

United States Attorney - Criminal Caseload Statistics
 Southern District of California
 Standard Sentencing Counts
 Immigration

Fiscal Year ²	Defendants In Case Filed	Defendants In Case Terminated	Total Defendants Guilty	Number of Defendants		Percent Change	Number of Defendants Sentenced		Percent Change
				Not Sentenced To Prison	To Prison		To Prison	To Prison	
02	278	248	218	36	18	-50.0%	182	86.1%	83.5%
03	357	340	324	22	18	-22.2%	308	86.1%	84.4%
04	290	376	357	22	50	127.3%	335	93.9%	93.8%
05	884	860	841	50	781	138.1%	781	92.8%	94.1%
06	1,425	1,341	1,318	180	2,000	200.0%	1,228	42.6%	85.6%
07	1,948	1,892	1,892	302	1,590	58.9%	1,590	37.4%	83.7%
08	2,093	1,811	1,741	156	1,585	-48.3%	1,585	2.3%	81.0%
09	1,778	1,837	1,737	82	1,655	-47.4%	1,655	4.4%	85.3%
10	2,223	2,070	1,962	62	1,900	-24.4%	1,880	13.8%	86.0%
11	1,988	2,112	1,917	80	1,837	29.0%	1,865	0.9%	86.0%
12	2,059	1,877	1,793	74	1,719	-7.5%	1,719	-11.2%	85.8%
03	2,838	2,487	2,385	82	2,303	-24.3%	2,303	88.7%	89.2%
04	2,632	2,598	2,408	36	2,370	-50.0%	2,370	2.9%	89.5%
05	1,514	1,732	1,551	49	1,502	36.1%	1,502	-36.6%	88.8%
Average	1,573	1,541	1,453	89	1,364	26.1%	1,364	23.6%	89.0%

Fiscal Year ²	Number of Guilty Defendants Sentenced To Prison	Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Death	Percent of Defendants Sentenced To Death
		1-12 Months	13-24 Months	25-36 Months	37-60 Months	61+ Months	61+ Months	61+ Months	61+ Months	61+ Months	61+ Months	61+ Months			
02	182	66	95	52.2%	17	8.3%	3	1.6%	1	0.5%	0	0.0%	0	0.0%	
03	308	63	223	72.9%	10	3.3%	5	1.6%	5	1.6%	0	0.0%	0	0.0%	
04	335	41	294	87.8%	4	1.2%	4	1.2%	5	1.5%	0	0.0%	0	0.0%	
05	791	51	740	89.8%	6	0.8%	16	2.0%	17	1.4%	0	0.0%	0	0.0%	
06	1,228	148	1,080	88.1%	16	1.4%	46	4.0%	11	1.5%	0	0.0%	0	0.0%	
07	1,559	457	994	64.1%	28	1.8%	32	2.1%	38	2.5%	0	0.0%	0	0.0%	
08	1,595	404	716	45.3%	340	21.5%	67	4.2%	56	3.5%	0	0.0%	0	0.0%	
09	1,890	374	414	28.8%	629	39.0%	78	6.0%	78	4.7%	0	0.0%	0	0.0%	
10	1,897	755	573	30.5%	488	26.4%	100	2.2%	14	0.7%	0	0.0%	0	0.0%	
11	1,987	631	580	33.3%	323	17.0%	50	2.9%	13	0.8%	0	0.0%	0	0.0%	
12	1,565	747	551	38.1%	418	18.3%	38	2.3%	13	0.8%	0	0.0%	0	0.0%	
03	2,303	1,035	785	34.1%	582	25.0%	116	4.8%	21	0.9%	0	0.0%	0	0.0%	
04	2,370	896	745	31.4%	329	21.8%	116	4.8%	77	5.1%	0	0.0%	0	0.0%	
05	1,502	338	562	32.8%	252	16.4%	59	4.3%	25	1.9%	0	0.0%	0	0.0%	
Average	1,389	451	592	42.5%	252	18.4%	59	4.3%	25	1.9%	0	0.0%	0	0.0%	

¹ Calculated data extended from the United States Attorney Case Management System.
² FY 2005 numbers are actual data through the end of September 2005.

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United States Attorney – Criminal Caseload Statistics¹
 Southern District of California
 Standard Matter and Case Counts
 Non-OCDETF Drug²

Fiscal Year ³	Matters & Defendants – Received, Pending, & Terminated			Average # of Defendants per Matter Received	Matters Pending			Average # of Defendants per Matter Pending	Matters Terminated			Average # of Defendants per Matter Terminated
	Matters Received	Percent Change	Defendants Received		Matters Pending	Percent Change	Defendants Pending		Matters Terminated	Percent Change	Defendants Terminated	
92	1,028	-5.9%	1,816	1.57	185	31.4%	213	1.15	470	-2.8%	617	1.31
93	987	-5.5%	1,382	1.44	245	12.3%	284	1.17	457	-4.8%	594	1.30
94	914	-8.3%	1,282	1.38	273	12.3%	313	1.15	418	-4.8%	509	1.22
95	952	4.2%	1,350	1.42	310	13.6%	384	1.17	489	17.0%	571	1.17
96	860	-8.8%	1,176	1.36	339	9.4%	412	1.22	412	-16.7%	501	1.22
97	1,305	35.5%	1,703	1.30	397	14.2%	485	1.18	241	-41.5%	327	1.38
98	1,739	33.3%	2,295	1.29	388	0.3%	450	1.18	189	-17.4%	265	1.48
99	1,883	8.3%	2,288	1.22	324	-16.5%	372	1.15	165	-11.6%	283	1.70
00	1,701	-9.7%	2,070	1.22	346	6.8%	372	1.15	230	-16.6%	327	1.50
01	1,797	5.6%	2,121	1.19	307	-11.3%	347	1.13	248	-8.8%	327	1.42
02	1,350	-24.9%	1,553	1.15	291	-15.0%	283	1.12	248	-7.8%	372	1.50
03	822	-31.7%	1,108	1.30	243	-10.3%	289	1.14	173	-30.2%	242	1.40
04	721	-21.8%	848	1.18	243	-10.3%	289	1.14	82	-21.4%	153	1.31
05	991	37.4%	1,131	1.14	282	7.8%	289	1.11	125	-35.9%	119	1.28
Average	1,231	2.0%	1,575	1.28	299	3.8%	341	1.15	274	-6.7%	381	1.32

Fiscal Year ³	Cases & Defendants – Filed, Pending, & Terminated			Average # of Defendants per Case Filed	Cases Pending			Average # of Defendants per Case Pending	Cases Terminated			Average # of Defendants per Case Terminated
	Cases Filed	Percent Change	Defendants Filed		Cases Pending	Percent Change	Defendants Pending		Cases Terminated	Percent Change	Defendants Terminated	
92	540	-13.3%	1,031	1.91	655	-4.0%	1,318	2.01	401	15.7%	785	1.96
93	468	-13.3%	746	1.59	639	-1.5%	1,175	1.87	464	-3.0%	832	1.78
94	464	-0.8%	721	1.55	530	-15.7%	910	1.72	446	-16.9%	680	1.46
95	498	7.1%	740	1.49	578	9.2%	1,018	1.76	371	-16.9%	621	1.67
96	635	26.4%	821	1.29	637	10.0%	1,087	1.71	446	20.2%	713	1.60
97	1,010	92.4%	1,323	1.31	772	21.2%	1,143	1.48	627	85.4%	1,107	1.77
98	1,533	51.8%	1,944	1.27	1,073	30.0%	1,318	1.27	1,218	47.4%	1,556	1.28
99	1,765	15.2%	2,058	1.17	1,040	-3.1%	1,318	1.27	1,148	43.5%	2,120	1.85
00	1,434	-18.8%	1,800	1.26	1,059	1.8%	1,348	1.26	1,397	-20.1%	1,813	1.34
01	1,577	10.0%	1,784	1.14	1,059	0.0%	1,348	1.27	1,531	11.0%	1,770	1.66
02	1,210	-23.3%	1,348	1.11	787	-26.7%	1,088	1.38	1,459	-5.8%	1,888	1.29
03	795	-34.3%	838	1.06	676	-14.1%	883	1.31	897	-38.5%	1,045	1.12
04	656	-17.5%	792	1.16	637	-6.9%	808	1.27	728	-18.1%	855	1.18
05	846	28.0%	851	1.02	725	13.8%	808	1.11	753	3.7%	855	1.14
Average	847	8.0%	1,205	1.27	776	2.1%	1,129	1.46	808	8.4%	1,154	1.27

1. Caseload data extracted from the United States Attorney's Case Management System.
 2. For FY's 1992-2003, this chart summarizes the following categories: Only Non-OCDETF Drug Pending and Drug Possession cases classified specifically under those criminal program categories. It does not include those drug cases classified under the Government Regulatory/Alcohol, Landmarking and Violent Crime program categories. Beginning in FY 2004, it does not include those drug cases detailed under the Government Regulatory/Alcohol, Landmarking program category.
 3. FY 2005 figures are actual data through the end of September 2005.

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United States Attorney - Criminal Casebook Statistics
 Southern District of California
 Standard Disposition Counts
 Non-OCDETF Drugs²

Fiscal Year ³	Cases & Defendants Tried		Cases Disposed of by Trial		Cases Tried as Percent of Those Terminated		Defendants Disposed of by Trial		Defendants Tried as Percent of Those Terminated		Average Number of Defendants Per Case Tried
	Cases Terminated	Defendants Terminated	Cases Disposed of by Trial	Percent Change	Cases Tried	Percent of Those Terminated	Defendants Disposed of by Trial	Percent Change	Defendants Tried	Percent of Those Terminated	
92	401	796	40		10.0%		65		8.3%	1.83	
93	464	832	31	-22.5%	6.7%		47	-27.7%	5.6%	1.82	
94	446	650	25	-19.4%	5.9%		32	-31.9%	4.9%	1.28	
95	371	621	19	-24.0%	5.1%		23	-28.1%	3.7%	1.21	
96	446	713	20	5.3%	4.5%		50	117.4%	7.0%	2.50	
97	827	1,107	31	55.0%	3.7%		44	-12.0%	4.0%	1.42	
98	1,219	1,559	54	74.2%	4.4%		64	45.5%	4.1%	1.19	
99	1,748	2,120	60	11.4%	3.4%		65	1.5%	3.1%	1.09	
00	1,397	1,613	53	-11.7%	3.8%		57	-12.3%	3.5%	1.05	
01	1,551	1,770	57	7.5%	3.7%		60	5.3%	3.4%	1.05	
02	1,459	1,692	44	-22.8%	3.0%		58	-8.7%	3.4%	1.27	
03	897	1,045	44	0.0%	4.9%		48	-17.9%	4.4%	1.05	
04	728	855	27	-38.6%	3.2%		29	-37.0%	3.4%	1.07	
05	753	858	34	25.5%	4.5%		39	34.5%	4.5%	1.15	
Average	806	1,154	38	3.1%	4.8%		48	2.4%	4.5%	1.26	

Fiscal Year ³	Total Defendants Terminated		Percent Change		Defendants Found Guilty		Defendants Found Guilty as Percent of Total		Defendants Who Pled Guilty		Defendants Who Pled Guilty as Percent of Total Guilty		Condition Rate		Defendants Acquired		Percent Change		Defendants Dismissed		Percent Change		Other Terminated Defendants		Percent Change	
	Total Defendants Terminated	Total Defendants Guilty	Percent Change	Defendants Found Guilty	Defendants Found Guilty as Percent of Total	Defendants Who Pled Guilty	Defendants Who Pled Guilty as Percent of Total Guilty	Condition Rate	Defendants Acquired	Percent Change	Defendants Dismissed	Percent Change	Other Terminated Defendants	Percent Change												
92	796	677		83%	83%	83%	83%	85%	82%	82%	85%	13		92		76		82		4		4		4		
93	832	740	-8.3%	88%	81%	702	84.9%	88.9%	86.1%	86.1%	8	-30.8%	76	-15.2%	82		82		82		5		5		5	
94	650	554	-24.6%	85%	81%	595	95.3%	85.8%	85.8%	8	-11.1%	62	5.1%	62		62		62		2		2		2		
95	621	548	-12.9%	88%	82%	525	92.5%	88.2%	88.2%	0		73	-11.0%	73		73		73		0		0		0		
96	713	633	-11.2%	89%	83%	580	93.2%	88.5%	88.5%	3	3.8%	88	-5.5%	88		88		88		2		2		2		
97	1,107	995	-9.2%	90%	85%	880	96.5%	89.5%	89.5%	13	62.5%	97	10.0%	97		97		97		2		2		2		
98	1,559	1,452	-6.8%	93%	88%	1,397	96.2%	92.3%	92.3%	9	-30.8%	98	-1.0%	98		98		98		1		1		1		
99	2,120	1,956	-7.7%	92%	88%	1,895	97.4%	92.3%	92.3%	16	77.8%	146	92.1%	146		146		146		2		2		2		
00	1,613	1,532	-5.5%	94%	89%	1,484	97.5%	92.0%	92.0%	10	-37.5%	79	-52.1%	79		79		79		1		1		1		
01	1,770	1,684	-4.9%	95%	90%	1,631	98.0%	93.1%	93.1%	7	-30.0%	64	-18.0%	64		64		64		0		0		0		
02	1,692	1,567	-7.4%	93%	89%	1,515	95.3%	92.5%	92.5%	5	-28.6%	72	12.5%	72		72		72		0		0		0		
03	1,045	868	-16.8%	83%	78%	744	85.7%	82.5%	82.5%	8	60.0%	109	38.5%	109		109		109		0		0		0		
04	855	748	-12.7%	88%	83%	717	83.7%	87.1%	87.1%	10	11.1%	83	-7.0%	83		83		83		7		7		7		
05	858	748	-12.7%	88%	83%	717	83.7%	87.1%	87.1%	10	11.1%	87	3.8%	87		87		87		2		2		2		
Average	1,154	1,057	-8.3%	89%	84%	1,017	88.2%	91.2%	91.2%	8	5.7%	87	3.8%	87		87		87		2		2		2		

¹ Casebook data extracted from the United States Attorney's Case Management System.
² For FYs 1992-2003, this chart summarizes the following categories: Only Non-OCDETF Drug Trafficking and Drug Possession cases classified specifically under these criminal program categories. It does not include those drug cases classified under the Government Regulatory/Money Laundering and Violent Crime program categories. Beginning in FY 2004, it does not include those drug cases classified under the Government Regulatory/Money Laundering program category.
³ FY 2005 figures are actual data through the end of September 2005.

