

Darrell E. Issa
49th District, California
211 Cannon House Office Building
Washington, DC 20515
(202) 225-3906
(202) 225-3303 (Fax)

Congress of the United States
House of Representatives
Washington, DC 20515-0548

FACSIMILE TRANSMITTAL SHEET

DATE: 10-13-05

TO: Carol Long

FAX NUMBER: _____

FROM:

- | | | |
|---|------------------------|---------------------|
| _____ Congressman Darrell Issa | _____ Paige Anderson | _____ Suzy Augustyn |
| _____ Dale Neugebauer | _____ Frederick Hill | _____ John Franklin |
| <input checked="" type="checkbox"/> Jason Scism | _____ Laurent Crenshaw | _____ J.F. Hulston |
| _____ Molly Boyd | | |
| _____ Veronica Smith | | |

RE: _____ PAGES (including cover sheet) 2

CONFIDENTIAL NOTE: This facsimile contains confidential information intended only for the use of the individual or entity named above. If the reader of this facsimile is not the intended recipient or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any retention, dissemination or copying of this facsimile is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone and return the original to us at the address above by the United States Postal Service.

If you do not receive all intended page, please call 202-225-3906

SPH
MEL

10/13

DARRELL E. ISSA
9TH DISTRICT, CALIFORNIA

WASHINGTON OFFICE:
211 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3906
FAX: (202) 225-3303

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(760) 589-6000
FAX: (760) 539-1178
SOUTHWEST RIVERSIDE COUNTY
(951) 693-2447
www.issa.house.gov



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COMMITTEE ON GOVERNMENT REFORM
SUBCOMMITTEES:
ENERGY AND RESOURCES—CHAIRMAN
FEDERAL WORKFORCE & AGENCY ORGANIZATION

COMMITTEE ON
INTERNATIONAL RELATIONS
SUBCOMMITTEES:
INT'L TERRORISM & NONPROLIFERATION—VICE-CHAIRMAN
EUROPE & EMERGING THREATS
MIDDLE EAST & CENTRAL ASIA

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

October 13, 2005

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

Dear Ms. Lam:

I write concerning yet another apparent instance of discretionary non-prosecution of criminal illegal aliens by your office. This reoccurring situation absolutely must change.

I urge you to reconsider your decision not to prosecute Alfredo Gonzales Garcia, a.k.a. Isidro Gonzales Alas, FBI # 180566JA5, a criminal alien who was apprehended by the Border Patrol and remains in their custody. Mr. Garcia has been convicted on narcotics charges on at least two previous occasions and has an outstanding warrant out for his arrest. Nonetheless, I am told that the U.S. Attorney's Office has opted not to prosecute Mr. Garcia. Criminal alien repeat offenders pose a significant danger to our citizens, and must be dealt with more severely than a 24-hour detention and release.

Your office has established an appalling record of refusal to prosecute even the worst criminal alien offenders. Your handling of Mr. Garcia is hardly different than the treatment of Antonio Amparo-Lopez, another criminal illegal alien who your office failed to prosecute. Every time one of these criminals is released, our communities become more dangerous.

I implore you to prosecute criminal illegal aliens such as these to every extent possible. If there is some barrier to the prosecution of these criminals that I am unaware of, 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.

Sincerely,

Darrell Issa
Member of Congress

PRINTED ON RECYCLED PAPER

Congress of the United States

Washington, DC 20515

October 20, 2005

The Honorable Alberto Gonzales
Attorney General
United States Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530

Dear Attorney General Gonzales:

We write to request a meeting with you to discuss our frustration with the current policies within the Administration related to the prosecution of criminal aliens. To date, many illegal aliens, who deserve jail time, fall instead into the current practice of "catch and release." The recidivism rate among criminal aliens is high, and your Department's lack of action aggravates rather than remedies this problem.

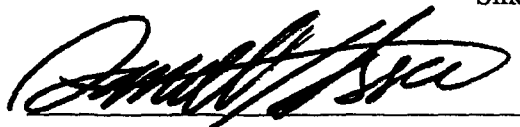
The Border Patrol recently arrested illegal alien, Alfredo Gonzales Garcia, near the border in San Diego. Even though Mr. Garcia had at least two prior arrests for selling drugs and was incarcerated on two separate occasions for these offenses, the U.S. Attorney's Office in San Diego declined to prosecute him. Prior to that event, the U.S. Attorney's Office chose not to prosecute Antonio Amparo-Lopez, a human smuggler and illegal alien with multiple prior convictions. In each instance, under the Immigration and Nationality Act, they were both eligible, upon conviction, for a two-year prison sentence, at minimum.

The U.S. Attorney in San Diego has stated that the office will not prosecute a criminal alien unless they have previously been convicted of two felonies in the district. This lax prosecutorial standard virtually guarantees that both of these individuals will be arrested on U.S. soil in the future for committing further serious crimes.

There is one simple reason why "catch and release" cannot continue: it endangers our citizens. It is the responsibility of the Department of Justice to punish dangerous criminals who violate federal laws, and this includes criminal aliens. When we meet, at the very least we encourage you to be prepared to discuss the current policies used by the U.S. Attorneys to determine when to prosecute criminal aliens, including providing us with a copy of the prosecution guidelines that are applied to such cases in the Southern District of California.

Again, we would like to meet to discuss the disparity between crimes committed and prosecutions conducted at your earliest convenience. Please contact us at 202-225-3906 to schedule this meeting.

Sincerely,



PRINTED ON RECYCLED PAPER

OLA000000348

Ken Collier
John Little
By M.D.
Eta Psi
Dana Roberts
Levi Nunez
Jan Jung
Richard Rombo
Bill Thomas

Ray Richmond
Buck McElroy
Wayne
Wally Harger
Jimmy Paul
Randy "Mike" Cunningham

Seidel, Rebecca

From: Moschella, William
Sent: Friday, October 14, 2005 7:01 PM
To: Seidel, Rebecca
Subject: FW: letter sent to Carol Lam

Attachments: tmp.htm; criminal alien lam letter - final.pdf



tmp.htm (2 KB)



criminal alien lam
letter - fi...

FYI

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

From: Jason.Scism@mail.house.gov [mailto:Jason.Scism@mail.house.gov]
Sent: Friday, October 14, 2005 4:15 PM
To: Apisson, Elizabeth M
Cc: Moschella, William
Subject: letter sent to Carol Lam

Congressman Issa sent this letter to Carol Lam yesterday in response to reports that the U.S. Attorney's Office plans not to prosecute a repeat offender recently arrested. If you are available, I would appreciate an opportunity to meet to discuss this issue in a broader context. I will ask my boss if he wants a briefing.

Have a good weekend. -Jason

Jason C. Scism

Counsel, Office of Congressman Darrell Issa

DARRELL E. ISSA
49TH DISTRICT, CALIFORNIA

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Sincerely,

Darrell Issa
Member of Congress

Seidel, Rebecca

From: Voris, Natalie (USAEO)
Sent: Wednesday, February 01, 2006 7:31 PM
To: Seidel, Rebecca; Moschella, William
Subject: AGAC

Attachments: tmp.htm



tmp.htm (3 KB)

Will,
Just wanted to give you a head's up on possible things that you will be asked tomorrow when you're with the AGAC.

A few random things that could come up:

And finally, NM's USA, David Iglesias, is not on the AGAC, but he asked me today how the AG's phone call went with Sen. Domenici.

Let me know if you have any questions or if you need any additional information before you speak with the AGAC tomorrow.

nv

Natalie A. Voris
Associate Counsel to the Director
> Executive Office for United States Attorneys
United States Department of Justice
> 950 Pennsylvania Avenue, NW
> Washington, D.C. 20530
Phone: 202-616-2128
Fax: 202-616-2278

Seidel, Rebecca

From: Roehrkasse, Brian
Sent: Tuesday, May 23, 2006 11:18 AM
To: Seidel, Rebecca; Smith, Kimberly A
Cc: Scolinos, Tasia; Taylor, Jeffrey (OAG)
Subject: FW: Urgent Report (Border Patrol Report-CNN Coverage)

Attachments: tmp.htm; UR-06-06-0021SDCAwpd.wpd



tmp.htm (7 KB) UR-06-06-0021SDC
Awpd.wpd (9 KB...

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)
(Home)
(Cell)

DATE: May 23, 2006

CLASSIFICATION: Limited Official Use

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

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

**TO: THE ATTORNEY GENERAL
THE DEPUTY ATTORNEY GENERAL**

FROM: Carol C. Lam
United States Attorney
Southern District of California
(619) 557-5690 (Office)
(858) 535-0844 (Home)
(619) 778-6596 (Cell)

DATE: May 23, 2006

CLASSIFICATION: Limited Official Use

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

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Seidel, Rebecca

From: Smith, Kimberly A
Sent: Tuesday, May 23, 2006 3:55 PM
To: Roehrkasse, Brian; Seidel, Rebecca
Cc: Voris, Natalie (USAEO)
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.

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

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From: Smith, Kimberly A
Sent: Tuesday, May 23, 2006 3:51 PM
To: Seidel, Rebecca; Roehrkasse, Brian
Cc: Voris, Natalie (USAEO)
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
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CC: Voris, Natalie (USAEO)
Sent: Tue May 23 11:26:54 2006
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage)

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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 (USAEO)
Subject: Re: Urgent Report (Border Patrol Report-CNN Coverage)

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Subject: Re: Urgent Report (Border Patrol Report-CNN Coverage)

No one in OLA

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URGENT REPORT-06-05-0021

TO: THE ATTORNEY GENERAL
THE DEPUTY ATTORNEY GENERAL

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To: Smith, Kimberly A; Seidel, Rebecca
Cc: Voris, Natalie (USAEO)
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OK, then we do have some leeway to modify it if necessary.

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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)
(Home)
(Cell)

DATE: May 23, 2006

CLASSIFICATION: Limited Official Use

CONTACT PERSON: Carol C. Lam
United States Attorney
Southern District of California
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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.

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>>

Seidel, Rebecca

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

Attachments: UR-06-06-0021SDCAwpd.wpd



UR-06-06-0021SDC
Awpd.wpd (10 K...

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While we would have liked to have had heads up before she issued it, I don't see any problems with it.

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Thanks,
Kim

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I will be back in my office this afternoon, can we wait a little?

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Sent: Tue May 23 11:26:54 2006
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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
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Southern District of California
(619) 557-5690 (Office)
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<<UR-06-06-0021SDCAwpd.wpd>>

Tracking:

Recipient	Read
Smith, Kimberly A	Read: 5/23/2006 4:11 PM
Roehrkasse, Brian	Read: 5/23/2006 4:26 PM
Voris, Natalie (USAEO)	
Otis, Lee L	Read: 5/23/2006 4:10 PM
Bounds, Ryan W (OLP)	Read: 5/23/2006 5:25 PM

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(858) 535-0844 (Home)
(619) 778-6596 (Cell)

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Seidel, Rebecca

From: Scott-Finan, Nancy
Sent: Wednesday, May 24, 2006 2:02 PM
To: Seidel, Rebecca; Roland, Sarah E
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

Nancy Scott-Finan

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

From: Hartman, Debra (USACAS)
To: Smith, Kimberly A; Scott-Finan, Nancy
Sent: Wed May 24 13:52:31 2006
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES



image002.jpg (3 KB)

FYI

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
Frederick Hill

Contact:

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

Email:

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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,

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Member of Congress

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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

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Sent: Wednesday, May 24, 2006 2:08 PM
To: Seidel, Rebecca
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



tmp.htm (22 KB)



image001.gif (348 B)



image002.jpg (3 KB)

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Sent: Wednesday, May 24, 2006 2:03 PM
To: Roehrkasse, Brian
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

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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

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Wednesday, May 24, 2006 2:15 PM
To: Iglesias, David C. (USANM); Koehler, Joe (USAAZ); Crews, John (USAEO); McHenry, Teresa; Roberts, Tom; Morton, John (USAVAE); Voris, Natalie (USAEO)
Cc: Roland, Sarah E; Warwick, Brian; Otis, Lee L; Bounds, Ryan W (OLP)
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

Importance: High

Attachments: tmp.htm; image001.gif; image002.jpg

David - see below for taste of what you could get tomorrow. You are going to politely sidestep CA specific questions, but you will likely get hammered on how much you need in resources for a zero tolerance policy.

-----Original Message-----
From: Hartman, Debra (USACAS)



image002.jpg (3 KB)

To: Smith, imberly A; Scott-Finan, Nancy
Sent: Wed May 24 13:52:31 2006
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

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Frederick Hill

Contact:

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

Email:

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Press Secretary

Rep. Darrell Issa (California 49th)

211 Cannon House Office Building

Washington, D.C. 20515

Phone: 202-225-3906

Fax: 202-225-3303

Tracking:

Recipient

Read

Iglesias, David C. (USANM)

Koehler, Joe (USAAZ)

Crews, John (USAEO)

McHenry, Teresa

Roberts, Tom

Morton, John (USAVAE)

Voris, Natalie (USAEO)

Roland, Sarah E

Read: 5/24/2006 2:43 PM

Warwick, Brian

Read: 5/24/2006 2:16 PM

Otis, Lee L

Read: 5/24/2006 2:16 PM

Bounds, Ryan W (OLP)

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Wednesday, May 24, 2006 2:18 PM
To: Roehrkasse, Brian
Subject: RE: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

Yup, received. Sent to our witness for tomorrow's hearing. Ugh.

