use when they kill someone. The shooting happened in less than a minute. Just as quickly, word began to spread around Ambos Nogales about what happened at the border fence.

Cesar Barron, a host and reporter in Nogales for X-E-N-Y radio, was crossing back from the Arizona side that night. That's when he started getting messages about a cross-border shooting that left one person dead. He headed over and found the active crime scene.

César Barrón: *“Por un lado dentro del área acordonada estaban unos policías, estaban lo que son los peritos o lo que es como el forense. Estaban revisando el cuerpo, buscando, revisando, viendo donde había daños.”*

Behind the tape were several police and forensic workers. They were checking the body looking for injuries.

César Barrón: *“Estaban otros policías fuera del cordón, buscando testigos y si ya había testigos esa noche.”*

Other officers stood outside the tape searching for witnesses, Cesar said.

He remained at the scene for about a half hour. When he looked up across the border into Arizona, he saw U.S. authorities were beginning to investigate from where the agent had fired his gun.

César Barrón: *“Había patrullas de la patrulla fronteriza, andaba un helicóptero también sobrevolando sobre la línea y se metía pues un poco a Nogales, Arizona daba vuelta y luego otra vez sobre la línea.”*

He could see Border Patrol vehicles and a helicopter flying overhead. It would go back and forth over the border.

César Barrón: *“Se podían ver oficiales de civiles con lámpara en mano.”*

He could also see civilian officers with flashlights in hand.

Details about what was happening on the U.S side of the border would stay under wraps for years. Meanwhile, the Elena family carried on with their night unaware.

When Diego arrived home - without José Antonio - suspicions mounted about his whereabouts. As the night progressed they became increasingly concerned for him. They all had heard the gunfire that night but never imagined José Antonio was on the receiving end of it. Diego and his aunt Lourdes talked about the shooting, sharing information they had heard.

Taide Elena: *“Oyes fijate que mataron a alguien dijo. Y mira toda la sangre, dijo. Le enseñó la sangre no más el él, el muchacho no, no, no, ya el cuerpo ya no estaba.”*

Taide said they exchanged what information they knew, photos of the crime scene, the blood but no body.

Taide Elena: *“Y el dice que sintió feo, pero nunca pensó que fuera la de su hermano.”*

Diego had a bad feeling but never imagined that it was his brother.

(cue music)

As the night turned to day, the following morning Lourdes set out to find him. She asked her brother Lupe for a ride. When they arrived at a street corner, they came across someone selling

that morning's newspaper. Splashed across the front page, news about the previous night's shooting at the border.

Taide Elena: *“Esperame hermana le dijo, voy a comprar el periódico. Dicen que mataron a alguien en la línea. A, dijo Pues fue, cruzó la calle y compró el periódico.”*

Lupe told his sister to wait while he bought a newspaper to read more about the shooting. So he crossed the street and got one.

Taide Elena: *“Entonces pues dice mi hija que cuando llegó, que volvió atrás, ya venía llorando con la cara desencajada y le dijo ella, qué tienes? ¿Lo conocías? Y le dijo él le puso el periódico en la ventanilla y le dijo, “mira, es el Toñito.”*

Lourdes told Taide that as he walked back he had already broken down crying. Lourdes asked if he knew the person. And that's when he put up the paper to the window and said 'look - it's Toñito.”

The front page had a photo of the scene and José Antonio's body laying face down. When Lourdes saw the photo, she immediately recognized his clothing. They knew then to head to the forensic office where she was able to identify his remains. They notified his mother Araceli in Navojoa, then they called Taide.

Taide Elena: *“Yo esperaba todo menos, menos eso, menos eso. Y le empecé a gritar. Qué le dije? Qué? Qué? Qué pasa? Qué pasa? Qué está pasando en la casa? Qué pasa? Y me dijo Mamá, mataron a Toñito.”*

She said she expected anything but that news. She began screaming what was happening, until her daughter told her they had killed José Antonio.

Araceli arrived later that day with his two sisters. Angélica was about seven years old at the time. She didn't fully grasp what had happened. Throughout the seven hour drive, she had no idea that her brother had been killed. Once she arrived in Nogales it became clear.

Angélica Rodríguez: *“Me recuerdo que cuando llegué a cuando vi a todos me solté llorando. Eso es lo único que me acuerdo.”*

All she remembers is walking in - seeing everyone and then breaking down.

In the immediate aftermath of the shooting, news spread throughout Ambos Nogales about José Antonio's identity. There were protests on the Mexican side as residents bristled at the idea of a U.S. Border Patrol agent firing into Mexico and killing a 16-year-old kid.