United States Attorney - Criminal Caseload Statistics 1
 Southern District of California
 Standard Sentencing Counts
 Non-CODETF Drug²

Fiscal Year ³	Defendants In Cases Filed	Sentencing		Number of Guilty Defendants Not Sentenced To Prison	Percent Change	Number of Guilty Defendants Sentenced To Prison	Percent Change	Percent of Guilty Defendants Sentenced To Prison
		Defendants Terminated	Total Defendants Guilty					
92	1,031	798	677	80	-8.9%	597	12.1%	89.7%
93	746	832	740	82	-2.4%	638	12.1%	88.9%
94	721	650	548	80	-40.0%	478	-27.4%	65.7%
95	740	621	548	48	-4.6%	500	4.6%	67.6%
96	821	718	633	48	-33.3%	601	20.2%	84.9%
97	1,323	1,107	895	32	-80.5%	802	50.1%	80.7%
98	1,944	1,558	1,452	183	86.8%	1,269	40.7%	87.4%
99	2,098	1,613	1,852	109	3.0%	1,766	39.2%	80.3%
00	1,890	1,420	1,582	108	-44.7%	1,427	-19.2%	83.1%
01	1,794	1,770	1,884	110	4.8%	1,574	10.3%	83.5%
02	1,348	1,689	1,597	138	25.5%	1,429	-8.2%	81.2%
03	838	1,045	988	53	-91.6%	819	-36.0%	84.5%
04	792	855	746	38	-32.1%	708	-22.6%	88.2%
05	951	856	746	49	-25.0%	701	-1.0%	84.0%
Average	1,205	1,154	1,057	82	9.5%	865	4.8%	81.2%

Fiscal Year ³	Number of Guilty Defendants Sentenced To Prison	1-12 Months		13-24 Months		25-36 Months		37-60 Months		61+ Months		Defendants Sentenced to Life in Prison	Defendants Sentenced to Life in Prison	Defendants Sentenced to Death	Percent of Defendants Sentenced to Death
		Defendants Sentenced to Prison	Percent of Defendants Sentenced to Prison	Defendants Sentenced to Prison	Percent of Defendants Sentenced to Prison	Defendants Sentenced to Prison	Percent of Defendants Sentenced to Prison	Defendants Sentenced to Prison	Percent of Defendants Sentenced to Prison	Defendants Sentenced to Prison	Percent of Defendants Sentenced to Prison				
92	597	82	14.0%	132	22.5%	78	12.8%	135	23.0%	100	27.3%	2	0.3%	0	0.0%
93	658	121	18.4%	128	19.4%	71	10.8%	159	23.7%	183	27.8%	1	0.2%	0	0.0%
94	478	73	15.3%	109	22.8%	58	11.7%	155	28.2%	164	21.8%	1	0.2%	0	0.0%
95	500	70	14.0%	121	24.2%	64	12.8%	109	21.8%	136	27.2%	0	0.0%	0	0.0%
96	601	113	18.8%	157	26.1%	85	14.1%	126	21.0%	120	20.0%	0	0.0%	0	0.0%
97	902	314	34.8%	292	32.4%	110	12.2%	127	14.1%	89	8.9%	0	0.0%	0	0.0%
98	1,289	603	47.2%	519	40.3%	105	8.3%	153	12.1%	88	7.0%	0	0.0%	0	0.0%
99	1,768	891	50.4%	392	22.2%	180	10.2%	189	10.7%	85	4.8%	0	0.0%	0	0.0%
00	1,427	689	48.3%	322	22.6%	132	9.3%	175	12.3%	112	7.8%	0	0.0%	0	0.0%
01	1,574	786	50.0%	335	21.3%	124	7.9%	189	12.0%	84	5.9%	0	0.0%	0	0.0%
02	1,428	823	57.6%	238	16.7%	150	10.5%	124	8.7%	61	4.3%	0	0.0%	0	0.0%
03	815	418	51.3%	162	19.8%	88	10.8%	132	16.3%	28	3.4%	0	0.0%	0	0.0%
04	708	341	48.2%	133	18.8%	68	9.7%	118	16.8%	53	7.5%	0	0.0%	0	0.0%
05	701	330	47.1%	132	18.8%	68	9.7%	118	16.8%	53	7.5%	0	0.0%	0	0.0%
Average	895	410	45.8%	211	23.6%	101	11.3%	144	16.0%	100	13.3%	0	0.0%	0	0.0%

1 Caseload data extracted from the United States Attorney's Case Management System.
 2 For FYs 1992-2005, this chart summarizes the following categories: Only Non-CODETF Drug Dealing and Drug Possession cases classified specifically under those criminal program categories. It does not include those drug cases classified under the Government Regulatory/Money Laundering and Violent Crime program categories. Beginning in FY 2006, it does not include those drug cases classified under the Government Regulatory/Money Laundering program category.
 3 FY 2006 numbers are actual data through the end of September 2006.
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United States Attorney - Criminal Division
 Southern District of California
 Standard Matter and Case Counts
 Violent Crime¹

Fiscal Year ²	Matters & Defendants - Received, Pending, & Terminated			Average # of						
	Matters Received	Defendants Received	Percent Change	Matters Pending	Defendants Pending	Percent Change	Matters Terminated	Defendants Terminated	Percent Change	Average # of Defendants Per Matter Terminated
92	228	314	-7.6%	53	63	31.7%	70	82	11.0%	1.17
93	229	290	-8.8%	66	83	20.5%	79	91	11.0%	1.15
94	147	164	-8.0%	54	66	-20.5%	75	83	-8.8%	1.11
95	147	173	-12.1%	58	67	-14.8%	65	65	-21.7%	1.00
96	124	152	-17.8%	48	57	-16.5%	47	52	-20.0%	1.11
97	143	164	-15.3%	53	63	-16.5%	47	52	-20.0%	1.11
98	116	132	-13.8%	50	58	-13.8%	40	43	-7.7%	1.08
99	116	132	-13.8%	50	58	-13.8%	40	43	-7.7%	1.08
00	89	109	-18.3%	51	60	-15.5%	30	32	-6.3%	1.04
01	89	109	-18.3%	51	60	-15.5%	30	32	-6.3%	1.04
02	81	94	-13.6%	48	54	-11.3%	28	32	-12.5%	1.08
03	81	94	-13.6%	48	54	-11.3%	28	32	-12.5%	1.08
04	38	40	-5.3%	38	42	-9.5%	16	18	-11.1%	1.00
05	33	37	-12.1%	37	39	-5.1%	15	16	-6.3%	1.07
Average	121	145	-13.2%	52	59	-11.8%	42	46	-9.2%	1.10

Fiscal Year ²	Cases & Defendants - Filed, Pending, & Terminated			Average # of						
	Cases Filed	Defendants Filed	Percent Change	Cases Pending	Defendants Pending	Percent Change	Cases Terminated	Defendants Terminated	Percent Change	Average # of Defendants Per Case Terminated
92	155	227	-7.2%	128	182	14.8%	127	168	10.2%	1.32
93	143	180	-8.4%	131	155	-14.8%	140	207	23.2%	1.49
94	100	122	-32.2%	72	83	-48.5%	152	182	-7.2%	1.26
95	81	108	-18.0%	70	83	-16.5%	78	83	-5.1%	1.19
96	84	108	-21.4%	73	89	-18.0%	77	83	-7.2%	1.07
97	89	114	-22.8%	89	110	-18.3%	88	116	-23.3%	1.33
98	89	120	-25.9%	89	110	-18.3%	88	116	-23.3%	1.33
99	82	97	-19.5%	78	90	-13.3%	88	104	-15.4%	1.18
00	68	78	-14.7%	71	83	-14.5%	72	82	-12.2%	1.13
01	63	72	-12.7%	61	71	-14.8%	69	72	-4.4%	1.04
02	59	62	-4.9%	59	63	-6.3%	69	72	-4.4%	1.04
03	46	51	-9.8%	55	70	-21.4%	50	66	-24.2%	1.32
04	27	27	0.0%	51	61	-16.4%	24	28	-14.3%	1.18
05	19	21	-8.6%	48	57	-16.3%	25	28	-10.7%	1.13
Average	78	99	-13.6%	77	100	-23.0%	81	102	-20.6%	1.28

1. Casebook data extracted from the United States Attorney's Case Management System.
 2. For FY's 1992-2003, this chart summarizes the following categories: Firearms, Violent Crime in Indian Country, and Other Violent Crime. Other violent crime includes cases with a lead charge of Violent Crime which would otherwise fall into another program category. Also, these data and organized crime cases classified under the Violent Crime program category are included. Beginning in FY 2004, Violent Crime includes those cases classified under the following program category codes: Firearms (023), Bank Robbery (093), Domestic Violence (091), Violent Crime in Indian Country (092), and All Other Violent Crime (093).
 3. FY 2005 numbers are actual data through the end of September 2005.

000000195

United States Attorney - Criminal Caseload Statistics 1
 Southern District of California
 Standard Deposition Counts
 Violent Crime²

Fiscal Year ³	Cases Terminated	Defendants Terminated	Cases Disposed of by Trial	Percent Change	Cases Tried as Percent of Those Terminated	Defendants Disposed of by Trial	Percent Change	Defendants Tried as Percent of Those Terminated	Average Number of Defendants Per Case Tried
82	127	168	18	12.5%	12.6%	23	13.0%	13.7%	1.44
83	140	207	19	11.1%	12.9%	26	-11.3%	12.9%	1.44
84	152	192	20	-75.0%	13.2%	28	-73.9%	12.9%	1.15
85	78	93	5	80.0%	6.4%	6	50.0%	6.5%	1.20
86	77	87	3	-50.7%	11.7%	4	-56.6%	8.3%	1.00
87	87	116	8	166.7%	3.4%	10	180.0%	8.4%	1.33
88	88	104	8	166.7%	5.8%	10	160.0%	8.2%	1.25
89	80	111	8	-50.0%	8.9%	10	0.0%	9.0%	1.25
90	69	87	4	0.0%	5.8%	5	-50.0%	5.7%	1.25
91	72	82	4	0.0%	5.9%	5	0.0%	6.1%	1.25
92	57	68	6	100.0%	14.0%	8	60.0%	11.8%	1.00
93	50	53	2	-75.0%	4.0%	2	-75.0%	3.8%	1.00
94	24	26	2	0.0%	8.3%	2	0.0%	7.7%	1.00
95	25	26	4	100.0%	16.0%	4	100.0%	15.4%	1.00
Average	81	102	8	16.7%	9.4%	10	8.2%	9.0%	1.23

Fiscal Year ³	Total Defendants Terminated	Total Defendants Guilty	Percent Change	Defendants Found Guilty	Defendants as Percent of Total Guilty	Defendants Who Paid Guilty	Defendants Who Paid Guilty as Percent of Total Guilty	Condition Rate	Defendants Acquired	Percent Change	Defendants Dismissed	Percent Change	Other Terminated Defendants	Percent Change
82	168	145	26.8%	21	14.5%	124	85.5%	66.3%	2	200.0%	13	7.7%	8	-42.5%
83	207	184	-4.3%	10	10.8%	184	89.1%	88.9%	6	-33.3%	14	-7.1%	3	0.0%
84	192	175	-8.9%	6	7.0%	156	89.2%	91.1%	4	-50.0%	13	-8.2%	0	0.0%
85	93	86	-7.7%	3	3.2%	80	93.0%	92.5%	0	0.0%	4	-69.2%	3	0.0%
86	87	87	1.2%	8	9.2%	78	90.8%	89.7%	1	100.0%	8	-33.3%	0	0.0%
87	116	108	-7.1%	3	2.8%	105	90.5%	81.7%	1	0.0%	6	-125.0%	0	0.0%
88	104	100	-4.1%	8	8.9%	82	82.0%	86.2%	2	0.0%	1	-83.3%	1	0.0%
89	111	105	-5.0%	8	7.8%	87	82.4%	84.3%	2	0.0%	4	300.0%	0	0.0%
90	87	80	-8.8%	3	3.9%	77	88.3%	82.0%	2	0.0%	5	25.0%	0	0.0%
91	82	71	-13.3%	3	4.2%	65	86.8%	80.0%	2	0.0%	5	60.0%	1	0.0%
92	69	61	-11.4%	6	8.3%	65	80.2%	89.7%	1	-50.0%	1	-80.0%	0	0.0%
93	53	51	-3.8%	1	2.0%	50	80.0%	84.6%	1	0.0%	3	200.0%	0	0.0%
94	26	22	-15.4%	1	4.5%	21	86.5%	84.6%	1	100.0%	4	33.3%	0	0.0%
95	26	18	-31.0%	2	7.6%	18	88.9%	89.2%	2	100.0%	3	33.3%	0	0.0%
Average	102	92	-11.3%	8	7.8%	85	82.4%	80.2%	2	28.8%	8	33.8%	1	-42.5%

1. Caseload data extracted from the United States Attorney's Case Management System.
 2. For FYs 1982-2003, this chart summarizes the following categories: Firearms, Violent Crime in Indian Country, and Other Violent Crime. Other violent crime includes cases with a lead charge of Violent Crime which would otherwise fall into another program category. Also, these data and organized crime cases classified under the Violent Crime program category are included. Beginning in FY 2004, Violent Crime includes those cases classified under the following program category codes: Firearms (023), Bank Robbery (023), Domestic Violence (023), Violent Crime in Indian Country (023), and All Other Violent Crime (023).
 3. FY 2005 numbers are actual data through the end of September 2005.