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

From: Roehrkasse, Brian
Sent: Wednesday, May 24, 2006 2:08 PM
To: Seidel, Rebecca
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

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

From: Smith, Kimberly A
Sent: Wednesday, May 24, 2006 2:03 PM
To: Roehrkasse, Brian
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

FYI

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Sent: Wednesday, May 24, 2006 1:53 PM
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

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Member of Congress

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From: Seidel, Rebecca
Sent: Wednesday, May 24, 2006 2:19 PM
To: 'Allyson_N_Ho@who.eop.gov'; 'CFrech@who.eop.gov'
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

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211 Cannon House Office Building

Washington, D.C. 20515

Phone: 202-225-3906

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Seidel, Rebecca

From: Allyson_N_Ho@who.eop.gov
Sent: Wednesday, May 24, 2006 2:32 PM
To: Seidel, Rebecca; Christopher_W_Frech@who.eop.gov
Subject: Re: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

What are we doing about Lam's letter? I haven't seen a copy. This isn't helpful, to say the least.

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

From: Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
To: Frech, Christopher W. <Christopher_W_Frech@who.eop.gov>; Ho, Allyson N. <Allyson_N_Ho@who.eop.gov>
Sent: Wed May 24 14:18:12 2006
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

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Washington, D.C. 20515

Phone: 202-225-3906

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Seidel, Rebecca

From: Porter, Brenda (USACAS)
Sent: Wednesday, May 24, 2006 3:00 PM
To: Seidel, Rebecca
Subject: Correspondence for David Iglesias

Attachments: tmp.htm; 5 24 06 LamLetter.pdf; alien smugglers.pdf



tmp.htm (1 KB)



5 24 06
LamLetter.pdf (119 KB)



alien smugglers.pdf
(84 KB)

Hello Ms. Seidel:

I understand from U.S. Attorney Carol Lam that you will be meeting with U.S. Attorney David Iglesias today. Mr. Iglesias asked that the attached correspondence be sent to you, and if you could please provide him with the documents upon his arrival, it would be appreciated. Please let me know if you have any questions.

Thank you,

Brenda Porter
Administrative Assistant to
United States Attorney Carol C. Lam
Southern District of California
(619) 557-5892

<<5 24 06 LamLetter.pdf>> <<alien smugglers.pdf>>

DARRELL E. ISSA
49TH DISTRICT, CALIFORNIA

WASHINGTON OFFICE:
211 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3906
FAX: (202) 225-3303

DISTRICT OFFICE:
1800 THIBODO ROAD, SUITE 310
VISTA, CA 92081
(760) 599-5000
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

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SUBCOMMITTEES:
COURTS, THE INTERNET & INTELLECTUAL PROPERTY
IMMIGRATION, BORDER SECURITY & CLAIMS

HOUSE POLICY COMMITTEE

May 24, 2006

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.

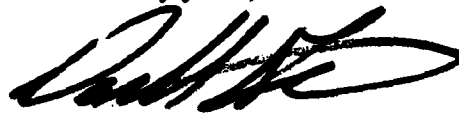
On Monday, my office requested your assistance in obtaining a copy of the report you referenced in your statement but your office has not returned that phone call. I find your statement that "all dialogue and debate should be based on well-informed and accurate data" incredibly disingenuous considering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

A handwritten signature in black ink, appearing to read 'Darrell Issa', written in a cursive style.

Darrell Issa
Member of Congress

Seidel, Rebecca

From: Christopher_W._Frech@who.eop.gov
Sent: Wednesday, May 24, 2006 3:03 PM
To: Seidel, Rebecca; Allyson_N._Ho@who.eop.gov
Subject: Re: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

What are we withholding?

.

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

From: Ho, Allyson N. <Allyson_N._Ho@who.eop.gov>
To: 'Rebecca.Seidel@usdoj.gov' <Rebecca.Seidel@usdoj.gov>; Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>
Sent: Wed May 24 14:32:26 2006
Subject: Re: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

What are we doing about Lam's letter? I haven't seen a copy. This isn't helpful, to say the least.

.

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

From: Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Ho, Allyson N. <Allyson_N._Ho@who.eop.gov>
Sent: Wed May 24 14:18:12 2006
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

Tomorrow USA Iglesias should have a fun time with Issa...

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

From: Hartman, Debra (USACAS)
Sent: Wednesday, May 24, 2006 1:53 PM
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:

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
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.

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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.

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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

Seidel, Rebecca

From: Smith, David L. (USAEO)
Sent: Wednesday, May 24, 2006 3:39 PM
To: Seidel, Rebecca
Cc: Blackwood, Kristine; Roland, Sarah E; Scott-Finan, Nancy; Crews, John (USAEO); Voris, Natalie (USAEO)
Subject: FW: Letter from Congressman Issa

Attachments: tmp.htm; 5 24 06 LamLetter.pdf; 0501817.wpd; SAP-Memo to EOUSA (Smith)-Garcia-Gonzalez-(with Attachments)-110205.pdf; ISSA letter 101305.pdf; criminal alien - AG letter (final).pdf

 tmp.htm (8 KB)  5 24 06 LamLetter.pdf (119 KB)  0501817.wpd (19 KB)  SAP-Memo to EOUSA (Smith)-Garc.01305.pdf (47 KB)..  ISSA letter  criminal alien - AG letter (fi...

Rebecca,

Please see the attached letter we just received from Rep. Issa to USA Carol Lam criticizing her on immigration prosecutions. I am sending this to you in connection with David Iglesias' preparation to the extent he gets any questions from Issa on it. Apart from that, of course, we need to coordinate with USA Lam and ODAG on a substantive response. I will separately send this to Exec Sec to put into the system.

This 5/24/06 letter refers to an October 13 2005 letter that Issa sent to USA Lam. By way of background, Exec Sec. assigned the response to that 10/13/05 letter to EOUSA. We drafted a response back in November, based on a long memo about the case at issue from SDCA. I have attached the relevant documents below. The response was a joint response to the 10/13/05 letter and to a 10/20/05 letter that Issa sent to the AG on the same issue. We sent the draft response to ODAG and on down the line. (Exec Sec. later formally moved the pen to ODAG I believe.) I don't know what ultimately happened to the response, whether it went out or not. At one point in January 2006 there was discussion about doing a briefing in lieu of a letter.

The immediate issue in the 5/24/06 letter is whether to set up a meeting with Issa as he requests.

Dave

>
> From: Porter, Brenda (USACAS)
> Sent: Wednesday, May 24, 2006 2:20 PM
> To: Smith, David L. (USAEO); Crews, John (USAEO)
> Subject: Letter from Congressman Issa
>
> Mr. Smith and Mr. Crews:
>
> For your information, attached please find a letter from Congressman
> Issa to United States Attorney Carol Lam, pertaining to alien
> smuggling and the immigration issue. This letter has also been sent
> to Nancy Scott Finan of OLA and Kim Smith in Public Affairs. Ms. Lam
> is out of the district, but I believe she may try to contact you
> regarding this issue. If you should have any questions, I can be
> reached at (619) 557-5892.
>
> Thank you,
>

> Brenda Porter
> Administrative Assistant to
> United States Attorney Carol C. Lam
> Southern District of California
> (619) 557-5892
>
> <<5 24 06 LamLetter.pdf>>
>

From: Smith, David L. (USAEO)
Sent: Friday, November 18, 2005 11:53 AM
To: Otis, Lee L
Cc: Voris, Natalie (USAEO); Parras, Jeff (USAEO)
Subject: Issa letter

Lee,

Attached is my draft response to Cong. Issa and the California delegation regarding the prosecution policies in SDCA. The Exec Sec. hard copy of this letter is being sent on down the line here as well.

Also, I have collected a variety of additional stats not currently cited in the draft and can forward them to you if you would like. I will give you a call.

Dave

<<0501817.wpd>>

<<SAP-Memo to EOUSA (Smith)-Garcia-Gonzalez-(with Attachments)-110205.pdf>>
<<ISSA letter 101305.pdf>> <<criminal alien - AG letter (final).pdf>>

From: Smith, David L. (USAEO)
Sent: Tuesday, January 10, 2006 6:25 PM
To: Seidel, Rebecca; Otis, Lee L
Cc: Voris, Natalie (USAEO); Crews, John (USAEO)
Subject: FW: Issa letter

Rebecca,

Per our conversation last night, attached is the Issa/CA delegation letter to the AG regarding alien prosecutions in the SDCA, as well as EOUSA's draft response to the letter. There are additional materials that I can forward on this, including a long memo that the SDCA prepared on the matter as well as SDCA stats, etc. Please note that the response letter was intended to be a response to both the CA delegation letter and to an earlier letter Issa sent directly to USA Carol Lam on the same issue.

Lee, my understanding is that the latest thought was to do a briefing in lieu of a letter response, but I am not sure where this stands at the moment.

Please let me know what your thoughts are on this so I can keep SDCA apprised.

Thanks

Dave

David L. Smith

Legislative Counsel
Executive Office for U.S. Attorneys
(202) 353-3035
David.L.Smith2@usdoj.gov

Image Not
Available

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530-0001

The Honorable Darrell Issa
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Issa:

This is in response to your October 20, 2005 letter, which was co-signed by 18 House colleagues from California, to the Attorney General inquiring about the prosecution of aliens in the Southern District of California. We are sending an identical letter to each House member that co-signed your letter. This also responds to the October 13, 2005 letter you sent to Carol Lam, the United States Attorney for the Southern District of California on the same topic. We apologize for any inconvenience our delay in responding may have caused you or your colleagues.

The Department of Justice very much appreciates and shares your concern with criminal aliens in this country who jeopardize the safety and well-being of the public. There are, as you know, approximately one million illegal aliens who are apprehended each year along our border with Mexico. As a result, the United States Attorneys' Offices along the Southwest Border (including the Districts of Southern Texas, Western Texas, New Mexico, Arizona and Southern California) face a great challenge in enforcing the criminal immigration and narcotics laws along that border.

Enforcing the immigration laws is a joint effort. The cooperation and resources of not only the United States Attorneys' Offices, but that of the U.S. Customs and Border Protection, Immigration and Customs Enforcement, the Bureau of Prisons, the United States Detention Trustee and many other federal agencies are needed to apprehend, detain, prosecute and imprison these criminal aliens.

The characterization in your October 20th letter of the Department's prosecution policies relating to criminal aliens as "catch and release" is inaccurate. Because it is not, at the present time, literally possible to prosecute and incarcerate every alien who enters this country illegally, priorities must be set as to which cases must be prosecuted first. Such prosecution policies are set by the individual United States Attorneys' Offices in their individual districts. Such policies may be the product of joint discussion and mutual agreement by both the United States Attorneys Office and the principal investigative or apprehending agency, such as the Border Patrol.

OLA000000410

The Honorable Darrell Issa

Page Two

One size does not fit all. Almost 68 percent of all immigration prosecutions nationally from all 94 United States Attorneys Offices in Fiscal Year 2005 were handled by just the five Southwest border districts. Thus, priorities set to meet the crush of cases along the Southwest border may be ill suited in districts that experience far less illegal immigration.

Understandably, the Department does not and should not publicize the specifics of each District's prosecution guidelines, in this area or in any other area of criminal prosecution. Were such guidelines made public in all their specificity, alien smugglers, criminal organizations and individual aliens would conform their conduct as much as possible to avoid prosecution. It is, however, important for the public to know what the general priorities are when considering what cases will be prosecuted.

In particular, your letters questioned the record of the United States Attorney's Office in the Southern District of California (SDCA) in prosecuting criminal aliens. I want to assure you that United States Attorney Lam and her staff are committed to protecting the residents of their District, and the District's record of prosecuting criminal aliens clearly demonstrates that fact. In making charging decisions, SDCA, like all Department of Justice components, adheres to the Principles of Federal Prosecution outlined in the United States Attorney's Manual. SDCA prosecution policies are based on the premise that illegal aliens with the most serious criminal histories should have priority for prosecution. SDCA has directed its resources to bringing many felony (as opposed to misdemeanor) charges against illegal aliens with substantial criminal histories so that it can seek longer prison sentences against those who present the greatest threat to public safety.

To focus its available resources on this target group of criminal aliens, SDCA employs prosecution guidelines for illegal re-entry offenses under 8 U.S.C. § 1326 which categorize criminal aliens into essentially four categories: (a) violent/major felons (which includes aliens with convictions for national security or terrorism offenses, murder, rape, forcible sex offenses and other violent crimes), (b) recidivist felons, (c) repeat immigration violators on supervised release, and (d) alien smugglers (guides) who otherwise do not meet the guidelines for smuggling prosecution under 8 U.S.C. § 1324.