Doctor Luis Contreras Sánchez: *“Me asombró porque pocas veces se ve un caso similar aquí.”*

Doctor Luis Contreras Sánchez said he was stunned. His clinic stood right in front of where the shooting happened. He heard the shots, but stayed inside only learning later on what had happened.

Doctor Luis Contreras Sánchez: *“Si hubiera sido al revés nos hubieran invadido, pero como fue de allá para acá no pasó nada.”*

Had the roles been switched the U.S. would have invaded, the doctor said. But since the shooting was from the U.S. into Mexico nothing happened.

Neighbors on both sides of the border fence also heard what happened that night. As more details surfaced about the shooting, the smuggling incident and the alleged rock throwing they began casting blame.

(cue music)

On the Arizona side, Lydia Quijada lives right in front of where the agent fired into Mexico. She said her husband heard the dinging from rocks hitting the border fence. She woke up when she heard gunshots but they stayed inside. The following morning they learned what happened.

Rafael Carranza: *“Qué fue lo que usted pensó o que opina de lo que sucedió?”*

Standing on the steps of her house - I asked her - “What did you think about what happened?”

Lydia Quijada: *“Pues que fue un acto desafortunado. Que pues los chamacos para mi modo de ver pues tuvieron la culpa porque ellos estaban, ellos empezaron pues.”*

She thought it was an unfortunate incident. But from her point of view, the people on the Mexican side were at fault because they started it all.

On the Mexican side, Cynthia Figueroa had left her mom's house a few minutes before the shooting. The house is located right next to Dr. Sanchez's clinic on Calle Internacional, where José Antonio fell to the ground after he was struck by bullets.

Later that night, she began to get phone calls from neighbors and her mother about the shooting. Then she went over the following morning but everything was roped off.

Cynthia Figueroa: *“Estaban los policías aquí en el primer cuadro de la ciudad y nos preguntaban que, que sí, qué negocio teníamos. Pues aquí vivo cerca. Okey, el día pues presentamos una ID de que se comprobará que que no se venía no a lo morbosos del hecho sucedido.”*

(out cue music)

To pass through the blocked off area police officers were checking IDs to make sure people lived or worked there. For Cynthia, the shooting did not feel justified, especially given how José Antonio died in a spray of bullets coming from the American side.

Cynthia Figueroa: *“No se nos hacía justo, la manera en cómo pues asesinaron al muchacho, no porque sí, como lo tienen catalogado de que él estuvo agrediendo al oficial. Eso no es cierto, porque pues aquí no había piedras en la calle.”*

She doesn't think it's fair how the teen died. They made it seem like he was hurting the agent, but she doesn't think that's not true. She said there are no rocks on that street.

The day after the shooting Taide called an attorney whose house she cleaned to get advice.

(cue music)

That set off the family's quest to seek justice for José Antonio's death. A journey that would take years. But she was prepared for that quest to take as long as necessary to help her and her family find peace.

Taide Elena: *"No puedo, no he podido superar la muerte de José Antonio por. Por esto, por esto mismo que estoy haciendo ahorita. No, no, no lo he podido superar y no he podido cerrar ese ciclo."*

Even to this day Taide hasn't been able to overcome José Antonio's death. One reason is having to relive those painful memories anytime she's asked about them.

Taide Elena: *"Y no pienso cerrarlo hasta que esté convencida de que no vamos a obtener de plano justicia, ya sea para José Antonio o para muchos más víctimas que están pasando por lo mismo que que nosotros hemos pasado."*

Taide said she doesn't plan on closing this chapter of her life until she's convinced there's no other routes to justice for José Antonio or other victims of similar cross-border shootings.

The decision over who was at fault that night would be decided years later in a courtroom 60 miles away on the American side. But before then the family would have to learn the identity of the Border Patrol agent who killed José Antonio.

(out cue music)

(cue theme music)

Next time on Rediscovering...

Roberto Montiel: *"We started looking here, you know, and inquiring at the police station, inquiring at the Border Patrol to see what had happened."*

Jim Calle: *"The belief in the community, which I know still persists, that agents can fire their weapon, kill people. And... and, you know, there's... there's no investigation and no repercussions is just absolutely wrong."*

Rob O'Dell: *"We couldn't find any evidence that any of these people were disciplined in any way."*

This podcast was edited and produced by Maritza Dominguez and Amanda Luberto. Reporting by myself, Rafael Carranza and Maritza Dominguez. Script supervision came from News Director Kathy Tulumello.

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Thanks so much for listening to Rediscovering: Killed through the Border Fence, a podcast from The Arizona Republic and azcentral.com