ASG00000196

United States Attorney – Criminal Caseload Statistics¹
 Southern District of California
 Standard Sentencing Counts
 Violent Crime²

Fiscal Year ³	Sentencing			Number of Guilty Defendants Not Sentenced To Prison	Percent Change	Number of Guilty Defendants Sentenced To Prison	Percent Change	Percent of Guilty Defendants Sentenced To Prison
	Defendants in Case Filled	Defendants in Case Terminated	Total Defendants Guilty					
82	227	108	145	15	33.3%	130	26.2%	80.7%
83	180	207	194	20	-20.0%	164	83.1%	80.0%
84	122	192	175	16	-50.3%	159	-3.0%	80.8%
85	108	93	88	7	0.0%	78	-50.3%	81.9%
86	109	97	87	7	0.0%	80	1.3%	82.0%
87	114	116	108	12	71.4%	86	20.0%	88.8%
88	120	104	100	17	41.7%	83	-19.5%	83.0%
89	87	111	105	10	-11.2%	68	-14.5%	80.5%
90	78	87	80	10	0.0%	70	-28.3%	87.5%
91	72	82	71	12	20.0%	59	-15.7%	83.1%
92	62	68	61	2	-49.3%	59	0.0%	86.7%
93	53	53	51	2	300.0%	43	-27.1%	84.3%
94	27	26	22	4	-50.0%	18	-59.1%	81.8%
95	21	25	18	2	-50.0%	16	-11.1%	88.9%
Average	98	102	82	10	12.7%	82	-11.0%	89.4%

Fiscal Year ³	Number of Guilty Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Number of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison		Percent of Defendants Sentenced To Prison	
	1-12 Months	13-24 Months	1-12 Months	13-24 Months	25-36 Months	37-60 Months	61+ Months	61+ Months	Life in Prison	Life in Prison	Death	Death	Death	Death	Death	Death	Death	Death
82	130	14	10.8%	12.2%	18	28	40	21.5%	2	1.5%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
83	164	16	8.8%	10.1%	14	44	68	26.8%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
84	159	17	10.7%	10.7%	24	46	55	26.8%	1	0.6%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
85	78	10	12.7%	12.7%	12	20	23	29.3%	1	1.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
86	80	14	17.5%	17.5%	8	22	19	23.8%	1	1.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
87	89	11	11.5%	12.5%	19	23	35	38.6%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
88	83	14	16.8%	16.8%	12	24	28	31.3%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
89	95	20	21.1%	22.1%	16	22	20	21.1%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
90	70	28	41.4%	43.4%	5	15	14	23.7%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
91	59	15	25.4%	25.4%	7	11	8	16.9%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
92	59	18	30.2%	30.2%	6	11	8	16.9%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
93	43	10	23.3%	23.3%	7	7	3	38.8%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
94	18	3	16.7%	16.7%	2	7	5	16.7%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
95	16	1	6.3%	6.3%	4	3	2	18.8%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Average	82	14	16.8%	13.4%	11	21	25	25.2%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%

¹ Caseload data extended from the United States Attorney's Case Management System.
² For FYs 1982-2003, this chart summarizes the following categories: Firearms, Violent Crime in Indian County, and Other Violent Crime. Other violent crimes include cases with a lead charge of Violent Crime which would otherwise fall into another program category. Also, those drug and organized crime cases classified under the Violent Crime program category are included. Beginning in FY 2004, Violent Crime includes those cases classified under the following program category codes: Firearms (053); Bank Robbery (083); Domestic Violence (097); Violent Crime in Indian County (092); and All Other Violent Crime (093).
³ FY 2005 numbers are actual data through the end of September 2005.

Mercer, William W

From: Otis, Lee L
Sent: Tuesday, May 02, 2006 3:28 PM
To: Tenpas, Ronald J (ODAG); Mercer, Bill (ODAG)
Subject: SW Border

In case you haven't seen this, here is the Q&A at the AG's House Judiciary Committee hearing re: San Diego immigration prosecutions.

REP. RIC KELLER (R-FL): Thank you, Mr. Chairman.

And thank you, Mr. Attorney General, for coming before us today. You've just testified that you think we must enforce our immigration laws, and on March 25th President Bush in his radio address mirrored your comments. He said, quote, "To keep the promise of America, we must enforce the laws of America," close quote.

I want to talk to you about one of the most important laws we have on the books in terms of illegal immigration, and that is the law dealing with smuggling illegal aliens into the U.S. for financial gain. As you know, that's a felony, is punishable by a minimum of three years in prison, under Title 8, U.S. Code, Section 1324, which I'm holding up.

I want to tell you something which you may not be aware of. I recently spent a full week on the Mexican-California border, riding around with Border Patrol agents. I was with them 2:00, 3:00 in the morning as they arrested various illegal aliens and smugglers, which are also known as coyotes. I learned some things from these Border Patrol agents directly that I want to relay to you.

These coyotes get approximately \$1,500 per person that they illegally smuggle into the U.S. The Border Patrol agents told me that they have arrested some of these alien smugglers between 20 and 30 times. They tell me that the U.S. attorney in San Diego for the Southern District of California, Carol Lamb, has repeatedly refused to prosecute them; that the prosecutions have been slashed dramatically; that under the guidelines and practice of this U.S. attorney, the only way you're really going to see a prosecution is if someone dies in the transport of the illegal aliens or if one of these alien smugglers attempts to run over someone by going through a port.

One example is Antonio Amparo-Lopez, who has been arrested for alien smuggling for financial gain. He's been arrested more than 20 times. He has a -- he has a long criminal history. The U.S. attorney has refused to prosecute this attorney -- this alien smuggler.

It's a concern not only to me. Congressman Darrell Issa has been leading the charge on this issue. It's a concern to him. Chairman Jim Sensenbrenner has raised concerns about it. Chairman Duncan Hunter has raised concerns. Nineteen members of the Republican California delegation wrote to you and President Bush on October 20th of 2005.

The morale is so bad among these Border Patrol agents that I show you a photograph that they call the wall of shame. It has pictures of over 200 coyotes that have been arrested by the Border Patrol agents in the Southern District of California who this U.S. attorney has repeatedly failed to prosecute.

Here's some straight talk. The pathetic failure of your U.S. attorney in San Diego to prosecute alien smugglers who have been arrested 20 times is a demoralizing slap in the face to Border Patrol agents who risk their lives every day. It also undermines the credibility that you and President Bush have when you talk tough about enforcing the laws, and it renders meaningless the laws this Congress passes to crack down on alien smugglers.

Now, as you might imagine, there is a defense that this U.S. attorney raises. She and her assistant say, "Well, we just don't have the resources to prosecute these coyotes, we have to focus on other priorities." Well, this U.S. attorney has 120 U.S. attorneys working for her, and so I wondered what they are spending their time prosecuting

if this isn't a priority. And I have in my hand a press release that U.S. Attorney Lamb sent out recently, on March 22nd, 2006, bragging that they have successfully prosecuted someone who sold a baseball card with Mark McGwire's picture on it even though there was a forged signature of the famous slugger. And if I were attorney general for a day, I would probably call up the U.S. attorney in San Diego and say, "Here's a tip. Stop worrying about baseball cards and start worrying about our national security and enforcing our laws."

Now, my criticism isn't personal to you or President Bush. I have very high regard for both of you, very high regard, but my questions are two, and then I'm going to shut up and give you the chance to respond.

Question number one: What, if anything, will you do to see that the U.S. attorney in San Diego prosecutes those alien smugglers, at least those who have been repeatedly arrested by Border Patrol agents? And second, what resources, if any, do you need from this Congress to give to you to make sure these coyotes are prosecuted and that our laws are actually enforced?

(Pause.)

REP. SENSENBRENNER (?): Mr. Attorney General?

ATTY GEN. GONZALES: Yes. Thank you, Congressman.

Well, the enforcement of our immigration laws is important to the president. It is important to me. I am aware of what you're talking about with respect to the San Diego situation, and we are looking into it. We are asking all U.S. attorneys, particularly those on our southern borders, to do more, quite frankly. We need to be doing more.

There is quite a challenge to some of our offices on the border. There are five U.S. Attorney districts that handle a great number of the immigration-related prosecutions, and so it is a tremendous strain and burden, but I think we have an obligation to determine the scope of the problem and to see what we need to address the problem. There are two things that would be helpful. One is we hope that the Congress fully funds what the president has asked for in terms of monies for our U.S. attorneys. That will be very, very important so that we can have the resources available to prosecute these kinds of cases.

Two, the U.S. attorneys along the southern border tell me that the existing law regarding alien smugglers could be tighter.

There is a discussion, a debate now about what that language should be. No one wants to prosecute those who are engaged in good samaritan activities. Obviously, that's not -- that should not be criminalized, but we believe that the language could be tighter that would make it easier to achieve prosecutions. And we look forward to working with the Congress to arrive at language that would help us achieve that.

We -- I've directed by staff to schedule a meeting with the members of the California delegation and the DAG. I intend to call Congressman Issa as well to talk with him about this issue because I was made aware of this as a big priority for the congressman. And we are looking at the situation in San Diego, and we are directing that our U.S. attorneys do more because you're right; if people were coming across the border repeatedly, particularly those who are coyotes and their smugglers or their criminals or felons, they ought to be prosecuted. And so we need to try to figure out -- to make our resources work so that that can happen.

Mercer, William W

From: Otis, Lee L
Sent: Thursday, May 18, 2006 4:04 PM
To: Mercer, Bill (ODAG); Tenpas, Ronald J (ODAG); Elston, Michael (ODAG)
Subject: FW: AP - Report says Border Patrol demoralized by lack of smuggling prosecutions

fyi. Iglesias is scheduled to testify at a House Judiciary Committee hearing on May 25 on alien smuggling. This looks like some of the same issues that Congressman Issa has been complaining about.

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

From: Seidel, Rebecca
Sent: Thursday, May 18, 2006 3:51 PM
To: Roberts, Tom; Koehler, Joe (USAAZ); McHenry, Teresa; Morton, John (USAVAE); Campbell, Benton; Crews, John (USAE0)
Cc: Bounds, Ryan W (OLP); Otis, Lee L; Iglesias, David C. (USANM); Voris, Natalie (USAE0); Roland, Sarah E; Warwick, Brian
Subject: FW: AP - Report says Border Patrol demoralized by lack of smuggling prosecutions

see below story, we are going to need to ensure that you David have enough info to respond to questions you may get on this. We need to respond with our good prosecution numbers, and also, verify if the below is wrong or correct?

From: White House News Update [mailto:News.Update@WhiteHouse.Gov]
Sent: Thursday, May 18, 2006 3:16 PM
To: Ho, Allyson N.
Subject: AP - Report says Border Patrol demoralized by lack of smuggling prosecutions

Report says Border Patrol demoralized by lack of smuggling prosecutions

By ELLIOT SPAGAT

SAN DIEGO (AP) The vast majority of people caught smuggling immigrants across the border near San Diego are never prosecuted for the offense, demoralizing the Border Patrol agents making the arrests, according to an internal document obtained by The Associated Press.

"It is very difficult to keep agents' morale up when the laws they were told to uphold are being watered-down or not prosecuted," the report says.

The report offers a stark assessment of the situation at a Border Patrol station responsible for guarding 13 miles of mountainous border east of the city. Federal officials say it reflects a reality along the entire 2,000-mile border: Judges and federal attorneys are so swamped that only the most egregious smuggling cases are prosecuted.

Only 6 percent of 289 suspected immigrant smugglers were prosecuted by the federal government for that offense in the year ending in September 2004, according to the report. Some were instead prosecuted for another crime. Other cases were declined by federal prosecutors, or the suspect was released by the Border Patrol.

The report raises doubts about the value of tightening security along the Mexican border. President Bush wants to hire 6,000 more Border Patrol agents and dispatch up to 6,000 National Guardsmen. He did not mention overburdened courts in his Oval Office address Monday on immigration.

The report was provided to the AP by the office of Rep. Darrell Issa, R-Calif., who has accused the chief federal prosecutor in San Diego of being lax on smuggling cases. Issa's office said it was an internal Border Patrol report written last August. It was unclear who wrote it.

The lack of prosecutions is "demoralizing the agents and making a joke out of our system of justice," said T.J. Bonner, president of the National Border Patrol Council, which represents agents. "It is certainly a weak link in our immigration-enforcement chain."

The 41-page report says federal prosecutors in San Diego typically prosecute smugglers who commit "dangerous/violent activity" or guide at least 12 illegal immigrants across the border. But other smugglers know they are only going to get "slapped on the wrist," according to the report.

The report cites a 19-year-old U.S. citizen caught three times in a two-week period in 2004 trying to sneak people from Tijuana, Mexico, to San Diego in his car trunk, two at a time.

"This is an example of a kid who knows the system," the report says. "What is true is that he will probably never be prosecuted if he only smuggles only one or two bodies at a time."

The report also cites a Mexican citizen who was caught in Arizona and California driving with illegal immigrants and was released each time to Mexico. He was prosecuted the fourth time, when two illegal immigrants in his van died in a crash, and sentenced to five years in prison.

U.S. Attorney Carol Lam in San Diego said about half her 110 attorneys work on border cases in an area where the Border Patrol made nearly 140,000 arrests last year. She said she gives highest priority to the most serious cases, including suspects with long histories of violent crime or offenders who endanger others' lives.

"We figure out how many cases our office can handle, start from the worst and work our way down," she said.

Lam said many suspected migrant smugglers are prosecuted instead for re-entering the country after being deported, a crime that can be proved with documents. Smuggling cases are more difficult to prosecute because they require witnesses to testify.

The Border Patrol, which would neither confirm nor deny the document's authenticity, said prosecutors in San Diego recently agreed to prosecute a Top 20 list of smugglers if they are caught.