The SDCA has a strong record of prosecuting criminal aliens generally and in particular alien smugglers. At the close of Fiscal Year 2005, SDCA had 385 alien smuggling cases pending against 454 defendants, which is the highest annual number of pending cases that office has ever had. SDCA also closed 470 alien smuggling cases that year (again its highest ever annual total) convicting 560 defendants of charges under 8 U.S.C. § 1324. Moreover, despite the fact that both the SDCA and the Department of Justice as a whole have numerous criminal priorities in addition to criminal aliens,^{1/} from Fiscal Year 2000 through Fiscal Year 2005, well *over half of*

^{1/}Additional Department of Justice and SDCA priorities include: counter-terrorism cases; firearms prosecutions; gang prosecutions; crimes against children (child pornography and sexual

The Honorable Darrell Issa
Page Three

all criminal cases filed by SDCA were cases filed under just three statutes, the primary criminal alien statutes, 8 U.S.C. §§1324, 1325 and 1326.^{2/}

Your letters also made specific reference to the non-prosecution by SDCA of Alfredo Garcia-Gonzalez, who was apprehended by the U.S. Border Patrol on October 12, 2005. As an initial matter, the SDCA was never presented this case for prosecution.^{3/} Thus, there was no decision by SDCA not to prosecute him. Nevertheless, it appears that the case was not presented to SDCA by the apprehending agency because it did not meet the prosecution guidelines jointly established by SDCA and the United States Border Protection in December 2004. These guidelines specifically contemplate meritorious exceptions for cases that should be prosecuted despite otherwise falling outside the guideline range. We are not in a position to second guess the decision by the apprehending agency not to present this case for prosecution, but we note that there are approximately 100,000 illegal aliens apprehended each year in the Southern District of California alone, and many of the criminal aliens prosecuted by SDCA have committed smuggling crimes that endanger the smuggled aliens far more severely than did Garcia-Gonzalez, or have a greater criminal record than Garcia-Gonzalez.

The SDCA and the apprehending agencies, including U.S. Border Protection and Immigration and Customs Enforcement, are aggressively apprehending and prosecuting criminal aliens and alien smugglers, and they are doing the best possible job in prioritizing the crush of illegal aliens entering this country from Mexico.

abuse); corporate fraud; health care fraud; bankruptcy fraud; computer hacking and intellectual property theft; human trafficking (involuntary servitude, prostitution cases involving smuggled aliens); civil rights prosecutions; counterfeiting; and passport and visa fraud.

^{2/}SDCA filed a total of 20,481 criminal cases from FY 2000 through and including FY 2005. Of that number 10,482 were illegal alien cases filed under 8 U.S.C. §§1325, 1325 or 1326.

^{3/}Had the SSCA been presented the case and declined it, we would not be in a position to share the specific reasons for that declination. As you know, all Department attorneys are asked to render unbiased, professional judgments about the merits of potential criminal and civil law enforcement cases. If their deliberations were made subject to Congressional challenge and scrutiny, we would face a grave danger that they would be chilled from providing the candid and independent analysis essential to just and effective law enforcement or, just as troubling, that they might err on the side of prosecution simply to avoid public second-guessing. This in turn would undermine public and judicial confidence in our law enforcement processes.

OLA000000412

The Honorable Darrell Issa
Page Four

We hope that the information above has helped to alleviate your concerns in this matter. Please do not hesitate to contact the Department of Justice if we can be of assistance in other matters.

Sincerely,

William E. Moschella
Assistant Attorney General

OLA000000413

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Wednesday, May 24, 2006 4:20 PM
To: 'Allyson_N._Ho@who.eop.gov'; Christopher_W._Frech@who.eop.gov
Subject: RE: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

Lam's letter? She issued a stmt that I think is reprinted below.

Right now plan for Iglesias is to say something positive in general about his colleague in the SDCA, i.e. While I am not familiar with this alleged report, I am sure that USA Lam, as with the rest of our USAs is doing everything she can to prioritize the most egregious cases....

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

From: Allyson_N._Ho@who.eop.gov [mailto:Allyson_N._Ho@who.eop.gov]
Sent: Wednesday, May 24, 2006 2:32 PM
To: Seidel, Rebecca; Christopher_W._Frech@who.eop.gov
Subject: Re: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

What are we doing about Lam's letter? I haven't seen a copy. This isn't helpful, to say the least.

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From: Rebecca.Seidel@usdoj.gov <Rebecca.Seidel@usdoj.gov>
To: Frech, Christopher W. <Christopher_W._Frech@who.eop.gov>; Ho, Allyson N. <Allyson_N._Ho@who.eop.gov>
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Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

FYI

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
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

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

Dear Ms. Lam:

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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.

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Sincerely yours,

Darrell Issa

Member of Congress

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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.

-- 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

Seidel, Rebecca

From: Otis, Lee L
Sent: Wednesday, May 24, 2006 4:26 PM
To: Seidel, Rebecca; Bounds, Ryan W (OLP); McHenry, Teresa
Subject: FW: AG Quote re Humanitarian Prosecution Guidelines

Here is Ron Tenpas's cut at this.

Teresa asks a good question: who does have the pen on this? Think we need someone from New Mexico in this too.

-----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 talking points that were 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.

Seidel, Rebecca

From: Scott-Finan, Nancy
Sent: Wednesday, May 24, 2006 7:26 PM
To: Smith, David L. (USAEO); Seidel, Rebecca
Cc: Blackwood, Kristine; Roland, Sarah E; Crews, John (USAEO); Voris, Natalie (USAEO)
Subject: RE: Letter from Congressman Issa

We did respond to his July 30, 2004, letter about Amparo-Lopez on January 25, 2005.

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

From: Smith, David L. (USAEO)
Sent: Wednesday, May 24, 2006 3:39 PM
To: Seidel, Rebecca
Cc: Blackwood, Kristine; Roland, Sarah E; Scott-Finan, Nancy; Crews, John (USAEO); Voris, Natalie (USAEO)
Subject: FW: Letter from Congressman Issa

Rebecca,

Please see the attached letter we just received from Rep. Issa to USA Carol Lam criticizing her on immigration prosecutions. I am sending this to you in connection with David Iglesias' preparation to the extent he gets any questions from Issa on it. Apart from that, of course, we need to coordinate with USA Lam and ODAG on a substantive response. I will separately send this to Exec Sec to put into the system.

This 5/24/06 letter refers to an October 13 2005 letter that Issa sent to USA Lam. By way of background, Exec Sec. assigned the response to that 10/13/05 letter to EOUSA. We drafted a response back in November, based on a long memo about the case at issue from SDCA. I have attached the relevant documents below. The response was a joint response to the 10/13/05 letter and to a 10/20/05 letter that Issa sent to the AG on the same issue. We sent the draft response to ODAG and on down the line. (Exec Sec. later formally moved the pen to ODAG I believe.) I don't know what ultimately happened to the response, whether it went out or not. At one point in January 2006 there was discussion about doing a briefing in lieu of a letter.

The immediate issue in the 5/24/06 letter is whether to set up a meeting with Issa as he requests.

Dave

>
>

From: Porter, Brenda (USACAS)
> Sent: Wednesday, May 24, 2006 2:20 PM
> To: Smith, David L. (USAEO); Crews, John (USAEO)
> Subject: Letter from Congressman Issa
>
> Mr. Smith and Mr. Crews:
>
> For your information, attached please find a letter from Congressman
> Issa to United States Attorney Carol Lam, pertaining to alien
> smuggling and the immigration issue. This letter has also been sent
> to Nancy Scott Finan of OLA and Kim Smith in Public Affairs. Ms. Lam
> is out of the district, but I believe she may try to contact you
> regarding this issue. If you should have any questions, I can be
> reached at (619) 557-5892.
>
> Thank you,
>

> Brenda Porter
> Administrative Assistant to
> United States Attorney Carol C. Lam
> Southern District of California
> (619) 557-5892
>
> <<5 24 06 LamLetter.pdf>>
>

From: Smith, David L. (USAEO)
Sent: Friday, November 18, 2005 11:53 AM
To: Otis, Lee L
Cc: Voris, Natalie (USAEO); Parras, Jeff (USAEO)
Subject: Issa letter

Lee,

Attached is my draft response to Cong. Issa and the California delegation regarding the prosecution policies in SDCA. The Exec Sec. hard copy of this letter is being sent on down the line here as well.

Also, I have collected a variety of additional stats not currently cited in the draft and can forward them to you if you would like. I will give you a call.

Dave

<<0501817.wpd>>

<<SAP-Memo to EOUSA (Smith)-Garcia-Gonzalez-(with Attachments)-110205.pdf>>
<<ISSA letter 101305.pdf>> <<criminal alien - AG letter (final).pdf>>

From: Smith, David L. (USAEO)
Sent: Tuesday, January 10, 2006 6:25 PM
To: Seidel, Rebecca; Otis, Lee L
Cc: Voris, Natalie (USAEO); Crews, John (USAEO)
Subject: FW: Issa letter

Rebecca,

Per our conversation last night, attached is the Issa/CA delegation letter to the AG regarding alien prosecutions in the SDCA, as well as EOUSA's draft response to the letter. There are additional materials that I can forward on this, including a long memo that the SDCA prepared on the matter as well as SDCA stats, etc. Please note that the response letter was intended to be a response to both the CA delegation letter and to an earlier letter Issa sent directly to USA Carol Lam on the same issue.

Lee, my understanding is that the latest thought was to do a briefing in lieu of a letter response, but I am not sure where this stands at the moment.

Please let me know what your thoughts are on this so I can keep SDCA apprised.

Thanks

Dave

David L. Smith

Legislative Counsel
Executive Office for U.S. Attorneys
(202) 353-3035
David.L.Smith2@usdoj.gov

Seidel, Rebecca

From: Voris, Natalie (USAEO)
Sent: Wednesday, May 24, 2006 10:00 PM
To: Seidel, Rebecca
Subject: Re: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

I thought the hrg was cancelled...?

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

From: Seidel, Rebecca <Rebecca.Seidel@usdoj.gov>
To: Voris, Natalie (USAEO) <NVoris@usa.doj.gov>; Morton, John (USAVAE) <JMorton@usa.doj.gov>; Roberts, Tom <Tom.Roberts@usdoj.gov>; McHenry, Teresa <Teresa.McHenry@usdoj.gov>; Crews, John (USAEO) <JCrews@usa.doj.gov>; Koehler, Joe (USAAZ) <JKoehler@usa.doj.gov>; Iglesias, David C. (USANM) <DIglesias@usa.doj.gov>
CC: Roland, Sarah E <Sarah.E.Roland@usdoj.gov>; Warwick, Brian <Brian.Warwick@usdoj.gov>; Otis, Lee L <Lee.L.Otis@usdoj.gov>; Bounds, Ryan W (OLP) <Ryan.W.Bounds@usdoj.gov>
Sent: Wed May 24 14:15:25 2006
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

David - see below for taste of what you could get tomorrow. You are going to politely sidestep CA specific questions, but you will likely get hammered on how much you need in resources for a zero tolerance policy.

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

From: Hartman, Debra (USACAS)
To: Smith, Kimberly A; Scott-Finan, Nancy
Sent: Wed May 24 13:52:31 2006
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

FYI

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 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

###

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

<<tmp.htm>> <<image001.gif>> <<image002.jpg>>

Seidel, Rebecca

From: Crews, John (USAEO)
Sent: Wednesday, May 24, 2006 10:07 PM
To: Seidel, Rebecca
Subject: Re: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

#3 of messages not received until 950pm. JGC

Sent from my BlackBerry Wireless Device

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

From: Seidel, Rebecca <Rebecca.Seidel@usdoj.gov>
To: Voris, Natalie (USAEO) <NVoris@usa.doj.gov>; Morton, John (USAVAE) <JMorton@usa.doj.gov>; Roberts, Tom <Tom.Roberts@usdoj.gov>; McHenry, Teresa <Teresa.McHenry@usdoj.gov>; Crews, John (USAEO) <JCrews@usa.doj.gov>; Koehler, Joe (USAAZ) <JKoehler@usa.doj.gov>; Iglesias, David C. (USANM) <DIglesias@usa.doj.gov>
CC: Roland, Sarah E <Sarah.E.Roland@usdoj.gov>; Warwick, Brian <Brian.Warwick@usdoj.gov>; Otis, Lee L <Lee.L.Otis@usdoj.gov>; Bounds, Ryan W (OLP) <Ryan.W.Bounds@usdoj.gov>
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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.

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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

<<tmp.htm>> <<image001.gif>> <<image002.jpg>>

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Wednesday, May 24, 2006 10:19 PM
To: Crews, John (USAEO)
Subject: RE: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

Thanks for telling me. I was on the phone with JCON again tonight.

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

From: Crews, John (USAEO)
Sent: Wednesday, May 24, 2006 10:07 PM
To: Seidel, Rebecca
Subject: Re: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

#3 of messages not received until 950pm. JGC

Sent from my BlackBerry Wireless Device

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

From: Seidel, Rebecca <Rebecca.Seidel@usdoj.gov>
To: Voris, Natalie (USAEO) <NVoris@usa.doj.gov>; Morton, John (USAVAE) <JMorton@usa.doj.gov>; Roberts, Tom <Tom.Roberts@usdoj.gov>; McHenry, Teresa <Teresa.McHenry@usdoj.gov>; Crews, John (USAEO) <JCrews@usa.doj.gov>; Koehler, Joe (USAAZ) <JKoehler@usa.doj.gov>; Iglesias, David C. (USANM) <DIglesias@usa.doj.gov>
CC: Roland, Sarah E <Sarah.E.Roland@usdoj.gov>; Warwick, Brian <Brian.Warwick@usdoj.gov>; Otis, Lee L <Lee.L.Otis@usdoj.gov>; Bounds, Ryan W (OLP) <Ryan.W.Bounds@usdoj.gov>
Sent: Wed May 24 14:15:25 2006
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

David - see below for taste of what you could get tomorrow. You are going to politely sidestep CA specific questions, but you will likely get hammered on how much you need in resources for a zero tolerance policy.

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

From: Hartman, Debra (USACAS)
To: Smith, Kimberly A; Scott-Finan, Nancy
Sent: Wed May 24 13:52:31 2006
Subject: FW: REP. ISSA CRITICIZES U.S. ATTORNEY LAM FOR WITHOLDING INFORMATION ON ALIEN SMUGGLING PROSECUTIONS AND POLICIES

FYI

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
Frederick Hill

Contact:

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.

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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

<<tmp.htm>> <<image001.gif>> <<image002.jpg>>

Seidel, Rebecca

From: Roland, Sarah E
Sent: Thursday, May 25, 2006 4:28 PM
To: Seidel, Rebecca; Scott-Finan, Nancy
Subject: FW: Letter from Congressman Issa

Attachments: tmp.htm; 5 24 06 LamLetter.pdf; 0501817.wpd; SAP-Memo to EOUSA (Smith)-Garcia-Gonzalez-(with Attachments)-110205.pdf; ISSA letter 101305.pdf; criminal alien - AG letter (final).pdf

 tmp.htm (8 KB)  5 24 06 nLetter.pdf (119 KB)  0501817.wpd (19 KB)  SAP-Memo to OUSA (Smith)-Garc.01305.pdf (47 KB)..  ISSA letter  criminal alien - AG letter (fi...

We've also now been contacted by Issa's DC office regarding the meeting request contained in the letter. How should we handle?

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

From: Smith, David L. (USAEO)
Sent: Wednesday, May 24, 2006 3:39 PM
To: Seidel, Rebecca
Cc: Blackwood, Kristine; Roland, Sarah E; Scott-Finan, Nancy; Crews, John (USAEO); Voris, Natalie (USAEO)
Subject: FW: Letter from Congressman Issa

Rebecca,

Please see the attached letter we just received from Rep. Issa to USA Carol Lam criticizing her on immigration prosecutions. I am sending this to you in connection with David Iglesias' preparation to the extent he gets any questions from Issa on it. Apart from that, of course, we need to coordinate with USA Lam and ODAG on a substantive response. I will separately send this to Exec Sec to put into the system.

This 5/24/06 letter refers to an October 13 2005 letter that Issa sent to USA Lam. By way of background, Exec Sec. assigned the response to that 10/13/05 letter to EOUSA. We drafted a response back in November, based on a long memo about the case at issue from SDCA. I have attached the relevant documents below. The response was a joint response to the 10/13/05 letter and to a 10/20/05 letter that Issa sent to the AG on the same issue. We sent the draft response to ODAG and on down the line. (Exec Sec. later formally moved the pen to ODAG I believe.) I don't know what ultimately happened to the response, whether it went out or not. At one point in January 2006 there was discussion about doing a briefing in lieu of a letter.

The immediate issue in the 5/24/06 letter is whether to set up a meeting with Issa as he requests.

Dave

>
>

From: Porter, Brenda (USACAS)
> Sent: Wednesday, May 24, 2006 2:20 PM
> To: Smith, David L. (USAEO); Crews, John (USAEO)
> Subject: Letter from Congressman Issa
>
> Mr. Smith and Mr. Crews:
>

> For your information, attached please find a letter from Congressman
> Issa to United States Attorney Carol Lam, pertaining to alien
> smuggling and the immigration issue. This letter has also been sent
> to Nancy Scott Finan of OLA and Kim Smith in Public Affairs. Ms. Lam
> is out of the district, but I believe she may try to contact you
> regarding this issue. If you should have any questions, I can be
> reached at (619) 557-5892.

>
> Thank you,
>
> Brenda Porter
> Administrative Assistant to
> United States Attorney Carol C. Lam
> Southern District of California
> (619) 557-5892
>
> <<5 24 06 LamLetter.pdf>>
>

From: Smith, David L. (USAEO)
Sent: Friday, November 18, 2005 11:53 AM
To: Otis, Lee L
Cc: Voris, Natalie (USAEO); Parras, Jeff (USAEO)
Subject: Issa letter

Lee,

Attached is my draft response to Cong. Issa and the California
delegation regarding the prosecution policies in SDCA. The Exec Sec.
hard copy of this letter is being sent on down the line here as well.

Also, I have collected a variety of additional stats not currently cited
in the draft and can forward them to you if you would like. I will give
you a call.

Dave

<<0501817.wpd>>

<<SAP-Memo to EOUSA (Smith)-Garcia-Gonzalez-(with
Attachments)-110205.pdf>>
<<ISSA letter 101305.pdf>> <<criminal alien - AG letter (final).pdf>>

From: Smith, David L. (USAEO)
Sent: Tuesday, January 10, 2006 6:25 PM
To: Seidel, Rebecca; Otis, Lee L
Cc: Voris, Natalie (USAEO); Crews, John (USAEO)
Subject: FW: Issa letter

Rebecca,

Per our conversation last night, attached is the Issa/CA delegation
letter to the AG regarding alien prosecutions in the SDCA, as well as
EOUSA's draft response to the letter. There are additional materials
that I can forward on this, including a long memo that the SDCA prepared
on the matter as well as SDCA stats, etc. Please note that the response
letter was intended to be a response to both the CA delegation letter
and to an earlier letter Issa sent directly to USA Carol Lam on the same
issue.

Lee, my understanding is that the latest thought was to do a briefing in
lieu of a letter response, but I am not sure where this stands at the
moment.

Please let me know what your thoughts are on this so I can keep SDCA apprised.

Thanks

Dave

David L. Smith
Legislative Counsel
Executive Office for U.S. Attorneys
(202) 353-3035
David.L.Smith2@usdoj.gov

Seidel, Rebecca

From: Crews, John (USAEO)
Sent: Tuesday, June 06, 2006 6:05 PM
To: Seidel, Rebecca
Subject: RE: fyi--results of conference call today by crim group & plan/proposal for crim group to reach out informally to our counterparts at dhs to discuss

Rebecca:

Have you a chance to consider in what direction you want me to go with the response to Issa's letter to Carol Lam?

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

From: Seidel, Rebecca
Sent: Tuesday, June 06, 2006 6:01 PM
To: McHenry, Teresa
Cc: Otis, Lee L; Mullane, Hugh; Bounds, Ryan W (OLP); Campbell, Benton; Crews, John (USAEO); Roberts, Tom
Subject: RE: fyi--results of conference call today by crim group & plan/proposal for crim group to reach out informally to our counterparts at dhs to discuss

Thank you. Excellent.

Yes we also need redline edits for House bill before conference, so once you have finished Senate assessment.... :)

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

From: McHenry, Teresa
Sent: Tuesday, June 06, 2006 5:48 PM
To: Seidel, Rebecca
Cc: Otis, Lee L; Mullane, Hugh; Bounds, Ryan W (OLP); Roberts, Tom; Crews, John (USAEO); Campbell, Benton
Subject: fyi--results of conference call today by crim group & plan/proposal for crim group to reach out informally to our counterparts at dhs to discuss

Rebecca,

As discussed, crim group had conference call today to discuss moving forward

With first priority getting you what you need this week something on senate bill-inclusive bill containing all our comments on the crim provisions, (with idea that we can then distill from that a second shorter document that has our highest priority stuff). Tom is lead/pulling this together (though everyone is working on it).

As we discussed with you earlier today, we also discussed need to come up with potential positions on the high priority crim tems including fall back positions. As part of that, we thought would be helpful for crim group to reach out informally to our counterparts at dhs to see if we can discuss, informally and at working level, various issues/potential language that we might propose up our respective chains regarding some of the crim issues/potential compromises. Of course, we will make clear that this is just for discussion purposes/brainstorming-any proposals need to be vetted through our agencies and then through omb, etc.....

we also discussed need to come up in future with revised/updated version of our comments on house bill, but we didn't yet come up with specific plan/timetable on that.

Let Tom, Johns or me know if questions/concerns/comments.

Thanks

t

Seidel, Rebecca

From: Roland, Sarah E
Sent: Tuesday, June 06, 2006 6:59 PM
To: Seidel, Rebecca
Subject: RE: ISSA Ltr.

What are we doing about a meeting that Issa has requested with Carol Lam in the same said letter.

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

From: Seidel, Rebecca
Sent: Tuesday, June 06, 2006 6:53 PM
To: Crews, John (USAEO)
Cc: Scott-Finan, Nancy; Roland, Sarah E; Bounds, Ryan W (OLP)
Subject: RE: ISSA Ltr.

what would you propose as a long response? I would be interested to see. I do think we need more than a thank you for your interest. Thanks John

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

From: Crews, John (USAEO)
Sent: Tuesday, June 06, 2006 9:55 AM
To: Seidel, Rebecca
Subject: FW: ISSA Ltr.

This doesn't fit well into our general responses. If you can let me know what you want I'll start drafting it. I could go as simple as "thank you for your interests and concern" to a long multi-page response. Paul Hahn of our office has also worked on responses to earlier letters by Congressman Issa and will be glad to work on this with me. JGC

>
> _____
> From: Kuberka, Susan (USAEO)
> Sent: Tuesday, June 06, 2006 9:53 AM
> To: Crews, John (USAEO)
> Subject: ISSA Ltr.
>
>
> <<ISSAltr.pdf>>

Seidel, Rebecca

From: Scott-Finan, Nancy
Sent: Wednesday, June 07, 2006 2:22 PM
To: Voris, Natalie (USAEO); Seidel, Rebecca; Crews, John (USAEO); Smith, David L. (USAEO)
Cc: Mercer, Bill (ODAG); Roland, Sarah E
Subject: RE: USA prosecutions - Secs. 1324 and 1326

I have spoken with the staffer who advises that she is inquiring as the Senator herself has asked. The Senator has heard that our prosecution numbers are down. Is there someone in EOUSA who can talk to the staffer and say that we prosecute all of the cases that need prosecuting? Thanks.

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

From: Voris, Natalie (USAEO)
Sent: Tuesday, June 06, 2006 2:05 PM
To: Scott-Finan, Nancy; Seidel, Rebecca; Crews, John (USAEO); Smith, David L. (USAEO)
Cc: Mercer, Bill (ODAG); Roland, Sarah E
Subject: RE: USA prosecutions - Secs. 1324 and 1326

We definitely do not give out prosecution guidelines.

From: Crews, John (USAEO)
Sent: Tuesday, June 06, 2006 1:22 PM
To: Seidel, Rebecca; Scott-Finan, Nancy; Voris, Natalie (USAEO); Smith, David L. (USAEO)
Cc: Roland, Sarah E
Subject: RE: USA prosecutions - Secs. 1324 and 1326

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My assumption is that you are correct, that this is related to the real report that Ms. Lam sent us, and the faux and redacted copy of that report that Congressman Issa often quotes from.

JGC

From: Seidel, Rebecca
Sent: Tuesday, June 06, 2006 1:18 PM
To: Scott-Finan, Nancy; Voris, Natalie (USAEO); Smith, David L. (USAEO)
Cc: Roland, Sarah E; Crews, John (USAEO)
Subject: RE: USA prosecutions - Secs. 1324 and 1326

We don't generally give out prosecution guidelines - right? And this is a set up related to that report that Issa got his hands on? And Carol Lam responded to?

From: Scott-Finan, Nancy
Sent: Tuesday, June 06, 2006 1:12 PM
To: Voris, Natalie (USAEO); Smith, David L. (USAEO)
Cc: Seidel, Rebecca; Roland, Sarah E
Subject: USA prosecutions - Secs. 1324 and 1326

The good news is that Senator Feinstein's staffer Renee has finally called me for information instead of calling SD Ca directly. She would like to know the prosecutive guidelines for 18 USC Secs. 1324 and 1326

for not only Southern District of California, but also El Paso, Yuma and Tuscon. This may be something that you would want to have a conference call with her--Kelly Shackelford has done great briefings in the past about how no case that needs prosecution is not prosecuted. I am not sure who would do this in Kelly's stead.

Seidel, Rebecca

From: Scott-Finan, Nancy
Sent: Wednesday, June 07, 2006 2:25 PM
To: Roland, Sarah E; Seidel, Rebecca
Cc: Voris, Natalie (USAEO); Smith, David L. (USAEO)
Subject: RE: Letter from Congressman Issa

FYI

Issa's staff have called re a press release on CD California web site re an alien smuggling case from this week. I will find out what the staffer wants to know.

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

From: Roland, Sarah E
Sent: Thursday, May 25, 2006 4:28 PM
To: Seidel, Rebecca; Scott-Finan, Nancy
Subject: FW: Letter from Congressman Issa

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David L. Smith
Legislative Counsel
Executive Office for U.S. Attorneys
(202) 353-3035
David.L.Smith2@usdoj.gov

Seidel, Rebecca

From: Mercer, Bill (ODAG)
Sent: Thursday, June 08, 2006 5:44 AM
To: Scott-Finan, Nancy; Voris, Natalie (USAEO); Seidel, Rebecca; Crews, John (USAEO); Smith, David L. (USAEO)
Cc: Roland, Sarah E
Subject: Re: USA prosecutions - Secs. 1324 and 1326

Where? SDCA, California as a whole, or nationally?