The Justice Department in Washington declined to comment. However, at a congressional hearing last month, Rep. Ric Keller, R-Fla., told Attorney General Alberto Gonzales that Lam's record on migrant smuggling was "a pathetic failure." Gonzales replied that he was urging U.S. attorneys to more actively enforce laws but noted that immigration cases were "a tremendous strain and burden" along the border.

Peter Nunez, a former U.S. attorney in San Diego, said prosecutors along the border struggle with limited resources and a huge caseload of immigration cases.

"This is not an indictment of the U.S. Attorney's Office, because you have to deal with the realities of the caseload, but it is an indictment of how badly Congress and presidents have handled the immigration system," he said.

The report says immigrants in the area paid an average of \$1,398 to be guided across the border in 2004.

``Smugglers are making lots of money breaking the immigration laws, and there is not much incentive for them to stop these illegal activities,''
it says. ``The smugglers know that even if they are caught, it will be
difficult to punish them.''

Mercer, William W

From: Mercer, Bill (ODAG)
Sent: Thursday, May 18, 2006 5:52 PM
To: Fridman, Daniel (ODAG)
Subject: FW: AP - Report says Border Patrol demoralized by lack of smuggling prosecutions

Call at your convenience after 7 eastern. 5-5038

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

From: Otis, Lee L
Sent: Thursday, May 18, 2006 4:43 PM
To: Sampson, Kyle; Elwood, Courtney; Taylor, Jeffrey (OAG); Scolinos, Tasia
Cc: Mercer, Bill (ODAG); Elston, Michael (ODAG)
Subject: FW: AP - Report says Border Patrol demoralized by lack of smuggling prosecutions

FYI. Does the AG need separate smuggling numbers for tomorrow in light of this?

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

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Sent: Thursday, May 18, 2006 3:51 PM
To: Roberts, Tom; Koshler, Joe (USAAZ); McHenry, Teresa; Morton, John (USAVAE); Campbell, Benton; Crews, John (USAE0)
Cc: Bounds, Ryan W (OLP); Otis, Lee L; Iglesias, David C. (USANM); Voris, Natalie (USAE0); Roland, Sarah E; Warwick, Brian
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see below story, we are going to need to ensure that you David have enough info to respond to questions you may get on this. We need to respond with our good prosecution numbers, and also, verify if the below is wrong or correct?

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Sent: Thursday, May 18, 2006 3:16 PM
To: Ho, Allyson N.
Subject: AP - Report says Border Patrol demoralized by lack of smuggling prosecutions

Report says Border Patrol demoralized by lack of smuggling prosecutions
By ELLIOT SPAGAT

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The 41-page report says federal prosecutors in San Diego typically prosecute smugglers who commit "dangerous/violent activity" or guide at least 12 illegal immigrants across the border. But other smugglers know they are only going to get "slapped on the wrist," according to the report.

The report cites a 19-year-old U.S. citizen caught three times in a two-week period in 2004 trying to sneak people from Tijuana, Mexico, to San Diego in his car trunk, two at a time.

"This is an example of a kid who knows the system," the report says. "What is true is that he will probably never be prosecuted if he only smuggles only one or two bodies at a time."

The report also cites a Mexican citizen who was caught in Arizona and California driving with illegal immigrants and was released each time to Mexico. He was prosecuted the fourth time, when two illegal immigrants in his van died in a crash, and sentenced to five years in prison.

U.S. Attorney Carol Lam in San Diego said about half her 110 attorneys work on border cases in an area where the Border Patrol made nearly 140,000 arrests last year. She said she gives highest priority to the most serious cases, including suspects with long histories of violent crime or offenders who endanger others' lives.

"We figure out how many cases our office can handle, start from the worst and work our way down," she said.

Lam said many suspected migrant smugglers are prosecuted instead for re-entering the country after being deported, a crime that can be proved with documents. Smuggling cases are more difficult to prosecute because they require witnesses to testify.

The Border Patrol, which would neither confirm nor deny the document's authenticity, said prosecutors in San Diego recently agreed to prosecute a Top 20 list of smugglers if they are caught.

The Justice Department in Washington declined to comment. However, at a congressional hearing last month, Rep. Ric Keller, R-Fla., told Attorney General Alberto Gonzales that Lam's record on migrant smuggling was "a pathetic failure." Gonzales replied that he was urging U.S. attorneys to more actively enforce laws but noted that immigration cases were "a tremendous strain and burden" along the border.

Peter Nunez, a former U.S. attorney in San Diego, said prosecutors along the border struggle with limited resources and a huge caseload of immigration cases.

"This is not an indictment of the U.S. Attorney's Office, because you

have to deal with the realities of the caseload, but it is an indictment of how badly Congress and presidents have handled the immigration system," he said.

The report says immigrants in the area paid an average of \$1,398 to be guided across the border in 2004.

"Smugglers are making lots of money breaking the immigration laws, and there is not much incentive for them to stop these illegal activities," it says. "The smugglers know that even if they are caught, it will be difficult to punish them."

Mercer, William W

From: Moschella, William
Sent: Friday, May 19, 2006 9:43 AM
To: Mercer, Bill (ODAG)
Subject: Fw: AP: Many Immigrant Smugglers Not Prosecuted

Attachments: tmp.htm

This now has Frist's attention.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Allen Hicks@frist.senate.gov
To: Moschella, William
Sent: Fri May 19 09:31:37 2006
Subject: AP: Many Immigrant Smugglers Not Prosecuted



tmp.htm (17 KB)

Can we di cuss?

AP: Many Immigrant Smugglers Not Prosecuted

By ELLIOT SPAGAT, Associated Press Writer Thu May 18, 6:50 PM ET

SAN DIEGO - The vast majority of people caught smuggling immigrants across the border near San Diego are never prosecuted for the offense, demoralizing the agents making the arrests, according to an internal Border Patrol document obtained by The Associated Press.

"It is very difficult to keep agents' morale up when the laws they were told to uphold are being watered-down or not prosecuted," the report says.

The report offers a stark assessment of the situation at a Border Patrol station responsible for guarding 13 miles of mountainous border east of the city. Federal officials say it reflects a reality along the entire 2,000-mile border: Judges and federal attorneys are so swamped that only the most egregious smuggling cases are prosecuted.

Only 6 percent of 289 suspected immigrant smugglers were prosecuted by the federal government for that offense in the year ending in September 2004, according to the report. Some were instead prosecuted for another crime. Other cases were declined by federal prosecutors, or the suspect was released by the Border Patrol.

The report raises doubts about the value of tightening security along the Mexican border.

President Bush
<<http://search.news.yahoo.com/search/news/?p=President+Bush>> wants to hire 6,000 more Border Patrol agents and dispatch up to 6,000 National Guardsmen. He did not mention overburdened courts in his Oval Office

address Monday on immigration.

The report was provided to the AP by the office of Rep. Darrell Issa (news <http://us.rd.yahoo.com/DailyNews/politics/news/ap/ap_on_re_us/immigration_prosecutions/19085175/*http://news.search.yahoo.com/search/news?fr=news-storylinks&p=%22Rep.%20Darrell%20Issa%22&c=&n=20&yn=c&c=news&cs=nw> , bio <http://us.rd.yahoo.com/dailynews/capadv/bio/ap/ap_on_re_us/immigration_prosecutions/19085175/SIG=119t7amub/*http://yahoo.capwiz.com/y/bio/?id=40137> , voting record <http://us.rd.yahoo.com/dailynews/capadv/vote/ap/ap_on_re_us/immigration_prosecutions/19085175/SIG=11iu6v8ml/*http://yahoo.capwiz.com/y/bio/keyvotes/?id=40137>) , R-Calif., who has accused the chief federal prosecutor in San Diego of being lax on smuggling cases. Issa's office said it was an internal Border Patrol report written last August. It was unclear who wrote it.

The lack of prosecutions is "demoralizing the agents and making a joke out of our system of justice," said T.J. Bonner, president of the National Border Patrol Council, which represents agents. "It is certainly a weak link in our immigration-enforcement chain."

The 41-page report says federal prosecutors in San Diego typically prosecute smugglers who commit "dangerous/violent activity" or guide at least 12 illegal immigrants across the border. But other smugglers know they are only going to get "slapped on the wrist," according to the report.

The report cites a 19-year-old U.S. citizen caught three times in a two-week period in 2004 trying to sneak people from Tijuana, Mexico, to San Diego in his car trunk, two at a time.

"This is an example of a kid who knows the system," the report says. "What is true is that he will probably never be prosecuted if he only smuggles only one or two bodies at a time."

The report also cites a Mexican citizen who was caught in Arizona and California driving with illegal immigrants and was released each time to Mexico. He was prosecuted the fourth time, when two illegal immigrants in his van died in a crash, and sentenced to five years in prison.

U.S. Attorney Carol Lam in San Diego said about half her 110 attorneys work on border cases in an area where the Border Patrol made nearly 140,000 arrests last year. She said she gives highest priority to the most serious cases, including suspects with long histories of violent crime or offenders who endanger others' lives.

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The Border Patrol, which would neither confirm nor deny the document's authenticity, said prosecutors in San Diego recently agreed to prosecute a Top 20 list of smugglers if they are caught.

The Justice Department in Washington declined to comment. However, at a congressional hearing last month, Rep. Ric Keller (news <http://us.rd.yahoo.com/DailyNews/politics/news/ap/ap_on_re_us/immigration_prosecutions/19085175/*http://news.search.yahoo.com/search/news?fr=news-storylinks&p=%22Rep.%20Ric%20Keller%22&c=&n=20&yn=c&c=news&cs=nw> , bio <http://us.rd.yahoo.com/dailynews/capadv/bio/ap/ap_on_re_us/immigration_

prosecutions/19085175/SIG=119cnqvb5/*http://yahoo.capwiz.com/y/bio/?id=10659> , voting record
<http://us.rd.yahoo.com/dailynews/capadv/vote/ap/ap_on_re_us/immigration_prosecutions/19085175/SIG=11i7flvu6/*http://yahoo.capwiz.com/y/bio/keyvotes/?id=10659>), R-Fla., told Attorney General Alberto Gonzales that Lam's record on migrant smuggling was "a pathetic failure." Gonzales replied that he was urging U.S. attorneys to more actively enforce laws but noted that immigration cases were "a tremendous strain and burden" along the border.

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G. Allen Hicks

Chief Counsel

Senate Majority Leader William H. Frist, M.D.

S-230, the Capitol

Washington, DC 20510

Phone: (202) 224-6631

Email: allen_hicks@frist.senate.gov
<mailto:allen_hicks@frist.senate.gov>

Can we discuss?

AP: Many Immigrant Smugglers Not Prosecuted

By ELLIOT SPAGAT, Associated Press Writer *Thu May 18, 6:50 PM ET*

SAN DIEGO - The vast majority of people caught smuggling immigrants across the border near San Diego are never prosecuted for the offense, demoralizing the agents making the arrests, according to an internal Border Patrol document obtained by The Associated Press.

"It is very difficult to keep agents' morale up when the laws they were told to uphold are being watered-down or not prosecuted," the report says.

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President Bush wants to hire 6,000 more Border Patrol agents and dispatch up to 6,000 National Guardsmen. He did not mention overburdened courts in his Oval Office address Monday on immigration.

The report was provided to the AP by the office of Rep. Darrell Issa (news, bio, voting record), R-Calif., who has accused the chief federal prosecutor in San Diego of being lax on smuggling cases. Issa's office said it was an internal Border Patrol report written last August. It was unclear who wrote it.

The lack of prosecutions is "demoralizing the agents and making a joke out of our system of justice," said T.J. Bonner, president of the National Border Patrol Council, which represents agents. "It is certainly a weak link in our immigration-enforcement chain."

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ASG000000209

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ASG00000210

G. Allen Hicks
Chief Counsel
Senate Majority Leader William H. Frist, M.D.
S-230, the Capitol
Washington, DC 20510
Phone: (202) 224-6631
Email: allen_hicks@frist.senate.gov

ASG00000211

Mercer, William W

From: Otis, Lee L
Sent: Friday, May 19, 2006 5:53 PM
To: Mercer, Bill (ODAG); Tenpas, Ronald J (ODAG)
Cc: Elston, Michael (ODAG)
Subject: FW: Looking for a common time

fyi, in connection with upcoming alien smuggling hearing.

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

From: Seidel, Rebecca
Sent: Friday, May 19, 2006 2:01 PM
To: Haines, Roger (USACAS); Otis, Lee L; Warwick, Brian; Roland, Sarah E; Crews, John (USAEO); Roberts, Tom; McHenry, Teresa; Morton, John (USAVAE); Koehler, Joe (USAAZ); Smith, David L. (USAEO)
Subject: RE: Looking for a common time

Thank you!

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

From: Haines, Roger (USACAS)
Sent: Friday, May 19, 2006 1:51 PM
To: Otis, Lee L; Warwick, Brian; Roland, Sarah E; Crews, John (USAEO); Roberts, Tom; McHenry, Teresa; Morton, John (USAVAE); Koehler, Joe (USAAZ); Smith, David L. (USAEO)
Cc: Seidel, Rebecca
Subject: RE: Looking for a common time

To all,

Here are some statistics from SDCA in response to the charges in the story.

Statistics

The number of 8/1324 cases filed with total number of defendants for calendar and fiscal years 2000 thru October 25, 2005 (when we reported the numbers to EOUSA):

	Number of Cases	Number of Defendants
CY 2000	442	577
CY 2001	350	430
CY 2002	451	625
CY 2003	460	556
CY 2004	493	613
CY 2005	468	546
FY 2000	426	556
FY 2001	385	474
FY 2002	378	540
FY 2003	471	570
FY 2004	506	634
FY 2005	513	599

(Bullets based on excerpts from our 11/2/05 Memo to EOUSA for response to Congressman Issa's letter - so the stats are current through 10/25/05)

(1) Our demonstrated commitment to and our record of prosecuting criminal aliens over the last 10 years has been clearly established.