Sent from my BlackBerry Wireless Handheld

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

From: Scott-Finan, Nancy
To: Voris, Natalie (USAEO); Seidel, Rebecca; Crews, John (USAEO); Smith, David L. (USAEO)
CC: Mercer, Bill (ODAG); Roland, Sarah E
Sent: Wed Jun 07 16:01:15 2006
Subject: RE: USA prosecutions - Secs. 1324 and 1326

Can we try to pull numbers for each of the two sections--can we show that prosecution numbers are up?

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

From: Scott-Finan, Nancy
Sent: Wednesday, June 07, 2006 2:22 PM
To: Voris, Natalie (USAEO); Seidel, Rebecca; Crews, John (USAEO); Smith, David L. (USAEO)
Cc: Mercer, Bill (ODAG); Roland, Sarah E
Subject: RE: USA prosecutions - Secs. 1324 and 1326

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Seidel, Rebecca

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Cc: Roland, Sarah E
Subject: Re: USA prosecutions - Secs. 1324 and 1326

I believe that David Smith sent the figures, and that the figures were for the SWB districts. I'll verify later this morning. JGC

Sent from my BlackBerry Wireless Device

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

From: Mercer, Bill (ODAG) <Bill.Mercer2@usdoj.gov>
To: Scott-Finan, Nancy <Nancy.Scott-Finan@usdoj.gov>; Seidel, Rebecca <Rebecca.Seidel@usdoj.gov>; Smith, David L. (USAEO) <DSmith@usa.doj.gov>; Crews, John (USAEO) <JCrews@usa.doj.gov>; Voris, Natalie (USAEO) <NVoris@usa.doj.gov>
CC: Roland, Sarah E <Sarah.E.Roland@usdoj.gov>
Sent: Thu Jun 08 05:43:33 2006
Subject: Re: USA prosecutions - Secs. 1324 and 1326

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From: Scott-Finan, Nancy
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CC: Mercer, Bill (ODAG); Roland, Sarah E
Sent: Wed Jun 07 16:01:15 2006
Subject: RE: USA prosecutions - Secs. 1324 and 1326

Can we try to pull numbers for each of the two sections--can we show that prosecution numbers are up?

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

From: Scott-Finan, Nancy
Sent: Wednesday, June 07, 2006 2:22 PM
To: Voris, Natalie (USAEO); Seidel, Rebecca; Crews, John (USAEO); Smith, David L. (USAEO)
Cc: Mercer, Bill (ODAG); Roland, Sarah E
Subject: RE: USA prosecutions - Secs. 1324 and 1326

I have spoken with the staffer who advises that she is inquiring as the Senator herself has asked. The Senator has heard that our prosecution numbers are down. Is there someone in EOUSA who can talk to the staffer and say that we prosecute all of the cases that need prosecuting? Thanks.

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

From: Voris, Natalie (USAEO)
Sent: Tuesday, June 06, 2006 2:05 PM
To: Scott-Finan, Nancy; Seidel, Rebecca; Crews, John (USAEO); Smith, David L. (USAEO)
Cc: Mercer, Bill (ODAG); Roland, Sarah E
Subject: RE: USA prosecutions - Secs. 1324 and 1326

We definitely do not give out prosecution guidelines.

From: Crews, John (USAEO)

Sent: Tuesday, June 06, 2006 1:22 PM
To: Seidel, Rebecca; Scott-Finan, Nancy; Voris, Natalie (USAE0); Smith, David L. (USAE0)
Cc: Roland, Sarah E
Subject: RE: USA prosecutions - Secs. 1324 and 1326

To my knowledge we decline to give out prosecution guidelines.

My assumption is that you are correct, that this is related to the real report that Ms. Lam sent us, and the faux and redacted copy of that report that Congressman Issa often quotes from.

JGC

From: Seidel, Rebecca
Sent: Tuesday, June 06, 2006 1:18 PM
To: Scott-Finan, Nancy; Voris, Natalie (USAE0); Smith, David L. (USAE0)
Cc: Roland, Sarah E; Crews, John (USAE0)
Subject: RE: USA prosecutions - Secs. 1324 and 1326

We don't generally give out prosecution guidelines - right? And this is a set up related to that report that Issa got his hands on? And Carol Lam responded to?

From: Scott-Finan, Nancy
Sent: Tuesday, June 06, 2006 1:12 PM
To: Voris, Natalie (USAE0); Smith, David L. (USAE0)
Cc: Seidel, Rebecca; Roland, Sarah E
Subject: USA prosecutions - Secs. 1324 and 1326

The good news is that Senator Feinstein's staffer Renee has finally called me for information instead of calling SD Ca directly. She would like to know the prosecutive guidelines for 18 USC Secs. 1324 and 1326 for not only Southern District of California, but also El Paso, Yuma and Tuscon. This may be something that you would want to have a conference call with her--Kelly Shackelford has done great briefings in the past about how no case that needs prosecution is not prosecuted. I am not sure who would do this in Kelly's stead.

Seidel, Rebecca

From: Crews, John (USAEO)
Sent: Friday, June 16, 2006 12:24 PM
To: Seidel, Rebecca
Subject: Issa Letter

Attachments: tmp.htm; issa draft.wpd



tmp.htm (843 B)



issa draft.wpd (60
KB)

Rebecca:

Have you had a chance to review the draft of a response to Congressman Issa in response to his letter to Carol Lam, US Attorney in San Diego, regarding the prosecution of smuggling cases? I've attached it here as well. Thanks. JGC.

<<issa draft.wpd>>



LY

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Darrell Issa
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Issa:

This is in response to your letter of May 24, 2006 to Carol C. Lam, United States Attorney for the Southern District of California, regarding the issue of a purported official document relating to the prosecution of alien transporting cases in the Southern District of California

No public entity has, nor can they possibly have, all of the resources they might want to have in a perfect world to do all that the entity could conceivably want to do. Public administration requires making choices about allocating resources between competing priorities and leveraging resources to achieve the maximum impact. A United States Attorney's Office is no different than any other public institution in this regard.

[OLA will need to decide if they want DOJ to provide Congressman Issa with the unredacted or "official" copy of the Border Patrol report, as he requests. USAO/SDCA has provided us with a copy of the official report that formed the basis of the unofficial report that Congressman Issa has been making reference to. I have forwarded both the official and unofficial reports to you. OLA will also need to decide if they want to directly confront the issue of the unofficial report. If that question is answered in the affirmative I have provided a possible paragraph below]

It is well established that the United States Border Patrol apprehends more than 1 million individuals who are entering the United States without authorization. It is not possible to criminally charge that many individuals. The United States Attorney's along the Southwest Border, and the court systems they operate in, are already operating at near maximum capacity.

Between fiscal years 1994 and 2005, the number of prisoners booked by the U.S. Marshals Service nearly doubled, increasing from 97,607 to 176,432. Of this 78,825 prisoners

OLA000000455

DRAFT ONLY

increase in USMS bookings, 60% occurred in the eight judicial districts that comprise the Southwest border area of the United States. During fiscal year 2005, the U.S. Marshals Service arrested or booked 72,491 prisoners along the Southwest border. [Office of the Federal Detention Trustee (OFDT), United States Department of Justice, statistical information on web page]. Between 1994 and 2005, the average daily rate paid by the U.S. Marshals Service to house prisoners in non-federal facilities increased from \$54.08 to \$62.09 (exclusive of medical, guard, transportation, and other miscellaneous detention-related expenses). [Id]. If we were to add hundreds of thousands of additional cases to their workload the federal judicial system along the border would simply cease to operate.

That said, the work of the United States Department of Justice is one of the great success stories. In sharp contradistinction to the claims made by some disgruntled individuals, the United States Department of Justice is responsible for an every increasing number of alien smuggling prosecutions. Both the Administrative Office for the United States Courts (AOUSC) and the Executive Office for United States Attorney's (EOUSA) publish statistical information.

<u>Offense</u>	<u>FY</u>	<u>AOUSC</u>	<u>EOUSA</u>
8 U.S.C. § 1324	03	1,961	2,015
	04	2,506	2,451
	05	2,728	2,682

We in the Department of Justice are proud of our increasing productivity in this area of criminal law enforcement.

We appreciate your interest in this matter. Please do not hesitate to contact the Department of Justice if we can be of assistance in other matters.

Sincerely,

William E. Moschella
Assistant Attorney General

OLA000000456

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Thursday, June 22, 2006 4:39 PM
To: Otis, Lee L; Vargas, Omar; Bounds, Ryan W (OLP); Elwood, Courtney; Boardman, Michelle
Cc: Brand, Rachel
Subject: RE: Issa issue and prosecution stats

Importance: High

Attachments: img 1326_alpha.pdf, img 1324_alpha.pdf, img 1325_alpha.pdf

Sorry for the delay. This may be more info than you need but you may want on hand. EOUSA provided these stats (attached below in pdf) of immigration prosecutions (under 3 different provisions 1325, 1325 and 1326) in past 5 years broken down by USA district.

With regard to responding to an Issa like question of "why are your prosecutors failing to prosecute everyone that ICE detains?" or something about "catch and release" - this is cobbled together from some info that EOUSA provided and from what we were working out for hearing prep for USA Iglesias, and from EOUSA's draft (not yet final) response to Issa.

Of course our US Attorneys are doing everything they can to enforce the law. No public entity has, nor can they possible have, all of the resources they might want to have in a perfect work to do all that the entity could conceivably want to do. But our US Attorneys are working to leverage their resources as effectively as possible, and have demonstrated [not sure how you want to characterize stats - seems there is an increase in 1324 and 1325 prosecutions for AZ, CA and especially TX, but decrease in 1326].

It is important to remember that the border, and the districts, have various factors which make each unique, and therefore each district must be able to tailor their practices to the particular needs / case load? of the district. San Diego, for example is a large city, and is immediately adjacent to another large city in Mexico (Tijuana). This makes the Southern District of California different that other southwest border districts. Arizona currently accounts for approximately half of all Border Patrol seizures. DNM, TXW, and TXS all have large stretches of border that are largely unpopulated, while TXS at the same time has a number of urban areas adjacent to the border (Laredo, and the Rio Grande Valley area of McAllen/Harlingen/Brownsville); and TXW has one (El Paso).

All of these factors play into the volume and type of cases encountered by the various US attorneys, and they prioritize accordingly.

** I am sure you all may have better way to wordsmith this - just tried to cobble together something. May be all we need is first paragraph and first sentence of second.



mg 1326_alpha.pdf (35 KB) mg 1324_alpha.pdf (35 KB) mg 1325_alpha.pdf (34 KB)

From: Otis, Lee L
Sent: Thursday, June 22, 2006 3:56 PM
To: Vargas, Omar; Bounds, Ryan W (OLP); Elwood, Courtney; Seidel, Rebecca; Boardman, Michelle
Cc: Brand, Rachel
Subject: RE: Sanctuary policies - responses to Hill

Here is a cut at the State/local authority q&a. It does not address liability. I believe Michelle was going to track down

something from some Steve Bradbury materials.

I think I also owe you something on the different prosecution policies/California issue that I will now turn to. Rebecca was also looking for soe materials on that but I think I ended up with the pen and need to disucss with others in the DAG's office who have been working on this.

<< File: AG briefing state and local authority.doc >>

From: Vargas, Omar
Sent: Thursday, June 22, 2006 3:36 PM
To: Bounds, Ryan W (OLP); Otis, Lee L; Elwood, Courtney; Seidel, Rebecca
Cc: Brand, Rachel
Subject: RE: Sanctuary policies - responses to Hill

Here is what remains--

Authority-Lee Otis
Deputization-??? (my notes say we are to refer that to Julie but did we want to write up anything else?)
Lamm/Issa matter-Rebecca
Funding/Budget- OJP is working on it.

From: Bounds, Ryan W (OLP)
Sent: Thursday, June 22, 2006 3:32 PM
To: Otis, Lee L; Elwood, Courtney; Vargas, Omar; Seidel, Rebecca
Cc: Brand, Rachel
Subject: RE: Sanctuary policies - responses to Hill

Are you waiting on anything more from OLP?

From: Otis, Lee L
Sent: Thursday, June 22, 2006 3:14 PM
To: Elwood, Courtney; Vargas, Omar; Seidel, Rebecca
Cc: Bounds, Ryan W (OLP); Brand, Rachel
Subject: RE: Sanctuary policies - responses to Hill

I know I am working on the authority Q&A right now. Was hoping to circulate in about fifteen minutes.

From: Elwood, Courtney
Sent: Thursday, June 22, 2006 3:14 PM
To: Vargas, Omar; Seidel, Rebecca
Cc: Bounds, Ryan W (OLP); Brand, Rachel; Otis, Lee L
Subject: RE: Sanctuary policies - responses to Hill

Which pieces are still outstanding? Omar, you have my permission to start beating down doors. I don't want to have to fax this to the AG later tonight. I would much prefer that it be in his briefing book. AG will be leaving the office at 5:20 p.m., and, if at all possible, it should be sent to Jon Boote or Raquel Sours well before that time.

Thanks!

Courtney Simmons Elwood
Deputy Chief of Staff and
Counselor to the Attorney General
U.S. Department of Justice
(w) 202.514.2267
(c)
(fax) 202.305.9687

From: Vargas, Omar
Sent: Thursday, June 22, 2006 3:11 PM
To: Seidel, Rebecca
Cc: Bounds, Ryan W (OLP); Brand, Rachel; Otis, Lee L; Elwood, Courtney

Subject: RE: Sanctuary policies - responses to Hill

I think I will use language in the hard copy doc Courtney provided at this morning's meeting. I will circulate draft TPs and Q&A once the outstanding pieces are in place.

O-

From: Seidel, Rebecca
Sent: Thursday, June 22, 2006 3:03 PM
To: Seidel, Rebecca; Vargas, Omar
Cc: Bounds, Ryan W (OLP); Brand, Rachel; Otis, Lee L; Elwood, Courtney
Subject: RE: Sanctuary policies - responses to Hill

This is what was in a draft response by EOUSA to Congressman Bonilla that was never sent - I believe we offered to discuss verbally rather than do this letter. I don't think we have actually had any letter responses go to the Hill on this.

We understand your constituent's concerns with the local government policies with regard to the enforcement of Title 8, U.S.C., Section 1373. The statute in question provides for no enforcement mechanism and also has potential implications regarding a number of constitutional law issues.

Please be assured that the United States Department of Justice and the United States Attorney's Office for the Western District of Texas make every effort to enforce our immigration laws and to ensure that we are able to obtain necessary state and local information regarding immigration violations regardless of state and local policies.

From: Seidel, Rebecca
Sent: Thursday, June 22, 2006 2:28 PM
To: Vargas, Omar
Cc: Bounds, Ryan W (OLP); Brand, Rachel; Otis, Lee L; Elwood, Courtney
Subject: Sanctuary policies - responses to Hill

Here is the Delay insert, not sure how helpful it is, since it is specific about Houston policy and its revision. Jon Cohn's April 05 hearing on immigration issues in SJC did not generate any QFRs on sanctuary policies. Jon's recent hearing in SJC on title 7 of Specter's bill generated QFRs, the responses for which are still at OMB - but I don't believe they had any questions on Sanctuary policies, but we are double checking. My folks are still checking on correspondence to Hill, will update you when finished.

I also want to make you all aware that the USA in Kansas apparently sent a letter to Julie Myers suggesting that ICE not detain people unless they have an indication from the USA that prosecution is likely (see attached response from Myers - I am trying to get a copy of the USA's letter. EOUSA tells me this USA did not give anyone heads up he was sending this letter.

<< File: AS Myers response to Eric Melgren.pdf >>

<< File: AG Insert - Gang Sanctuary Houston 041406.doc >>

Tracking:	Recipient	Read
	Otis, Lee L	Read: 6/22/2006 4:39 PM
	Vargas, Omar	Read: 6/22/2006 4:43 PM
	Bounds, Ryan W (OLP)	Read: 6/22/2006 4:45 PM
	Elwood, Courtney	Read: 6/22/2006 4:39 PM
	Boardman, Michelle	Read: 6/22/2006 4:47 PM
	Brand, Rachel	Read: 6/22/2006 5:54 PM

Seidel, Rebecca

From: Smith, David L. (USAEO)
Sent: Friday, June 23, 2006 5:20 PM
To: Seidel, Rebecca; Scott-Finan, Nancy
Cc: Fridman, Daniel (ODAG); Otis, Lee L; Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane (USACAS)
Subject: FW: Congressman Issa's Request for a Meeting
Attachments: tmp.htm



tmp.htm (4 KB)

Rebecca and Nancy,

Rep. Issa has contacted the SDCA to seek a meeting with USA Lam in early July. I understand that Carol is presently out of the country and will be for at least another week.

Presumably he would ask her what resources she needs to achieve "zero tolerance" on immigration and she would be limited to urging him to support the President's budget. Still, with appropriate talking points, I see this as an opportunity to ratchet down the venom coming from Issa. Carol may be able to create a relationship with Issa in a face to face setting that she could not do otherwise.

Let us know what the thinking is on this and whether you will be responding to Issa's staff.

Thanks

Dave

>
>

From: Porter, Brenda (USACAS)
> Sent: Friday, June 23, 2006 4:59 PM
> To: Smith, David L. (USAEO)
> Cc: Harrigan, Shane (USACAS)
> Subject: Congressman Issa's Request for a Meeting
>
> Mr. Smith,
>
> We wanted you to be aware of a phone call we received today from Don
> McKinney of Congressman Darrell Issa's office, requesting to schedule
> a meeting between Congressman Issa and United States Attorney Carol
> Lam. Mr. McKinney said that the Congressman will be in town on July 6
> and he would like to see if the U.S. Attorney is available to meet
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> "needs/assessment-type meeting." (The House is having hearings on the
> Immigration Bill on July 5, 2006, in San Diego). I believe you are
> familiar with the history between Congressman Issa and our office. At
> this time, I was planning to call Mr. McKinney and state that we must
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> meeting. I will await your reply for further guidance regarding this
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> Administrative Assistant to

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> Southern District of California
> (619) 557-5892

Seidel, Rebecca

From: Fridman, Daniel (ODAG)
Sent: Friday, June 23, 2006 5:28 PM
To: Seidel, Rebecca
Cc: Mercer, Bill (ODAG); Elston, Michael (ODAG)
Subject: Fw: Congressman Issa's Request for a Meeting

Attachments: tmp.htm

Rebecca -

I'm prepared to help you with this. I have a lot of the relevant stats and reports in hand. We should talk on Monday.

Dan

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

From: Smith, David L. (USAEO)
To: Seidel, Rebecca; Scott-Finan, Nancy
CC: Fridman, Daniel (ODAG); Otis, Lee L; Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane (USACAS)
Sent: Fri Jun 23 17:19:55 2006
Subject: FW: Congressman Issa's Request for a Meeting



tmp.htm (4 KB)

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Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 23, 2006 5:29 PM
To: Moschella, William
Cc: Roland, Sarah E; Scott-Finan, Nancy
Subject: FW: Congressman Issa's Request for a Meeting

Attachments: tmp.htm

Will, see below. Wanted you to be aware.

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

From: Fridman, Daniel (ODAG)
Sent: Friday, June 23, 2006 5:28 PM
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Cc: Mercer, Bill (ODAG); Elston, Michael (ODAG)
Subject: Fw: Congressman Issa's Request for a Meeting

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Tracking:

Recipient

Read

Moschella, William

Roland, Sarah E

Scott-Finan, Nancy

Read: 6/23/2006 5:33 PM

Read: 6/23/2006 5:41 PM

Seidel, Rebecca

From: Smith, David L. (USAEO)
Sent: Wednesday, June 28, 2006 3:15 PM
To: Seidel, Rebecca; Scott-Finan, Nancy
Cc: Fridman, Daniel (ODAG); Otis, Lee L; Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane (USACAS)
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Attachments: tmp.htm



tmp.htm (5 KB)

Rebecca or Nancy,

We need to give SDCA some guidance on this. Issa's staff wants to come over to the USAO next week to meet, per the below. I understand that Carol (who is still out of the country, until tomorrow) is not overly inclined to meet but would like to have her senior managers meet with Issa's staff. It is not clear yet if Issa himself plans to come, though he might.

Dave

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Subject: RE: Congressman Issa's Request for a Meeting

Attachments: tmp.htm



tmp.htm (6 KB)

If it happens, which is probably a good idea in one way or another; someone from OLA or here out to go. JGC.

>
>

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> matter.

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> Thank you,

>

> Brenda Porter
> Administrative Assistant to
> United States Attorney Carol C. Lam
> Southern District of California
> (619) 557-5892

Seidel, Rebecca

From: Fridman, Daniel (ODAG)
Sent: Thursday, June 29, 2006 6:44 PM
To: Seidel, Rebecca; Voris, Natalie (USAEO)
Subject: RE: Congressman Issa's Request for a Meeting

Rebecca and Natalie -

The DAG would like to have a meeting on this soon to discuss our approach to the meeting. Let me know who from your components would be the best people to participate.

Dan

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

From: Smith, David L. (USAEO)
Sent: Wednesday, June 28, 2006 3:15 PM
To: Seidel, Rebecca; Scott-Finan, Nancy
Cc: Fridman, Daniel (ODAG); Otis, Lee L; Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane (USACAS)
Subject: RE: Congressman Issa's Request for a Meeting

Rebecca or Nancy,

We need to give SDCA some guidance on this. Issa's staff wants to come over to the USAO next week to meet, per the below. I understand that Carol (who is still out of the country, until tomorrow) is not overly inclined to meet but would like to have her senior managers meet with Issa's staff. It is not clear yet if Issa himself plans to come, though he might.

Dave

>
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From: Smith, David L. (USAEO)
> Sent: Friday, June 23, 2006 5:20 PM
> To: Scott-Finan, Nancy; Seidel, Rebecca
> Cc: Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane
> (USACAS); Otis, Lee L; Fridman, Daniel (ODAG)
> Subject: FW: Congressman Issa's Request for a Meeting
>
> Rebecca and Nancy,
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> Rep. Issa has contacted the SDCA to seek a meeting with USA Lam in
> early July. I understand that Carol is presently out of the country
> and will be for at least another week.
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> Presumably he would ask her what resources she needs to achieve "zero
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> from Issa. Carol may be able to create a relationship with Issa in a
> face to face setting that she could not do otherwise.
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> Let us know what the thinking is on this and whether you will be
> responding to Issa's staff.
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> Thanks
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> Dave
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>
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From: Porter, Brenda (USACAS)
> Sent: Friday, June 23, 2006 4:59 PM
> To: Smith, David L. (USAE0)
> Cc: Harrigan, Shane (USACAS)
> Subject: Congressman Issa's Request for a Meeting
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> Mr. Smith,
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> We wanted you to be aware of a phone call we received today from Don
> McKinney of Congressman Darrell Issa's office, requesting to schedule
> a meeting between Congressman Issa and United States Attorney Carol
> Lam. Mr. McKinney said that the Congressman will be in town on July 6
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>
> Brenda Porter
> Administrative Assistant to
> United States Attorney Carol C. Lam
> Southern District of California
> (619) 557-5892

Seidel, Rebecca

From: Voris, Natalie (USAEO)
Sent: Thursday, June 29, 2006 6:46 PM
To: Seidel, Rebecca; Fridman, Daniel (ODAG)
Subject: Re: Congressman Issa's Request for a Meeting

For eousa, john crews and david smith.

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

From: Fridman, Daniel (ODAG) <Daniel.Fridman2@usdoj.gov>
To: Seidel, Rebecca <Rebecca.Seidel@usdoj.gov>; Voris, Natalie (USAEO) <NVoris@usa.doj.gov>
Sent: Thu Jun 29 18:44:16 2006
Subject: RE: Congressman Issa's Request for a Meeting

Rebecca and Natalie -

The DAG would like to have a meeting on this soon to discuss our approach to the meeting. Let me know who from your components would be the best people to participate.

Dan

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From: Smith, David L. (USAEO)
Sent: Wednesday, June 28, 2006 3:15 PM
To: Seidel, Rebecca; Scott-Finan, Nancy
Cc: Fridman, Daniel (ODAG); Otis, Lee L; Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane (USACAS)
Subject: RE: Congressman Issa's Request for a Meeting

Rebecca or Nancy,

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> Sent: Friday, June 23, 2006 5:20 PM
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> Cc: Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane
> (USACAS); Otis, Lee L; Fridman, Daniel (ODAG)
> Subject: FW: Congressman Issa's Request for a Meeting
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> Sent: Friday, June 23, 2006 4:59 PM
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> Brenda Porter
> Administrative Assistant to
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> Southern District of California
> (619) 557-5892

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Thursday, June 29, 2006 6:46 PM
To: Fridman, Daniel (ODAG); Voris, Natalie (USAEO)
Subject: RE: Congressman Issa's Request for a Meeting

Both Will Moschella and I should be there.

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From: Fridman, Daniel (ODAG)
Sent: Thursday, June 29, 2006 6:44 PM
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Subject: RE: Congressman Issa's Request for a Meeting

Rebecca and Natalie -

The DAG would like to have a meeting on this soon to discuss our approach to the meeting. Let me know who from your components would be the best people to participate.

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Cc: Fridman, Daniel (ODAG); Otis, Lee L; Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane (USACAS)
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> To: Scott-Finan, Nancy; Seidel, Rebecca
> Cc: Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane
> (USACAS); Otis, Lee L; Fridman, Daniel (ODAG)
> Subject: FW: Congressman Issa's Request for a Meeting
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> Sent: Friday, June 23, 2006 4:59 PM
> To: Smith, David L. (USAEO)
> Cc: Harrigan, Shane (USACAS)
> Subject: Congressman Issa's Request for a Meeting
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> McKinney of Congressman Darrell Issa's office, requesting to schedule
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> matter.
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> Brenda Porter
> Administrative Assistant to
> United States Attorney Carol C. Lam
> Southern District of California
> (619) 557-5892

Seidel, Rebecca

From: Fridman, Daniel (ODAG)
Sent: Thursday, June 29, 2006 7:31 PM
To: Voris, Natalie (USAEO); Seidel, Rebecca
Subject: RE: Congressman Issa's Request for a Meeting

Ok, we'll schedule a meeting. As far as you know, nothing has yet been set up between Issa and Lam, right?

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

From: Voris, Natalie (USAEO)
Sent: Thursday, June 29, 2006 6:46 PM
To: Seidel, Rebecca; Fridman, Daniel (ODAG)
Subject: Re: Congressman Issa's Request for a Meeting

For eousa, john crews and david smith.