(a) Since 1/1/95, our office has prosecuted 17,221 felony criminal alien cases - more than 20 times the number filed during the

10-year period of 1985 through 1994 combined.

(1) Of that number, 10,075 defendants have been prosecuted since 1/1/00, which produces an average of 144 felony cases per month.

(2) We also prosecute alien smugglers aggressively.

(a) Between 1/1/00 and 10/25/05 (when we last calculated this information - to respond to Congressman Issa's letter), we prosecuted 3,347 defendants in 2,714 felony alien smuggling cases, or approximately 48 defendants per month.

(b) Because our district is located on the border with Mexico, we consider the prosecution of criminal aliens and alien smugglers to be a priority and our office's commitment to those prosecutions is reflected in our heavy caseload.

(c) For most of our district's 30-year history, defendants charged with alien smuggling faced misdemeanor sentences of no more than 180 days in jail and often less.

(1) In 1995, however, we completely revised our prosecution guidelines calling for a felony-only policy in alien smuggling cases. Using both an aggressive prosecutive strategy and the new mandatory prison terms enacted by Congress in 1996, those involved in alien smuggling, particularly those engaging in conduct which endangers the aliens being smuggled or the public at large, face more time in federal prison than at any time in the past.

(3) Since 1/1/00, immigration-related prosecutions (criminal aliens and alien smugglers) have accounted for between 50% and 75% of our office's annual caseload.

(a) For example, during Fiscal Year 2004 (10/1/03-9/30/04), we prosecuted 3,380 cases in all categories (e.g., narcotics, white collar, violent crime, immigration, terrorism, etc.).

(b) Of those 3,380 total cases (and any given case may include multiple defendants - alien smuggling cases often do), we prosecuted 2,530 immigration cases, the vast majority of which involved criminal aliens.

(1) Those 2,530 cases constituted 74.8% of our office's caseload for FY 2004, which demonstrates a huge commitment of resources to this crime problem.

>
> From: Crews, John (USAEO)
> Sent: Friday, May 19, 2006 7:46 AM
> To: Roland, Sarah E; Warwick, Brian; Roberts, Tom; McHenry, Teresa;
> Morton, John (USAVAE); Koehler, Joe (USAAZ); Haines, Roger (USACAS);
> Smith, David L. (USAEO); Otis, Lee L
> Cc: Seidel, Rebecca
> Subject: Looking for a common time
>

> I'm doing the first draft of the rebuttal/explanation points for Mr.
> Iglesias regarding the AP story and alien smuggling that was passed
> around yesterday. In preparation for that I'd to see if there is a
> common time for conference call to discuss the issue. Failing that,
> if you have any suggestions or topics which should be included in the
> draft document please let me know. Given the short time frame I doubt
> we can find a time when absolutely everyone is available but I'd like
> to try to do that if possible.
>

> Thanks.
>
> John

Mercer, William W

From: Fridman, Daniel (ODAG)
Sent: Sunday, May 21, 2006 12:41 PM
To: Mercer, Bill (ODAG)
Subject: Fw: Trends in Immigration Prosecutions

Attachments: trend graph.doc

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

From: Fridman, Daniel (ODAG)
To: Mercer, Bill (ODAG)
Sent: Sun May 21 10:04:56 2006
Subject: Trends in Immigration Prosecutions

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

From: dan_fridman@yahoo.com
To: Fridman, Daniel (ODAG)
CC: dan_fridman@yahoo.com
Sent: Sun May 21 10:00:22 2006
Subject: Trends in Immigration Prosecutions

Bill -



trend graph.doc
(35 KB)

I've attached a line graph that helps illustrate the problem. I took the U.S. Courts data you obtained and got historical data from the courts for immigration prosecutions from 2000 to 2005. The data includes felonies and class A misdemeanors. I graphed the trends for SDCA, Arizona, and New Mexico.

Since 2000-01, Arizona and New Mexico have had an upward trend in their immigration prosecutions. SDCA peaked in 2003-04 and has since had a precipitous decline. At the risk of comparing apples and oranges, when you compare SDCA's performance using 111 AUSAs (as self-reported to EOUSA) and New Mexico with 59 AUSAs but still generating more cases than SDCA, it seems that SDCA should be doing much more.

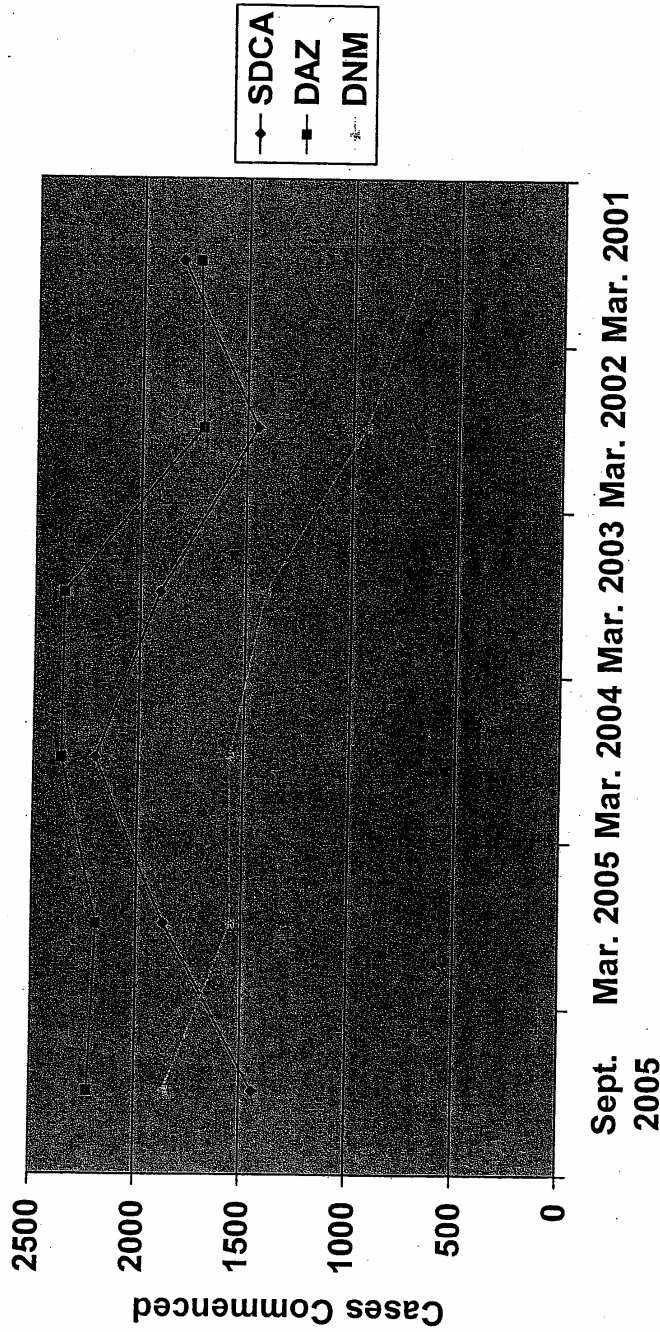
I am working on the write up/white paper. My impressions from looking at the written materials you sent and the data is that SDCA's prosecution guidelines are more restrictive than the other districts. In particular, looking at the 2005 courts data, they do far fewer (between 50% to 75% fewer) illegal reentry cases than New Mexico or Arizona.

Dan

Do You Yahoo!?

Tired of spam? Yahoo! Mail has the best spam protection around
<http://mail.yahoo.com>

Trends in Overall Immigration Prosecutions by District



Source: United States Courts Data

ASG000000217

Mercer, William W

From: Mercer, Bill (ODAG)
Sent: Tuesday, May 23, 2006 11:25 AM
To: Fridman, Daniel (ODAG)
Subject: Fw: Urgent Report (Border Patrol Report-CNN Coverage)
Attachments: tmp.htm; UR-06-06-0021SDCAwpd.wpd

Important -- should be added to the memo. I have a handful of edits to the memo which I will fax.

Sent from my BlackBerry Wireless Handheld

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

From: USAEO-Urgent
To: Tenpas, Ronald J (ODAG); Taylor, Jeffrey (OAG); Sierra, Bryan (OPA); Scolinos, Tasia; Sampson, Kyle; Roehrkasse, Brian; Mercer, Bill (ODAG); Goodling, Monica; Elwood, Courtney; Elston, Michael (ODAG); Smith, Kimberly A; Battle, Michael (USAEO); Beeman, Judy (USAEO); Coughlin, Robert; Fisher, Alice; Friedrich, Matthew; Kelly, John (USAEO); Parent, Steve (USAEO); Sabin, Barry; Schools, Scott (USAEO); USAEO-Chron; Voris, Natalie (USAEO)
Sent: Tue May 23 11:06:47 2006
Subject: Urgent Report (Border Patrol Report-CNN Coverage)



UR-06-06-0021SDC
Awpd.wpd (9 KB...

URGENT R PORT-06-05-0021

TO: THE ATTORNEY GENERAL
THE DEPUTY ATTORNEY GENERAL
FROM: Carol C. Lam
United States Attorney
Southern District of California
(619) 557-5690 (Office)

DATE: May 23, 2006

CLASSIFICATION: Limited Official Use

CONTACT PERSON: Carol C. Lam
United States Attorney
Southern District of California
(619) 557-5690 (Office)

SYNOPSIS: Yesterday, Congressman Darryl Issa criticized on CNN's "Lou Dobbs Tonight" SDCA's "refusal" to prosecute 100% of all alien smugglers. The USAO-SDCA has learned that the "Border Patrol Report" on which Rep. Issa relies is an unauthorized, altered version of an old report. The USAO-SDCA has issued a written statement to CNN with that information.

DISCUSSION: On Thursday, May 18, 2006, the Associated Press ran a news

story prompted by the release of a 2004 "Border Patrol Report" by Congressman Darryl Issa (R-CA). According to Congressman Issa, the report from the El Cajon substation of the Border Patrol (San Diego Sector) concluded that morale was low among Border Patrol agents at the El Cajon station due to the high number of declined prosecutions by our office. The story received national media attention.

On Friday, May 19, 2006, the Chief of the U.S. Border Patrol, San Diego Sector, informed us that the report released by Congressman Issa was actually an altered and unauthorized version of an actual internal intelligence report issued by the El Cajon substation. The original report was labeled "Prosecution of Smugglers" for Fiscal Year 2003; the altered report was labeled "Prosecution of Smugglers (1324) Fiscal Year 2004." The altered 2004 report contained editorial comments and conclusions that were never seen by or authorized by Border Patrol management.

On Monday, May 22, 2006, this office was contacted by CNN and informed that Congressman Issa would be appearing on "Lou Dobbs Tonight" to discuss the "Border Patrol Report." CNN asked our office for a written statement to be shared during the interview. After checking with Border Patrol, San Diego Sector, we submitted the following written statement:

"Representative Issa has been misled. The document he calls a "Border Patrol Report" is actually an old internal Border Patrol document, relating to a single substation, that has been substantially altered and passed off as an official report. Many of the comments in the document to which Representative Issa refers are editorial comments inserted by an unidentified individual, and they were not approved by or ever seen by Border Patrol management.

Many important issues are raised by the problem of illegal immigration. However, we believe that all dialogue and debate should be based on well-informed and accurate data."

We have also advised Representative Issa's office that we believe the Border Patrol report to be an unauthorized and altered version of an old internal report.

In light of previous media interest in this issue, there is a possibility that the disclosure that the report is not genuine could generate substantial media interest. Our statement was read to Representative Issa by Lou Dobbs during his interview which aired at 3:30 PST.

<<UR-06-06-0021SDCAwpd.wpd>>

URGENT REPORT-06-05-0021

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THE DEPUTY ATTORNEY GENERAL

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ASG000000222

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Many important issues are raised by the problem of illegal immigration. However, we believe that all dialogue and debate should be based on well-informed and accurate data.”

We have also advised Representative Issa’s office that we believe the Border Patrol report to be an unauthorized and altered version of an old internal report.

In light of previous media interest in this issue, there is a possibility that the disclosure that the report is not genuine could generate substantial media interest. Our statement was read to Representative Issa by Lou Dobbs during his interview which aired at 3:30 PST.

<<UR-06-06-0021SDCAwpd.wpd>>

ASG00000223

Mercer, William W

From: Mercer, Bill (ODAG)
Sent: Tuesday, May 23, 2006 11:35 AM
To: Fridman, Daniel (ODAG)
Subject: Re: Urgent Report (Border Patrol Report-CNN Coverage)

Yesterday, you should have received a 41 page document from me that Natalie Voris sent up. As I read it, San Diego has responded to the question are there uncounted misdemeanors.

Sent from my BlackBerry Wireless Handheld

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

From: Fridman, Daniel (ODAG)
To: Mercer, Bill (ODAG)
Sent: Tue May 23 11:32:16 2006
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage)

Ok. I also met with John Crews today who was able to better explain to me the numbers in the reports, so I do need to revise some of the figures in the memo. The most significant change involves prosecutions for 1325 Entry without Inspection violations -- a class B misdemeanor which is not captured in LIONS or court data. Arizona apparently did about 4000 of these cases in 2005, New Mexico about 1000, and SDCA has not reported their number.

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

From: Mercer, Bill (ODAG)
Sent: Tuesday, May 23, 2006 11:25 AM
To: Fridman, Daniel (ODAG)
Subject: Fw: Urgent Report (Border Patrol Report-CNN Coverage)

Important -- should be added to the memo. I have a handful of edits to the memo which I will fax.