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

From: Fridman, Daniel (ODAG) <Daniel.Fridman2@usdoj.gov>
To: Seidel, Rebecca <Rebecca.Seidel@usdoj.gov>; Voris, Natalie (USAEO) <NVoris@usa.doj.gov>
Sent: Thu Jun 29 18:44:16 2006
Subject: RE: Congressman Issa's Request for a Meeting

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To: Seidel, Rebecca; Scott-Finan, Nancy
Cc: Fridman, Daniel (ODAG); Otis, Lee L; Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane (USACAS)
Subject: RE: Congressman Issa's Request for a Meeting

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Dave

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From: Smith, David L. (USAEO)
> Sent: Friday, June 23, 2006 5:20 PM
> To: Scott-Finan, Nancy; Seidel, Rebecca
> Cc: Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane
> (USACAS); Otis, Lee L; Fridman, Daniel (ODAG)

> Subject: FW: Congressman Issa's Request for a Meeting
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> Brenda Porter
> Administrative Assistant to
> United States Attorney Carol C. Lam
> Southern District of California
> (619) 557-5892

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Thursday, June 29, 2006 7:37 PM
To: Fridman, Daniel (ODAG); Voris, Natalie (USAEO)
Subject: RE: Congressman Issa's Request for a Meeting

Correct. Issa's office called Will Moschella today about setting one up, we said we would get back to them

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

From: Fridman, Daniel (ODAG)
Sent: Thursday, June 29, 2006 7:31 PM
To: Voris, Natalie (USAEO); Seidel, Rebecca
Subject: RE: Congressman Issa's Request for a Meeting

Ok, we'll schedule a meeting. As far as you know, nothing has yet been set up between Issa and Lam, right?

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From: Voris, Natalie (USAEO)
Sent: Thursday, June 29, 2006 6:46 PM
To: Seidel, Rebecca; Fridman, Daniel (ODAG)
Subject: Re: Congressman Issa's Request for a Meeting

For eousa, john crews and david smith.

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

From: Fridman, Daniel (ODAG) <Daniel.Fridman2@usdoj.gov>
To: Seidel, Rebecca <Rebecca.Seidel@usdoj.gov>; Voris, Natalie (USAEO) <NVoris@usa.doj.gov>
Sent: Thu Jun 29 18:44:16 2006
Subject: RE: Congressman Issa's Request for a Meeting

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From: Smith, David L. (USAEO)
Sent: Wednesday, June 28, 2006 3:15 PM
To: Seidel, Rebecca; Scott-Finan, Nancy
Cc: Fridman, Daniel (ODAG); Otis, Lee L; Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane (USACAS)
Subject: RE: Congressman Issa's Request for a Meeting

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Dave

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> From: Smith, David L. (USAEO)
> Sent: Friday, June 23, 2006 5:20 PM
> To: Scott-Finan, Nancy; Seidel, Rebecca
> Cc: Crews, John (USAEO); Voris, Natalie (USAEO); Harrigan, Shane
> (USACAS); Otis, Lee L; Fridman, Daniel (ODAG)
> Subject: FW: Congressman Issa's Request for a Meeting
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> From: Porter, Brenda (USACAS)
> Sent: Friday, June 23, 2006 4:59 PM
> To: Smith, David L. (USAEO)
> Cc: Harrigan, Shane (USACAS)
> Subject: Congressman Issa's Request for a Meeting
>
> Mr. Smith,
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> Thank you,
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> Brenda Porter
> Administrative Assistant to
> United States Attorney Carol C. Lam
> Southern District of California
> (619) 557-5892

Seidel, Rebecca

From: Smith, David L. (USAEO)
Sent: Friday, June 30, 2006 12:03 PM
To: Seidel, Rebecca
Cc: Crews, John (USAEO)
Subject: FW: Letter from Congressman Issa

Attachments: tmp.htm; issa draft.wpd; 5 24 06 LamLetter.pdf; 0501817.wpd; SAP-Memo to EOUSA (Smith)-Garcia-Gonzalez-(with Attachments)-110205.pdf; ISSA letter 101305.pdf; criminal alien - AG letter (final).pdf



tmp.htm (9 KB)



issa draft.wpd (60 KB)



5 24 06 nLetter.pdf (119 KB)



0501817.wpd (19 KB)



SAP-Memo to OUSA (Smith)-Garc.01305.pdf (47 KB)..



ISSA letter



criminal alien - AG letter (fi...

Rebecca,

Attached are all the letters. Immediately below is John Crews' draft answer to 5/24 Issa letter. I will forward the new Feinstein letter when it is in 'pdf form.

Below in the email string are the 10/13/05 letter (Issa to Carol Lam) and the 10/20/05 letter (multiple CA members to AG). My consolidated draft response is attached as well. As I mentioned to you on the phone, however, our check with Exec Sec. reveals that both the 1/20/05 letter to the AG and the 10/13/05 letter to Carol Lam were closed without action per Mike Elston on 5/17/05. Don't know the reason for that.

Dave

<<issa draft.wpd>>

>
> _____
> **From:** Smith, David L. (USAEO)
> **Sent:** Wednesday, May 24, 2006 3:39 PM
> **To:** Seidel, Rebecca
> **Cc:** Crews, John (USAEO); Roland, Sarah E; Scott-Finan, Nancy; Voris, Natalie (USAEO); Blackwood, Kristine
> **Subject:** FW: Letter from Congressman Issa
>
> Rebecca,
>
> Please see the attached letter we just received from Rep. Issa to USA
> Carol Lam criticizing her on immigration prosecutions. I am sending
> this to you in connection with David Iglesias' preparation to the
> extent he gets any questions from Issa on it. Apart from that, of
> course, we need to coordinate with USA Lam and ODAG on a substantive
> response. I will separately send this to Exec Sec to put into the
> system.
>
> This 5/24/06 letter refers to an October 13 2005 letter that Issa sent
> to USA Lam. By way of background, Exec Sec. assigned the response to
> that 10/13/05 letter to EOUSA. We drafted a response back in
> November, based on a long memo about the case at issue from SDCA. I
> have attached the relevant documents below. The response was a joint
> response to the 10/13/05 letter and to a 10/20/05 letter that Issa
> sent to the AG on the same issue. We sent the draft response to ODAG
> and on down the line. (Exec Sec. later formally moved the pen to ODAG
> I believe.) I don't know what ultimately happened to the response,
> whether it went out or not. At one point in January 2006 there was

> discussion about doing a briefing in lieu of a letter.
>
> The immediate issue in the 5/24/06 letter is whether to set up a
> meeting with Issa as he requests.

> Dave

>
>
>
>
>
> _____
> From: Porter, Brenda (USACAS)
> Sent: Wednesday, May 24, 2006 2:20 PM
> To: Smith, David L. (USAEO); Crews, John (USAEO)
> Subject: Letter from Congressman Issa

> Mr. Smith and Mr. Crews:

>
> For your information, attached please find a letter from Congressman
> Issa to United States Attorney Carol Lam, pertaining to alien
> smuggling and the immigration issue. This letter has also been sent
> to Nancy Scott Finan of OLA and Kim Smith in Public Affairs. Ms. Lam
> is out of the district, but I believe she may try to contact you
> regarding this issue. If you should have any questions, I can be
> reached at (619) 557-5892.

> Thank you,

>
> Brenda Porter
> Administrative Assistant to
> United States Attorney Carol C. Lam
> Southern District of California
> (619) 557-5892

> <<5 24 06 LamLetter.pdf>>

>
> _____
> From: Smith, David L. (USAEO)
> Sent: Friday, November 18, 2005 11:53 AM
> To: Otis, Lee L
> Cc: Voris, Natalie (USAEO); Parras, Jeff (USAEO)
> Subject: Issa letter

> Lee,

>
> Attached is my draft response to Cong. Issa and the California
> delegation regarding the prosecution policies in SDCA. The Exec Sec.
> hard copy of this letter is being sent on down the line here as well.

>
> Also, I have collected a variety of additional stats not currently
> cited in the draft and can forward them to you if you would like. I
> will give you a call.

> Dave

> <<0501817.wpd>>

>
> <<SAP-Memo to EOUSA (Smith)-Garcia-Gonzalez-(with
> Attachments)-110205.pdf>>
> <<ISSA letter 101305.pdf>> <<criminal alien - AG letter
> (final).pdf>>

>
> _____
> From: Smith, David L. (USAEO)
> Sent: Tuesday, January 10, 2006 6:25 PM

> To: Seidel, Rebecca; Otis, Lee L
> Cc: Voris, Natalie (USAE0); Crews, John (USAE0)
> Subject: FW: Issa letter
>
> Rebecca,
>
> Per our conversation last night, attached is the Issa/CA delegation
> letter to the AG regarding alien prosecutions in the SDCA, as well as
> EOUSA's draft response to the letter. There are additional materials
> that I can forward on this, including a long memo that the SDCA
> prepared on the matter as well as SDCA stats, etc. Please note that
> the response letter was intended to be a response to both the CA
> delegation letter and to an earlier letter Issa sent directly to USA
> Carol Lam on the same issue.
>
> Lee, my understanding is that the latest thought was to do a briefing
> in lieu of a letter response, but I am not sure where this stands at
> the moment.
>
> Please let me know what your thoughts are on this so I can keep SDCA
> apprised.
>
> Thanks
>
> Dave
>
>
> David L. Smith
> Legislative Counsel
> Executive Office for U.S. Attorneys
> (202) 353-3035
> David.L.Smith2@usdoj.gov
>

Image Not
Available

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530-0001

The Honorable Darrell Issa
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Issa:

This is in response to your October 20, 2005 letter, which was co-signed by 18 House colleagues from California, to the Attorney General inquiring about the prosecution of aliens in the Southern District of California. We are sending an identical letter to each House member that co-signed your letter. This also responds to the October 13, 2005 letter you sent to Carol Lam, the United States Attorney for the Southern District of California on the same topic. We apologize for any inconvenience our delay in responding may have caused you or your colleagues.

The Department of Justice very much appreciates and shares your concern with criminal aliens in this country who jeopardize the safety and well-being of the public. There are, as you know, approximately one million illegal aliens who are apprehended each year along our border with Mexico. As a result, the United States Attorneys' Offices along the Southwest Border (including the Districts of Southern Texas, Western Texas, New Mexico, Arizona and Southern California) face a great challenge in enforcing the criminal immigration and narcotics laws along that border.

Enforcing the immigration laws is a joint effort. The cooperation and resources of not only the United States Attorneys' Offices, but that of the U.S. Customs and Border Protection, Immigration and Customs Enforcement, the Bureau of Prisons, the United States Detention Trustee and many other federal agencies are needed to apprehend, detain, prosecute and imprison these criminal aliens.

The characterization in your October 20th letter of the Department's prosecution policies relating to criminal aliens as "catch and release" is inaccurate. Because it is not, at the present time, literally possible to prosecute and incarcerate every alien who enters this country illegally, priorities must be set as to which cases must be prosecuted first. Such prosecution policies are set by the individual United States Attorneys' Offices in their individual districts. Such policies may be the product of joint discussion and mutual agreement by both the United States Attorneys Office and the principal investigative or apprehending agency, such as the Border Patrol.

OLA000000483

The Honorable Darrell Issa
Page Two

One size does not fit all. Almost 68 percent of all immigration prosecutions nationally from all 94 United States Attorneys Offices in Fiscal Year 2005 were handled by just the five Southwest border districts. Thus, priorities set to meet the crush of cases along the Southwest border may be ill suited in districts that experience far less illegal immigration.

Understandably, the Department does not and should not publicize the specifics of each District's prosecution guidelines, in this area or in any other area of criminal prosecution. Were such guidelines made public in all their specificity, alien smugglers, criminal organizations and individual aliens would conform their conduct as much as possible to avoid prosecution. It is, however, important for the public to know what the general priorities are when considering what cases will be prosecuted.

In particular, your letters questioned the record of the United States Attorney's Office in the Southern District of California (SDCA) in prosecuting criminal aliens. I want to assure you that United States Attorney Lam and her staff are committed to protecting the residents of their District, and the District's record of prosecuting criminal aliens clearly demonstrates that fact. In making charging decisions, SDCA, like all Department of Justice components, adheres to the Principles of Federal Prosecution outlined in the United States Attorney's Manual. SDCA prosecution policies are based on the premise that illegal aliens with the most serious criminal histories should have priority for prosecution. SDCA has directed its resources to bringing many felony (as opposed to misdemeanor) charges against illegal aliens with substantial criminal histories so that it can seek longer prison sentences against those who present the greatest threat to public safety.

To focus its available resources on this target group of criminal aliens, SDCA employs prosecution guidelines for illegal re-entry offenses under 8 U.S.C. § 1326 which categorize criminal aliens into essentially four categories: (a) violent/major felons (which includes aliens with convictions for national security or terrorism offenses, murder, rape, forcible sex offenses and other violent crimes), (b) recidivist felons, (c) repeat immigration violators on supervised release, and (d) alien smugglers (guides) who otherwise do not meet the guidelines for smuggling prosecution under 8 U.S.C. § 1324.