Sent from my BlackBerry Wireless Handheld

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

From: USAEO-Urgent
To: Tenpas, Ronald J (ODAG); Taylor, Jeffrey (OAG); Sierra, Bryan (OPA); Scolinos, Tasia; Sampson, Kyle; Rochrkasse, Brian; Mercer, Bill (ODAG); Goodling, Monica; Elwood, Courtney; Elston, Michael (ODAG); Smith, Kimberly A; Battle, Michael (USAEO); Beeman, Judy (USAEO); Coughlin, Robert; Fisher, Alice; Friedrich, Matthew; Kelly, John (USAEO); Parent, Steve (USAEO); Sabin, Barry; Schools, Scott (USAEO); USAEO-Chron; Voris, Natalie (USAEO)
Sent: Tue May 23 11:06:47 2006
Subject: Urgent Report (Border Patrol Report-CNN Coverage)

URGENT REPORT-06-05-0021

TO: THE ATTORNEY GENERAL
THE DEPUTY ATTORNEY GENERAL

FROM: Carol C. Lam
United States Attorney
Southern District of California
(619) 557-5690 (Office)

DATE: May 23, 2006

CLASSIFICATION: Limited Official Use

CONTACT PERSON: Carol C. Lam
United States Attorney
Southern District of California
(619) 557-5690 (Office)

SYNOPSIS: Yesterday, Congressman Darryl Issa criticized on CNN's "Lou Dobbs Tonight" SDCA's "refusal" to prosecute 100% of all alien smugglers. The USAO-SDCA has learned that the "Border Patrol Report" on which Rep. Issa relies is an unauthorized, altered version of an old report. The USAO-SDCA has issued a written statement to CNN with that information.

DISCUSSION: On Thursday, May 18, 2006, the Associated Press ran a news story prompted by the release of a 2004 "Border Patrol Report" by Congressman Darryl Issa (R-CA). According to Congressman Issa, the report from the El Cajon substation of the Border Patrol (San Diego Sector) concluded that morale was low among Border Patrol agents at the El Cajon station due to the high number of declined prosecutions by our office. The story received national media attention.

On Friday, May 19, 2006, the Chief of the U.S. Border Patrol, San Diego Sector, informed us that the report released by Congressman Issa was actually an altered and unauthorized version of an actual internal intelligence report issued by the El Cajon substation. The original report was labeled "Prosecution of Smugglers" for Fiscal Year 2003; the altered report was labeled "Prosecution of Smugglers (1324) Fiscal Year 2004." The altered 2004 report contained editorial comments and conclusions that were never seen by or authorized by Border Patrol management.

On Monday, May 22, 2006, this office was contacted by CNN and informed that Congressman Issa would be appearing on "Lou Dobbs Tonight" to discuss the "Border Patrol Report." CNN asked our office for a written statement to be shared during the interview. After checking with Border Patrol, San Diego Sector, we submitted the following written statement:

"Representative Issa has been misled. The document he calls a "Border Patrol Report" is actually an old internal Border Patrol document, relating to a single substation, that has been substantially altered and passed off as an official report. Many of the comments in the document to which Representative Issa refers are editorial comments inserted by an unidentified individual, and they were not approved by or ever seen by Border Patrol management.

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<<UR-06-06-0021SDCAwpd.wpd>>

Mercer, William W

From: Otis, Lee L
Sent: Tuesday, May 23, 2006 8:10 PM
To: Tenpas, Ronald J (ODAG); Mercer, Bill (ODAG); Elston, Michael (ODAG)
Subject: FW: Border patrol report /Carol Lam

FYI re: Ron's note about Carol Lam

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

From: Otis, Lee L
Sent: Tuesday, May 23, 2006 7:22 PM
To: Fridman, Daniel (ODAG)
Subject: Border patrol report

I have not seen the underlying report. This is about a statement that the US Attorney's office issued yesterday responding to Issa about this.

Also FYI, looking at the AOUSC data, the New Mexico smuggling prosecution numbers seem to be down a little from 04 to 05, as are the overall immig numbers, although not by very much at all in the case of the latter and the former seem to fluctuate a bit more.

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

From: Smith, Kimberly A
Sent: Tuesday, May 23, 2006 4:12 PM
To: Seidel, Rebecca; Roehrkasse, Brian
Cc: Voris, Natalie (USAE0); Otis, Lee L; Bounds, Ryan W (OLP)
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage);

Sounds good. I will tell their office they can send this out.

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

From: Seidel, Rebecca
Sent: Tuesday, May 23, 2006 4:09 PM
To: Smith, Kimberly A; Roehrkasse, Brian
Cc: Voris, Natalie (USAE0); Otis, Lee L; Bounds, Ryan W (OLP)
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage);

re attaching stmt USA Lam issued so Ryan and Lee can see.
While we would have liked to have had heads up before she issued it, I don't see any problems with it.

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

From: Smith, Kimberly A
Sent: Tuesday, May 23, 2006 3:55 PM
To: Roehrkasse, Brian; Seidel, Rebecca
Cc: Voris, Natalie (USAE0)
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage)

Correct, the USAO gave it to CNN over the phone last night--it was not an official statement that was blasted out.

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

From: Roehrkasse, Brian
Sent: Tuesday, May 23, 2006 3:52 PM
To: Smith, Kimberly A; Seidel, Rebecca
Cc: Voris, Natalie (USAE0)
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage)

They already released it, right? I don't think we can not give them the statement we already released.

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

From: Smith, Kimberly A

Sent: Tuesday, May 23, 2006 3:51 PM
To: Seidel, Rebecca; Roehrkasse, Brian
Cc: Voris, Natalie (USAE0)
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage)

Rebecca-

The reporter is calling now wanting to know about the statement. If I don't hear back from OLA by 4:30pm, we are just going to go with the original statement from SDCA.

Thanks,
Kim

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

From: Seidel, Rebecca
Sent: Tuesday, May 23, 2006 11:30 AM
To: Smith, Kimberly A; Roehrkasse, Brian
Cc: Voris, Natalie (USAE0)
Subject: Re: Urgent Report (Border Patrol Report-CNN Coverage)

Brian, we should loop in WH press too. I will loop in WH leg.
I will be back in my office this afternoon, can we wait a little?

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

From: Smith, Kimberly A
To: Seidel, Rebecca; Roehrkasse, Brian
Cc: Voris, Natalie (USAE0)
Sent: Tue May 23 11:26:54 2006
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage)

While we are on the subject, Federal Times just called a few minutes ago about this same Issa Report. If OLA wants to make revisions to the statement below, we can do that before responding to the FT.

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

From: Seidel, Rebecca
Sent: Tuesday, May 23, 2006 11:24 AM
To: Smith, Kimberly A; Roehrkasse, Brian
Cc: Scolinos, Tasia; Taylor, Jeffrey (OAG); Voris, Natalie (USAE0)
Subject: Re: Urgent Report (Border Patrol Report-CNN Coverage)

Maybe because they didn't tell u about stmt till after fact?

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

From: Smith, Kimberly A
To: Seidel, Rebecca; Roehrkasse, Brian
Cc: Scolinos, Tasia; Taylor, Jeffrey (OAG); Voris, Natalie (USAE0)
Sent: Tue May 23 11:22:50 2006
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage)

They contacted OPA last night right after they had sent the statement. I've been working with them this morning to address it. As to why they sent an Urgent, I have no idea.

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

From: Seidel, Rebecca
Sent: Tuesday, May 23, 2006 11:21 AM
To: Roehrkasse, Brian; Smith, Kimberly A
Cc: Scolinos, Tasia; Taylor, Jeffrey (OAG); Voris, Natalie (USAE0)
Subject: Re: Urgent Report (Border Patrol Report-CNN Coverage)

No one in OLA

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

From: Roehrkasse, Brian
To: Seidel, Rebecca; Smith, Kimberly A
CC: Scolinos, Tasia; Taylor, Jeffrey (OAG)
Sent: Tue May 23 11:17:35 2006
Subject: FW: Urgent Report (Border Patrol Report-CNN Coverage)

Did you see this? Did SDCA run their statement by anyone here?

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

From: USAEO-Urgent
Sent: Tuesday, May 23, 2006 11:07 AM
To: Tenpas, Ronald J (ODAG); Taylor, Jeffrey (OAG); Sierra, Bryan (OPA); Scolinos, Tasia; Sampson, Kyle; Roehrkasse, Brian; Mercer, Bill (ODAG); Goodling, Monica; Elwood, Courtney; Elston, Michael (ODAG); Smith, Kimberly A; Battle, Michael (USAEO); Beeman, Judy (USAEO); Coughlin, Robert; Fisher, Alice; Friedrich, Matthew; Kelly, John (USAEO); Parent, Steve (USAEO); Sabin, Barry; Schools, Scott (USAEO); USAEO-Chron; Voris, Natalie (USAEO)
Subject: Urgent Report (Border Patrol Report-CNN Coverage)

URGENT REPORT-06-05-0021

TO: THE ATTORNEY GENERAL
THE DEPUTY ATTORNEY GENERAL

FROM: Carol C. Lam
United States Attorney
Southern District of California
(619) 557-5690 (Office)

DATE: May 23, 2006

CLASSIFICATION: Limited Official Use

CONTACT PERSON: Carol C. Lam
United States Attorney
Southern District of California
(619) 557-5690 (Office)

SYNOPSIS: Yesterday, Congressman Darryl Issa criticized on CNN's "Lou Dobbs Tonight" SDCA's "refusal" to prosecute 100% of all alien smugglers. The USAO-SDCA has learned that the "Border Patrol Report" on which Rep. Issa relies is an unauthorized, altered version of an old report. The USAO-SDCA has issued a written statement to CNN with that information.

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On Monday, May 22, 2006, this office was contacted by CNN and informed that Congressman Issa would be appearing on "Lou Dobbs Tonight" to discuss the "Border Patrol Report." CNN asked our office for a written statement to be shared during the interview. After checking with Border Patrol, San Diego Sector, we submitted the following written statement:

"Representative Issa has been misled. The document he calls a "Border Patrol Report" is actually an old internal Border Patrol document, relating to a single substation, that has been substantially altered and passed off as an official report. Many of the comments in the document to which Representative Issa refers are editorial comments inserted by an unidentified individual, and they were not approved by or ever seen by Border Patrol management.

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We have also advised Representative Issa's office that we believe the Border Patrol report to be an unauthorized and altered version of an old internal report.

In light of previous media interest in this issue, there is a possibility that the disclosure that the report is not genuine could generate substantial media interest. Our statement was read to Representative Issa by Lou Dobbs during his interview which aired at 3:30 PST.

<<UR-06-06-0021SDCAwpd.wpd>>

Mercer, William W

From: Elston, Michael (ODAG)
Sent: Tuesday, May 23, 2006 8:45 PM
To: Tenpas, Ronald J (ODAG); Moschella, William; Mercer, Bill (ODAG)
Subject: RE: Congressman Issa

It is not presently on the calendar -- this has been on again, off again due to their inability to get all of their members together.

From: Tenpas, Ronald J (ODAG)
Sent: Tuesday, May 23, 2006 8:13 PM
To: Moschella, William; Mercer, Bill (ODAG); Elston, Michael (ODAG)
Subject: RE: Congressman Issa

I don't know. That sounds like it would be in Elston's lane.

Ron

From: Moschella, William
Sent: Tuesday, May 23, 2006 8:11 PM
To: Tenpas, Ronald J (ODAG); Mercer, Bill (ODAG); Elston, Michael (ODAG)
Subject: RE: Congressman Issa

Do we have the DAG scheduled to meet with the CA delegation?

From: Tenpas, Ronald J (ODAG)
Sent: Tuesday, May 23, 2006 8:09 PM
To: Moschella, William; Mercer, Bill (ODAG); Fridman, Daniel (ODAG); Otis, Lee L; Elston, Michael (ODAG); Scolinos, Tasia
Subject: Congressman Issa

FYI. Carol Lam, USA Southern California, called me earlier today to discuss matters related to the criticism Congressman Issa has been directing at the District re its practices in prosecuting/not prosecuting alien smuggling. This seemed to be a call prompted, in part, by the stuff that occurred on Lou Dobbs last night. In any event, she wanted to communicate the following:

1. In her view, although the un rebutted criticism is making the Department look bad, she has been sitting quiet rather than attempting to respond publicly by explaining the resource limitations that she maintains affect the office's ability to do more smuggling cases;
2. She is willing to change course if folks think that would be beneficial;
3. She notes that she has never even met with Congressman Issa and would be happy to do so if that is thought useful; and
4. She will do anything else that the DAG would wish, including continuing to stand silent despite the personal criticism to which she thinks she is being subject through these comments.

She acknowledged understanding that it may be the judgment that continued silence is the best option of a set of limited options. I explained to her that, given the larger debate going on related to immigration, we would probably evaluate her observations and her offer in the context of wanting to contribute to the Administration's overall goals with respect to immigration reform.

One way or another, somebody such as myself or PADAG or CoS should probably follow-up with her to confirm our guidance lest any silence be construed as lack of guidance/indifference to her activity.

Ron

Ronald J. Tenpas
Associate Deputy Attorney General

Department of Justice
950 Pennsylvania Avenue, N.W.
Room 4216
Washington, D.C. 20530
(202) 514-3286 / (202) 305-4343 (fax)

Mercer, William W

From: Tenpas, Ronald J (ODAG)
Sent: Wednesday, May 24, 2006 2:02 PM
To: Moschella, William; Otis, Lee L; Mercer, Bill (ODAG); Scolinos, Tasia; Fridman, Daniel (ODAG); Elston, Michael (ODAG)
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

Attachments: tmp.htm; image001.gif; image002.jpg; 5.24.06 LamLetter.pdf



tmp.htm (8 KB)



image001.gif (348 B)



image002.jpg (3 KB)



5.24.06 nLetter.pdf (117 KB)

want Carol to do.

Further to my e-mail last night on what we

Ron

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

From: Lam, Carol (USACAS)
Sent: Wednesday, May 24, 2006 1:55 PM
To: Tenpas, Ronald J (ODAG)
Subject: Fw: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

Ron,

For what it's worth, I have never met Congressman Issa.

Carol

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

From: Hartman, Debra (USACAS) <DHartman@usa.doj.gov>
To: Lam, Carol (USACAS) <CLam@usa.doj.gov>
CC: Porter, Brenda (USACAS) <BPorter1@usa.doj.gov>
Sent: Wed May 24 10:25:26 2006
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

<<5.24.06 LamLetter.pdf>> <<image001.gif>> <<image002.jpg>>
If you can't pull this up we can fax it to you. SPC suggests that Brenda send it to David Smith and I would send it to Public Affairs and OLA so that they are aware of it. I will also send it over to David Iglesias' press person so that he can send it to his USA. Brenda is waiting from a call from Judy Beeman regarding the letter from DOJ to Issa.

NEWS FROM:

CONGRESSMAN DARRELL ISSA

Serving California's 49th District

211 Cannon House Office Building, Washington, DC 20515

(202) 225-3906, (202) 225-3303 (fax)

www.issa.house.gov <<http://www.issa.house.gov/>>

For Immediate Release

Contact: Frederick Hill

Wednesday, May 24, 2006
frederick.hill@mail.house.gov

Email:

REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

Washington, DC - Rep. Darrell Issa (R-CA), today, sent the following letter to U.S. Attorney for the Southern District of California Carol Lam:

Ms. Carol C. Lam
United States Attorney
880 Front Street, Room 6293
San Diego, California 92101

Dear Ms. Lam:

In response to your comments on the Border Patrol internal memo my office obtained and released, your statement misses the mark and exhibits a willful disregard to the documented 251 incidents in fiscal year 2004 where the Border Patrol at the El Cajon station apprehended smugglers but led to smuggling charges for roughly 6% of the cases. The memo I released contains a specific enforcement number for each of the 251 incidents that you or the Department of Homeland Security can confirm by simply typing the number into a computer database.

Your failure to address the substantive issues raised in the memo is consistent with previous news reports and comments that I have repeatedly heard from Border Patrol agents who work closely with your office. You have previously disregarded my requests for information that can help me understand the extent of the problems associated with prosecuting alien smuggling cases and the resources you would need to adopt a zero tolerance policy for trafficking in human beings.

In the case of the memo I released, the fact that you have chosen to focus on unspecified alterations to what you freely admit is an "old Border Patrol document" and your assertion that this document was not seen or approved by Border Patrol management does not dismiss the verifiable facts and details in the memo. I can readily understand that the internal memo, written by a Border Patrol employee, is an embarrassment to your office as the memo speaks with such candor about barriers to prosecution that it could not

be embraced and released publicly as a report representing the views of Border Patrol management.

On Monday, my office requested your assistance in obtaining a copy of the report you referenced in your statement but your office has not returned that phone call. I find your statement that "all dialogue and debate should be based on well-informed and accurate data" incredibly disingenuous considering your record in response to my past requests for information on criminal aliens and alien smuggling.

The last correspondence I sent to you was October 13, 2005, concerning an alien by the name of Alfredo Gonzales Garcia, a.k.a. Isidro Gonzales Alas, FBI # 180566JA5. In this letter I asked that if there is some barrier to the prosecution of criminal aliens, including smugglers, that I am unaware of, to please communicate it so we can make sure you have the resources and policies in place needed to allow you to bring these criminal aliens and repeat offenders to justice.

Finally, as the representative of a Congressional district that is greatly impacted by border crimes and as a Member of Congress who sits on the Judiciary Committee, the Intelligence Committee, and the Government Reform Committee that collectively have oversight responsibilities for the Department of Justice and the Department of Homeland Security, your lack of cooperation is hindering the ability of Congress to provide proper oversight over your office and to make informed policy decisions. I am asked to craft and vote on legislative policies that determine your legal authority and the resources you receive and having full and correct information on an issue like the challenges of stopping alien smugglers is essential.

I request a joint meeting with you and the Chief Patrol Agent of the San Diego Border Sector to discuss the prosecution of alien smugglers and what resources are needed to establish a zero tolerance policy for prosecuting individuals who traffic in human beings. My office will contact your office to try and arrange a meeting time.

Sincerely yours,

Darrell Issa

Member of Congress

Representative Issa has been misled. The document he calls a "Border Patrol Report" is actually an old internal Border Patrol document, relating to a single

substation, that has been substantially altered and passed off as an official report. Many of the comments in the document to which Representative Issa refers are editorial comments inserted by an unidentified individual, and they were not approved by or ever seen by Border Patrol management.

Many important issues are raised by the problem of illegal immigration. However, we believe that all dialogue and debate should be based on well-informed and accurate data.

-- 5/22/06 U.S. Attorney Carol Lam

###

Frederick R. Hill
Press Secretary
Rep. Darrell Issa (California 49th)
211 Cannon House Office Building
Washington, D.C. 20515
Phone: 202-225-3906
Fax: 202-225-3303

DARRELL E. ISSA
49TH DISTRICT, CALIFORNIA

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FAX: (760) 599-1178
SOUTHWEST RIVERSIDE COUNTY
(951) 693-2447
www.issa.house.gov



Congress of the United States
House of Representatives
Washington, DC 20515-0549

COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEES:
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FEDERAL WORKFORCE & AGENCY ORGANIZATION

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INTERNATIONAL RELATIONS
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EUROPE & EMERGING THREATS
MIDDLE EAST & CENTRAL ASIA

COMMITTEE ON THE JUDICIARY
SUBCOMMITTEES:
COURTS, THE INTERNET & INTELLECTUAL PROPERTY
IMMIGRATION, BORDER SECURITY & CLAIMS
HOUSE POLICY COMMITTEE

May 24, 2006

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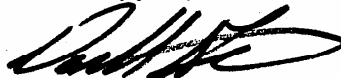
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Sincerely yours,



Darrell Issa
Member of Congress

ASG000000238

Mercer, William W

From: Goodling, Monica
Sent: Wednesday, May 24, 2006 3:24 PM
To: Sampson, Kyle; Taylor, Jeffrey (OAG); Mercer, Bill (ODAG)
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

FYI - the assault continues... Note that the press release/letter indicates Issa will be calling Lam to set up a meeting between the two of them to discuss Department resources.

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

From: Voris, Natalie (USAO)
Sent: Wednesday, May 24, 2006 3:18 PM
To: Goodling, Monica
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

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

From: Scott-Finan, Nancy
Sent: Wednesday, May 24, 2006 3:12 PM
To: Smith, David L. (USAO); Voris, Natalie (USAO)
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

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To: Smith, Kimberly A; Scott-Finan, Nancy
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

FYI

NEWS FROM:

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Serving California's 49th District

211 Cannon House Office Building, Washington, DC 20515

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www.issa.house.gov <<http://www.issa.house.gov/>>

For Immediate Release
Frederick Hill

Contact:

Wednesday, May 24, 2006
frederick.hill@mail.house.gov

Email:

REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING
INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

Washington, DC - Rep. Darrell Issa (R-CA), today, sent the following letter to U.S. Attorney for the Southern District of California Carol Lam:

Ms. Carol C. Lam
United States Attorney
880 Front Street, Room 6293
San Diego, California 92101

Dear Ms. Lam:

In response to your comments on the Border Patrol internal memo my office obtained and released, your statement misses the mark and exhibits a willful disregard to the documented 251 incidents in fiscal year 2004 where the Border Patrol at the El Cajon station apprehended smugglers but led to smuggling charges for roughly 6% of the cases. The memo I released contains a specific enforcement number for each of the 251 incidents that you or the Department of Homeland Security can confirm by simply typing the number into a computer database.

Your failure to address the substantive issues raised in the memo is consistent with previous news reports and comments that I have repeatedly heard from Border Patrol agents who work closely with your office. You have previously disregarded my requests for information that can help me understand the extent of the problems associated with prosecuting alien smuggling cases and the resources you would need to adopt a zero tolerance policy for trafficking in human beings.

In the case of the memo I released, the fact that you have chosen to focus on unspecified alterations to what you freely admit is an "old Border Patrol document" and your assertion that this document was not seen or approved by Border Patrol management does not dismiss the verifiable facts and details in the memo. I can readily understand that the internal memo, written by a Border Patrol employee, is an embarrassment to your office as the memo speaks with such candor about barriers to prosecution that it could not be embraced and released publicly as a report representing the views of Border Patrol management.

On Monday, my office requested your assistance in obtaining a copy of the report you referenced in your statement but your

office has not returned that phone call. I find your statement that "all dialogue and debate should be based on well-informed and accurate data" incredibly disingenuous considering your record in response to my past requests for information on criminal aliens and alien smuggling.

The last correspondence I sent to you was October 13, 2005, concerning an alien by the name of Alfredo Gonzales Garcia, a.k.a. Isidro Gonzales Alas, FBI # 180566JA5. In this letter I asked that if there is some barrier to the prosecution of criminal aliens, including smugglers, that I am unaware of, to please communicate it so we can make sure you have the resources and policies in place needed to allow you to bring these criminal aliens and repeat offenders to justice.

Finally, as the representative of a Congressional district that is greatly impacted by border crimes and as a Member of Congress who sits on the Judiciary Committee, the Intelligence Committee, and the Government Reform Committee that collectively have oversight responsibilities for the Department of Justice and the Department of Homeland Security, your lack of cooperation is hindering the ability of Congress to provide proper oversight over your office and to make informed policy decisions. I am asked to craft and vote on legislative policies that determine your legal authority and the resources you receive and having full and correct information on an issue like the challenges of stopping alien smugglers is essential.

I request a joint meeting with you and the Chief Patrol Agent of the San Diego Border Sector to discuss the prosecution of alien smugglers and what resources are needed to establish a zero tolerance policy for prosecuting individuals who traffic in human beings. My office will contact your office to try and arrange a meeting time.

Sincerely yours,

Darrell Issa
Member of Congress

Representative Issa has been misled. The document he calls a "Border Patrol Report" is actually an old internal Border Patrol document, relating to a single substation, that has been substantially altered and passed off as an official report. Many of the

comments in the document to which Representative Issa refers are editorial comments inserted by an unidentified individual, and they were not approved by or ever seen by Border Patrol management.

Many important issues are raised by the problem of illegal immigration. However, we believe that all dialogue and debate should be based on well-informed and accurate data.

-- 5/22/06 U.S. Attorney Carol Lam

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Frederick R. Hill
Press Secretary
Rep. Darrell Issa (California 49th)
211 Cannon House Office Building
Washington, D.C. 20515
Phone: 202-225-3906
Fax: 202-225-3303

Mercer, William W

From: Otis, Lee L
Sent: Wednesday, May 24, 2006 4:19 PM
To: Tenpas, Ronald J (ODAG); Fridman, Daniel (ODAG)
Cc: Mercer, Bill (ODAG)
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

Thanks!

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

From: Tenpas, Ronald J (ODAG)
Sent: Wednesday, May 24, 2006 4:17 PM
To: Otis, Lee L; Fridman, Daniel (ODAG)
Cc: Mercer, Bill (ODAG)
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

I'm not familiar enough with NM's standards on smuggling to address this in much detail. Clearly Issa will be on a tear b/c of the recent dust-up with Carol. He can punt specific SDCA questions as not his district.

As to his own district how about the following: 1. Explain generally what their pros standards are, emphasizing that they especially focus on those bringing in large numbers or who endanger lives (assuming this is true) and 2. state that it is a balancing act to find the right mix in doing more of these cases versus important drug matters or violent crime matters which he might have to forego b/c he, like every office, has resource limits and he is constantly evaluating whether they are getting that mix right. Generally, he needs to set it up as a balance between equally laudable enforcement objectives: drugs, guns, (and any other area that is important -- do they have a gang problem in NM that they are working on?) and immigration.

Ron

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

From: Otis, Lee L
Sent: Wednesday, May 24, 2006 4:04 PM
To: Fridman, Daniel (ODAG); Tenpas, Ronald J (ODAG)
Cc: Mercer, Bill (ODAG)
Subject: FW: AG Quote re Humanitarian Prosecution Guidelines

We expect Iglesias will get a question about his own and perhaps other US Attorneys' prosecution guidelines/thresholds for smuggling cases tomorrow. OLA's advice is to politely deflect questions about California but obviously that won't work for his own office. Any thoughts on this?

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

From: Seidel, Rebecca
Sent: Wednesday, May 24, 2006 3:59 PM
To: McHenry, Teresa; Bounds, Ryan W (OLP); Otis, Lee L; Roberts, Tom; Koehler, Joe (USAAZ)
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

This is what I want him to say. He does not have to go into the guidelines on humanitarian prosecutions.

The Sensenbrenner bill does not target humanitarian efforts.

- If the Sensenbrenner bill became law, we would not be prosecuting purely humanitarian efforts. (Note the qualification since we have that No More Death Case in AZ)
- Nothing in the Sensenbrenner bill requires a humanitarian to check a person's immigration status.

We do need to know what he can say re prosecution guidelines on threshold/ which cases to prosecute as Issa will be on a tear re catch and release. What is suggested answer? HJC staff is under the impression Chairman has right to this info and likely Chairman will ask it.

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

From: McHenry, Teresa
Sent: Wednesday, May 24, 2006 3:36 PM
To: Bounds, Ryan W (OLP); Otis, Lee L; Seidel, Rebecca; Roberts, Tom; Koehler, Joe (USAAZ)
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

1. by the way-the department is continuing to have email issues/delayed sending/not sending. Problem seems from OLA and ODAG. Our ITM people continue to say is JMD problem.

2. if asked, if the house bill were to become law, would you prosecute humanitarians- couldn't he say

No, he would not prosecute genuine good samitarians. Haven't and wouldn't.

t

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

From: Rebecca.Seidel@usdoj.gov [mailto:Rebecca.Seidel@usdoj.gov]
Sent: Wednesday, May 24, 2006 3:23 PM
To: Otis, Lee L; Bounds, Ryan W (OLP); Roberts, Tom; McHenry, Teresa;
Joe.Koehler@usdoj.gov
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

Clear with AG's office, he will likely get asked the direct question - if the House bill were to become law - would you prosecute humanitarians?