The SDCA has a strong record of prosecuting criminal aliens generally and in particular alien smugglers. At the close of Fiscal Year 2005, SDCA had 385 alien smuggling cases pending against 454 defendants, which is the highest annual number of pending cases that office has ever had. SDCA also closed 470 alien smuggling cases that year (again its highest ever annual total) convicting 560 defendants of charges under 8 U.S.C. § 1324. Moreover, despite the fact that both the SDCA and the Department of Justice as a whole have numerous criminal priorities in addition to criminal aliens,^{1/} from Fiscal Year 2000 through Fiscal Year 2005, well *over half of*

^{1/}Additional Department of Justice and SDCA priorities include: counter-terrorism cases; firearms prosecutions; gang prosecutions; crimes against children (child pornography and sexual

The Honorable Darrell Issa
Page Three

all criminal cases filed by SDCA were cases filed under just three statutes, the primary criminal alien statutes, 8 U.S.C. §§1324, 1325 and 1326.^{2/}

Your letters also made specific reference to the non-prosecution by SDCA of Alfredo Garcia-Gonzalez, who was apprehended by the U.S. Border Patrol on October 12, 2005. As an initial matter, the SDCA was never presented this case for prosecution.^{3/} Thus, there was no decision by SDCA not to prosecute him. Nevertheless, it appears that the case was not presented to SDCA by the apprehending agency because it did not meet the prosecution guidelines jointly established by SDCA and the United States Border Protection in December 2004. These guidelines specifically contemplate meritorious exceptions for cases that should be prosecuted despite otherwise falling outside the guideline range. We are not in a position to second guess the decision by the apprehending agency not to present this case for prosecution, but we note that there are approximately 100,000 illegal aliens apprehended each year in the Southern District of California alone, and many of the criminal aliens prosecuted by SDCA have committed smuggling crimes that endanger the smuggled aliens far more severely than did Garcia-Gonzalez, or have a greater criminal record than Garcia-Gonzalez.

The SDCA and the apprehending agencies, including U.S. Border Protection and Immigration and Customs Enforcement, are aggressively apprehending and prosecuting criminal aliens and alien smugglers, and they are doing the best possible job in prioritizing the crush of illegal aliens entering this country from Mexico.

abuse); corporate fraud; health care fraud; bankruptcy fraud; computer hacking and intellectual property theft; human trafficking (involuntary servitude, prostitution cases involving smuggled aliens); civil rights prosecutions; counterfeiting; and passport and visa fraud.

^{2/}SDCA filed a total of 20,481 criminal cases from FY 2000 through and including FY 2005. Of that number 10,482 were illegal alien cases filed under 8 U.S.C. §§1325, 1325 or 1326.

^{3/}Had the SSCA been presented the case and declined it, we would not be in a position to share the specific reasons for that declination. As you know, all Department attorneys are asked to render unbiased, professional judgments about the merits of potential criminal and civil law enforcement cases. If their deliberations were made subject to Congressional challenge and scrutiny, we would face a grave danger that they would be chilled from providing the candid and independent analysis essential to just and effective law enforcement or, just as troubling, that they might err on the side of prosecution simply to avoid public second-guessing. This in turn would undermine public and judicial confidence in our law enforcement processes.

OLA00000485

The Honorable Darrell Issa
Page Four

We hope that the information above has helped to alleviate your concerns in this matter. Please do not hesitate to contact the Department of Justice if we can be of assistance in other matters.

Sincerely,

William E. Moschella
Assistant Attorney General

OLA000000486

Seidel, Rebecca

From: Seidel, Rebecca
Sent: Friday, June 30, 2006 12:12 PM
To: Smith, David L. (USAEO)
Cc: Crews, John (USAEO)
Subject: RE: Letter from Congressman Issa

Thank you. Exactly what I needed to make sure I have everything together. Thanks!

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

From: Smith, David L. (USAEO)
Sent: Friday, June 30, 2006 12:03 PM
To: Seidel, Rebecca
Cc: Crews, John (USAEO)
Subject: FW: Letter from Congressman Issa

Rebecca,

Attached are all the letters. Immediately below is John Crews' draft answer to 5/24 Issa letter. I will forward the new Feinstein letter when it is in 'pdf form.

Below in the email string are the 10/13/05 letter (Issa to Carol Lam) and the 10/20/05 letter (multiple CA members to AG). My consolidated draft response is attached as well. As I mentioned to you on the phone, however, our check with Exec Sec. reveals that both the 1/20/05 letter to the AG and the 10/13/05 letter to Carol Lam were closed without action per Mike Elston on 5/17/05. Don't know the reason for that.

Dave

<<issa draft.wpd>>

>
> From: Smith, David L. (USAEO)
> Sent: Wednesday, May 24, 2006 3:39 PM
> To: Seidel, Rebecca
> Cc: Crews, John (USAEO); Roland, Sarah E; Scott-Finan, Nancy; Voris,
> Natalie (USAEO); Blackwood, Kristine
> Subject: FW: Letter from Congressman Issa
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> Rebecca,
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> Please see the attached letter we just received from Rep. Issa to USA
> Carol Lam criticizing her on immigration prosecutions. I am sending
> this to you in connection with David Iglesias' preparation to the
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> course, we need to coordinate with USA Lam and ODAG on a substantive
> response. I will separately send this to Exec Sec to put into the
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> to USA Lam. By way of background, Exec Sec. assigned the response to
> that 10/13/05 letter to EOUSA. We drafted a response back in
> November, based on a long memo about the case at issue from SDCA. I
> have attached the relevant documents below. The response was a joint
> response to the 10/13/05 letter and to a 10/20/05 letter that Issa
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> and on down the line. (Exec Sec. later formally moved the pen to ODAG
> I believe.) I don't know what ultimately happened to the response,
> whether it went out or not. At one point in January 2006 there was
> discussion about doing a briefing in lieu of a letter.

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> The immediate issue in the 5/24/06 letter is whether to set up a
> meeting with Issa as he requests.

>
> Dave

>
>
>
>
>
>

> From: Porter, Brenda (USACAS)
> Sent: Wednesday, May 24, 2006 2:20 PM
> To: Smith, David L. (USAEO); Crews, John (USAEO)
> Subject: Letter from Congressman Issa

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> Mr. Smith and Mr. Crews:

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> For your information, attached please find a letter from Congressman
> Issa to United States Attorney Carol Lam, pertaining to alien
> smuggling and the immigration issue. This letter has also been sent
> to Nancy Scott Finan of OLA and Kim Smith in Public Affairs. Ms. Lam
> is out of the district, but I believe she may try to contact you
> regarding this issue. If you should have any questions, I can be
> reached at (619) 557-5892.

>
> Thank you,

>
> Brenda Porter
> Administrative Assistant to
> United States Attorney Carol C. Lam
> Southern District of California
> (619) 557-5892

>
> <<5 24 06 LamLetter.pdf>>

>
>

> From: Smith, David L. (USAEO)
> Sent: Friday, November 18, 2005 11:53 AM
> To: Otis, Lee L
> Cc: Voris, Natalie (USAEO); Parras, Jeff (USAEO)
> Subject: Issa letter

>
> Lee,

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> Attached is my draft response to Cong. Issa and the California
> delegation regarding the prosecution policies in SDCA. The Exec Sec.
> hard copy of this letter is being sent on down the line here as well.

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> Also, I have collected a variety of additional stats not currently
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> <<0501817.wpd>>

>
> <<SAP-Memo to EOUSA (Smith)-Garcia-Gonzalez-(with
> Attachments)-110205.pdf>>
> <<ISSA letter 101305.pdf>> <<criminal alien - AG letter
> (final).pdf>>

>
>

> From: Smith, David L. (USAEO)
> Sent: Tuesday, January 10, 2006 6:25 PM
> To: Seidel, Rebecca; Otis, Lee L

> Cc: Voris, Natalie (USAEO); Crews, John (USAEO)
> Subject: FW: Issa letter
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> Thanks
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>
> David L. Smith
> Legislative Counsel
> Executive Office for U.S. Attorneys
> (202) 353-3035
> David.L.Smith2@usdoj.gov
>

Seidel, Rebecca

From: Smith, David L. (USAEO)
Sent: Friday, June 30, 2006 1:51 PM
To: Seidel, Rebecca
Cc: Crews, John (USAEO)
Subject: RE: Letter from Congressman Issa

Attachments: feinsteinltr.pdf



feinsteinltr.pdf (62 KB)

Attached is the Feinstein letter that John mentioned.

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Sent: Friday, June 30, 2006 12:12 PM
To: Smith, David L. (USAEO)
Cc: Crews, John (USAEO)
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> Southern District of California
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> David L. Smith
> Legislative Counsel
> Executive Office for U.S. Attorneys
> (202) 353-3035
> David.L.Smith2@usdoj.gov



Senator Dianne Feinstein

of California

331 Hart Senate Office Building
Washington, DC 20510
(202) 224-3841

TO: WILLIAM MICHELLA

FROM: SEN FEINSTEIN - MONTSERRAT MILLER

TOTAL # OF PAGES (W/COVER): 3

COMMENTS:

ORIGINAL TO FOLLOW

NOTE: The information contained in this fax is confidential. If you receive this transmission in error, please notify the sender immediately.

OLA000000493

DIANNE FEINSTEIN
CALIFORNIA



1021001
COMMITTEE ON APPROPRIATIONS
COMMITTEE ON ENERGY AND NATURAL RESOURCES
COMMITTEE ON THE JUDICIARY
COMMITTEE ON RULES AND ADMINISTRATION
SELECT COMMITTEE ON INTELLIGENCE

United States Senate

WASHINGTON, DC 20510-0504

<http://feinstein.senate.gov>

June 15, 2006

Honorable Alberto Gonzales
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Gonzales:

During our meeting last week you asked if I had any concerns regarding the U.S. Attorneys in California. I want to follow up on that point and raise the issue of immigration related prosecutions in Southern California.

It has come to my attention that despite high apprehensions rates by Border Patrol agents along California's border with Mexico, prosecutions by the U.S. Attorney's Office Southern District of California appear to lag behind. A concern voiced by Border Patrol agents is that low prosecution rates have a demoralizing effect on the men and women patrolling our Nation's borders.

It is my understanding that the U.S. Attorney's Office Southern District of California may have some of the most restrictive prosecutorial guidelines nationwide for immigration cases, such that many Border Patrol agents end up not referring their cases. While I appreciate the possibility that this office could be overwhelmed with immigration related cases; I also want to stress the importance of vigorously prosecuting these types of cases so that California isn't viewed as an easy entry point for alien smugglers because there is no fear of prosecution if caught. I am concerned that lax prosecution can endanger the lives of Border Patrol agents, particularly if highly organized and violent smugglers move their operations to the area.

Therefore, I would appreciate responses to the following issues:

- Please provide me with an update, over a 5 year period of time, on the numbers of immigration related cases accepted and prosecuted by the

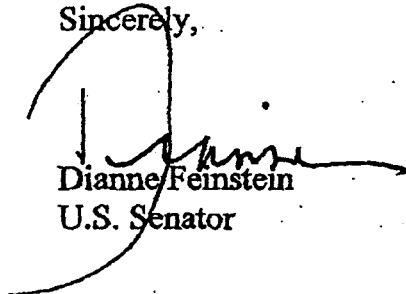
U.S. Attorney Southern District of California, particularly convictions under sections 1324 (alien smuggling), 1325 (improper entry by an alien), and 1326 (illegal re-entry after deportation) of the U.S. Code.

- What are your guidelines for the U.S. Attorney's Office Southern District of California? How do these guidelines differ from other border sectors nationwide?

By way of example, based on numbers provided to my office by the Bureau of Customs and Border Protection and the U.S. Sentencing Commission, in FY05 Border Patrol agents apprehended 182,908 aliens along the border between the U.S. and Mexico. Yet in 2005, the U.S. Attorney's office in Southern California convicted only 387 aliens for alien smuggling and 262 aliens for illegal re-entry after deportation. When looking at the rates of conviction from 2003 to 2005, the numbers of convictions fall by nearly half.

So I am concerned about these low numbers and I would like to know what steps can be taken to ensure that immigration violators are vigorously prosecuted. I appreciate your timely address of this issue and I look forward to working with you to ensure that our immigration laws are fully implemented and enforced.

Sincerely,



Dianne Feinstein
U.S. Senator

Seidel, Rebecca

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

Attachments: tmp.htm



tmp.htm (9 KB)

They didn't run it by EOUSA

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 (USAEO)
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)
(Home)
(Cell)

DATE: May 23, 2006

Seidel, Rebecca

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

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CC: Scolinos, Tasia; Taylor, Jeffrey (OAG)
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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)
(Home)
(Cell)

DATE: May 23, 2006

CLASSIFICATION: Limited Official Use

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

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>>

Seidel, Rebecca

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 (USAEO)
Subject: Re: Urgent Report (Border Patrol Report-CNN Coverage)

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

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

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CC: Scolinos, Tasia; Taylor, Jeffrey (OAG); Voris, Natalie (USAEO)
Sent: Tue May 23 11:22:50 2006
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage)

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Sent: Tue May 23 11:17:35 2006
Subject: FW: Urgent Report (Border Patrol Report-CNN Coverage)

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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)
(Home)
(Cell)

DATE: May 23, 2006

CLASSIFICATION: Limited Official Use

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

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>>

Seidel, Rebecca

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Sent: Tuesday, May 23, 2006 11:27 AM
To: Seidel, Rebecca; Roehrkasse, Brian
Cc: Voris, Natalie (USAEO)
Subject: RE: Urgent Report (Border Patrol Report-CNN Coverage)

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URGENT REPORT-06-05-0021

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I think that's fine. The reporter is writing for tomorrow, so has a 5:00/6:00pm deadline today.

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