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

From: Otis, Lee L
Sent: Wednesday, May 24, 2006 3:11 PM
To: Seidel, Rebecca; Koehler, Joe (USAAZ); McHenry, Teresa; Roberts, Tom; Bounds, Ryan W (OLP)
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

Bottom line: if you think it's useful to the legislative effort for Iglesias to say this, I am fine with it, but we should clear with AG's office if we are going to proceed that way.

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

From: Seidel, Rebecca
Sent: Wednesday, May 24, 2006 3:07 PM
To: Otis, Lee L; Koehler, Joe (USAAZ); McHenry, Teresa; Roberts, Tom; Bounds, Ryan W (OLP)
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

Could be both

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

From: Otis, Lee L
Sent: Wednesday, May 24, 2006 2:56 PM
To: Seidel, Rebecca; Koehler, Joe (USAAZ); McHenry, Teresa; Roberts, Tom; Bounds, Ryan W (OLP)
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

Is that about humanitarian assistance, though, or about suggesting that NM has overly restrictive guidelines that result in some smugglers not being prosecuted?

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

From: Seidel, Rebecca
Sent: Wednesday, May 24, 2006 2:53 PM
To: Otis, Lee L; Koehler, Joe (USAAZ); McHenry, Teresa; Roberts, Tom; Bounds, Ryan W (OLP)

Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

I think he may get a question about what are his current prosecutorial guidelines in prosecuting, Art so indicated.

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

From: Otis, Lee L
Sent: Wednesday, May 24, 2006 2:52 PM
To: Koehler, Joe (USAAZ); Seidel, Rebecca; McHenry, Teresa; Roberts, Tom; Bounds, Ryan W (OLP)
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

If we haven't said this already, do we want to say it tomorrow? I had been thinking that the general strategy on this was to do some work on it quietly and then assess whether we thought it would be helpful for conference. I defer to Rebecca on the call but have an instinct that it might be better to hold off. If we think it is a good idea for Iglesias to say it I do want to clear it with the AG's office.

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

From: Koehler, Joe (USAAZ)
Sent: Wednesday, May 24, 2006 2:43 PM
To: Seidel, Rebecca; Otis, Lee L; McHenry, Teresa
Cc: Roberts, Tom
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

I like that idea--avoids the whole quote issue but gets to the substance of what's being done to allay fears.

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

From: McHenry, Teresa
Sent: Wednesday, May 24, 2006 11:25 AM
To: Koehler, Joe (USAAZ); Otis, Lee L; Seidel, Rebecca
Cc: Roberts, Tom
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

I believe that was in a draft--that is certainly not in the ag's actual statement (which was much shorter) and is on the web. What I can't be sure about is whether he might have said something in response to a question re: prosecution guidelines; I have a vague memory that I was told the issue of prosecution guidelines was ultimately not raised. (I did find report of question he was asked about whether the dept planned to or did prosecute good samaritans, and he said no.!)

We are checking to see if we can get the whole transcript.

Of course, even assuming that AG didn't say anything (or that we can't verify that he did), and thus we tell Iglesias not to say that he so stated, the bigger question may be, whether he can/should say something vaguer like,

At the request of the Attorney General and to reassure those who fear inappropriate prosecutions, the Department is preparing prosecution guidelines to ensure that those who merely provide humanitarian assistance are not prosecuted.

t

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

From: Koehler, Joe (USAAZ) [mailto:Joe.Koehler@usdoj.gov]
Sent: Wednesday, May 24, 2006 2:12 PM
To: Otis, Lee L; Seidel, Rebecca; McHenry, Teresa
Cc: Roberts, Tom
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

Okay, I found the full text of what was provided to me but am still searching for the original source document. Here's the full text, though.

Thanks,

Joe

One of the Administration's top priorities is securing the nation's borders and stopping illegal immigration. Shutting down alien smuggling rings is an essential component of this effort.

Alien smuggling rings are increasingly sophisticated criminal enterprises that are international in scope and ruthless in their tactics. These smuggling rings present a danger not only to the border communities where they operate but to the entire nation's security and to the safety of their human cargo.

The Administration has worked closely with both this Committee and the Senate Judiciary Committee to fashion anti-smuggling reforms that would address the obstacles to effective enforcement and prosecution that have been identified by border agents and federal prosecutors.

Many of these obstacles arise in efforts to prosecute alien smugglers for smuggling activities that they undertake abroad.

I want to emphasize that neither the Senate bill nor the House bill would change the scope of activities within the United States that are subject to prosecution as smuggling offenses. These proposals would simply clarify the scope of current law in that regard.

Current law already prohibits giving certain types of assistance to illegal immigrants who are already here, including in some circumstances transportation, housing, and other forms of encouragement to stay.

Providing emergency aid, however, is not an activity that would be prosecuted as a smuggling offense-under current law or the pending bills.

No genuine Good Samaritans have ever been prosecuted for merely providing humanitarian aid-much less convicted-under the current alien-smuggling statute, and there is no reason to believe they would be under the House and Senate bills.

Nevertheless, in response to outspoken criticism, the Senate bill includes a broadly worded carve-out to protect good Samaritans. I do not support a broad statutory carve-out, because it will be exploited by every smuggler caught by law enforcement. Such a carve-out would make it difficult-if not impossible-to prosecute persons whom no one wants to protect.

To address such concerns and provide additional assurances that persons will not be prosecuted solely for providing genuine humanitarian aid, I have directed the Deputy Attorney General forthwith to promulgate prosecutorial guidelines to make clear that we do not prosecute members of church groups-or anyone else-on alien smuggling charges for the giving of charitable humanitarian aid to aliens in distress.

I have directed that these guidelines must include a requirement for high level clearance from Main Justice in sensitive or appropriate cases. I will be happy to share those guidelines with this Committee when they are complete.

-----Original Message-----
From: Otis, Lee L

Sent: Tuesday, May 23, 2006 6:32 PM
To: Seidel, Rebecca; McHenry, Teresa; Koehler, Joe (USAAZ)
Cc: Roberts, Tom
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

Thanks Joe!

-----Original Message-----
From: Koehler, Joe (USAAZ)
Sent: Tuesday, May 23, 2006 9:07 PM
To: Seidel, Rebecca; Otis, Lee L; McHenry, Teresa
Cc: Roberts, Tom
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

I can tell you that I cut/pasted the quote from a document I received within this group and it was labeled as text of remarks by the AG. Now I can't find it, of course. Will hunt overnight and try to e-mail from home, so be on lookout for e-mail from my yahoo.

-----Original Message-----
From: Otis, Lee L
Sent: Tuesday, May 23, 2006 6:03 PM
To: Seidel, Rebecca; Koehler, Joe (USAAZ); McHenry, Teresa
Cc: Roberts, Tom
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

What I meant was: I am not sure he actually said it and we should make sure he did. Copying Rebecca who can decide whether to convey our uncertainty on this to David Iglesias or wait until we know more.

-----Original Message-----
From: Otis, Lee L
Sent: Tuesday, May 23, 2006 8:57 PM
To: McHenry, Teresa; Koehler, Joe (USAAZ)
Cc: Roberts, Tom
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

I saw the quote but had wondered where it came from.

-----Original Message-----
From: McHenry, Teresa
Sent: Tuesday, May 23, 2006 8:54 PM
To: Otis, Lee L; Koehler, Joe (USAAZ)
Cc: Roberts, Tom
Subject: Re: AG Quote re Humanitarian Prosecution Guidelines

Lee, do you happen to know. I have vague memory that this came up before in exchange w you T

----- Original Message -----
From: Koehler, Joe (USAAZ) <Joe.Koehler@usdoj.gov>
To: McHenry, Teresa
Cc: Roberts, Tom
Sent: Tue May 23 20:38:03 2006
Subject: RE: AG Quote re Humanitarian Prosecution Guidelines

This came from a document that came to me as prepared remarks, I believe. Will double-check.

-----Original Message-----
From: McHenry, Teresa
Sent: Tuesday, May 23, 2006 5:31 PM
To: Koehler, Joe (USAAZ)
Cc: Roberts, Tom
Subject: Re: AG Quote re Humanitarian Prosecution Guidelines

Are we sure he actually said that, rather than was in some version of

speech or tlking points thatwere prepared but not delivered. I T

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

From: Koehler, Joe (USAAZ) <Joe.Koehler@usdoj.gov>
To: Crews, John (USAE0) <JCrews@usa.doj.gov>; Seidel, Rebecca; Roland,
Sarah E; Iglesias, David C. (USANM) <DIglesias@usa.doj.gov>; McHenry,
Teresa; Roberts, Tom; Smith, David L. (USAE0) <DSmith@usa.doj.gov>;
Morton, John (USAVAE) <JMorton@usa.doj.gov>; Haines, Roger (USACAS)
<RHaines@usa.doj.gov>; Otis, Lee L
Sent: Tue May 23 20:15:15 2006
Subject: AG Quote re Humanitarian Prosecution Guidelines

Here is the quote from the Attorney General:

I have directed the Deputy Attorney General forthwith to promulgate prosecutorial guidelines to make clear that we do not prosecute members of church groups-or anyone else-on alien smuggling charges for the giving of charitable humanitarian aid to aliens in distress.




U.S. Department of Justice


Office of the Deputy Attorney General

Washington, D.C. 20530

May 26, 2006

MEMORANDUM FOR THE DEPUTY ATTORNEY GENERAL

THROUGH: William Mercer 
Principal Associate Deputy Attorney General

FROM: Daniel Fridman 
Counsel to the Deputy Attorney General

SUBJECT: Analysis of Immigration Prosecutions in the Southern District of California

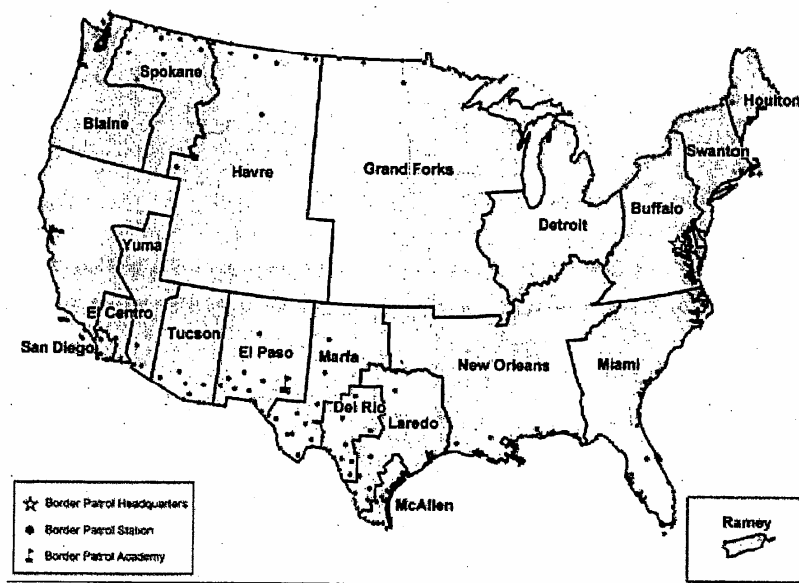
The United States Attorney's Office for the Southern District of California has come under criticism for ostensibly weak enforcement of federal immigration criminal offenses. Most recently, Representative Darrell Issa released to the Associated Press an internal 41-page report written last August by the Border Patrol in San Diego claiming that the lack of federal immigration prosecutions in San Diego is hurting morale within the Border Patrol. Specifically, the report points to low numbers of prosecutions of alien smugglers and large numbers of case declinations by SDCA. Carol Lam, the U.S. Attorney for SDCA, responded publicly that the report is an unauthorized, altered version of an old report. Regardless of the authenticity of the report, media attention is now focused on SDCA's handling of immigration cases with discussions about the office appearing on the Lou Dobbs show and in CNN general news reports.

The purpose of this white paper is to analyze the situation in SDCA by using staffing and prosecution data maintained by EOUSA, case data maintained by the U.S. Courts, and self-reported statements by U.S. Attorney's Offices on their prosecution guidelines for immigration offenses. The report will compare data from the SDCA to the situation of the U.S. Attorney's Offices in Arizona and New Mexico, two other border districts.

Background on the San Diego Border District

SDCA is within the San Diego Sector patrolled by the United States Border Patrol. The San Diego Sector consists of 66 linear miles of international boundary with Mexico. Directly to the South of San Diego lie the Mexican cities of Tijuana and Tecate, Baja California - with a combined population of more than 2 million. According to Carol Lam, Border Patrol made 140,000 immigration arrests in the Sector last year. The chart below shows border patrol stations near the San Diego border with Mexico, as well as the stations in the neighboring border states.

ASG00000249



SDCA Staffing

As of June 1, 2006, SDCA has a total of 125 authorized FTE AUSA positions, with 111 actually filled. This is an 11.2% vacancy rate, higher than the national average of 10%. SDCA appears to be looking at a potentially higher effective vacancy rate with three AUSAs on extended medical leave, one AUSA awaiting disability retirement, and four AUSAs in the military reserves who have received formal notice they may be called to active duty in the coming year. Without including a natural rate of turnover, this would give SDCA a worst-case vacancy rate of 19.8% if the reservists get called and the AUSAs on medical leave do not return.

Of the 111 AUSAs currently employed, 51 are assigned to the General Crimes Section, primarily responsible for border related prosecutions, and two are assigned to the Civil Section, working on civil immigration cases. According to an EARS report analyzing SDCA, 95% of the reactive cases handled by the General Crimes AUSAs involve border immigration or drugs, and AUSAs split their time 50-50 between reactive cases and proactive investigations.

By way of comparison, further east along the border, Arizona currently has 116 AUSAs and New Mexico has 59. These two border districts can serve as points of comparison to the Southern District of California on overall effectiveness in immigration prosecutions.

SDCA also employs about 50 contractors, many of which are supposed to provide support for the immigration caseload. The EARS report is critical about the use of contractors at SDCA and concludes that, in many instances, the contractors are needlessly consuming office resources without assisting in processing immigration cases.