



**U.S. Customs and
Border Protection**

AUG 09 2007

The Honorable Patrick J. Leahy
United States Senate
Washington, DC 20510

Dear Senator Leahy:

Thank you your letter of July 25, 2007, regarding the case of Ignacio Ramos and Jose Compean. In your correspondence, you provided us with an opportunity to discuss how this case has affected the mission and the personnel of Customs and Border Protection's (CBP) U.S. Border Patrol.

Attached you will find CBP's responses to the questions posed by your Committee members. We take the case very seriously, and look forward to moving ahead.

I appreciate your interest in the U.S. Border Patrol and the Ramos/Compean case. If we may offer further information, please contact me at (202) 344-3159. Thank you.

Sincerely,

A handwritten signature in black ink, reading "David V. Aguilar".

David V. Aguilar
Chief
U.S. Border Patrol

DAVID V. AGUILAR, CHIEF, OFFICE OF BORDER PATROL
WITNESS QUESTIONS
JULY 17, 2007

Question #1: What impact, if any, do you think Ramos' and Compean's convictions have had on your ability to meet the Agency's recruiting goals? Have you seen a decline in qualified applicants due to potential recruits' fear of finding themselves in a similar situation over a discretion error made in the line of duty?

Answer: I am not aware of any impact that the Compean-Ramos case has had on our recruiting efforts.

The U.S. Border Patrol is currently involved in the most ambitious hiring campaign in the history of the agency. We are on track to hire 2,500 additional agents in FY 2007. The FY 2008 budget requests funding for an additional 3,000 agents, which will bring the total number of agents to more than 17,819 by the end of FY 2008. Currently, CBP has 14,168 Border Patrol agents (as of August 7, 2007). We are taking steps to reach out to all areas of the United States in an effort to locate qualified and interested potential recruits. We have participated in many recruiting events throughout the country, and have found that efforts such as our NASCAR sponsorship give us high visibility in those areas that have been previously under-recruited. Since the inception of this program and other recruiting efforts, the Border Patrol has seen a 33 percent increase in applicants. We are confident that we will meet the President's goal to hire 6,000 new agents by the end of 2008.

Question #2: How have Ramos' and Compean's convictions impacted the overall morale of your agents putting their life on the line every day? Have any of them expressed concern to the leadership of the Border Patrol?

Answer: Agent morale is of high concern to me, CBP, and DHS.

Given the high profile attention that the Compean-Ramos case has attracted, the Border Patrol and CBP have aggressively pushed out information to the field and agent population in order to provide accurate and a broader scope of information than what the media and special interest groups have disseminated relative to this case. I have personally addressed over 1,200 Agents and Border Patrol employees at 10 town halls relative to this case.

While this case is a heart wrenching case and all agents wished it had not turned out the way that it did, we have found that, for the most part, the agent population, once they understand the case and its genesis, understand the outcome. The one part that all agents agree on is that the sentences received by Compean and Ramos were too harsh.

Question #3: Regardless of whether Ramos and Compean complied with the requirement that they report shooting incidents immediately, it appears that other agents were present on the scene afterwards, and aware of the shooting. Do any of those agents who did not shoot also carry a responsibility to report on the incident? What is your assessment of the Border Patrol's level of awareness about such incidents?

Answer: Agents who are directly involved in, or witness to, a shooting incident have a duty to report the incident. The Firearms Policy in Section 20.012 of the Administrative Manual says, "Any Service employee who participates in or observes a reportable shooting incident...shall orally report the incident to a supervisor." Should an agent become aware that a shooting has occurred and was not reported, the agent has the responsibility to report the incident. All agents are instructed on reporting requirements during the Border Patrol Academy's Firearms Training and the requirements are reviewed annually during firearms qualifications. As to the agents that were aware of the shooting incident in the Compean-Ramos case and did not report as they were required to, disciplinary action was taken.

Question #4: You state that a "vast majority of American law enforcement officers conduct their jobs and carry out their duties as they are trained, as they are expected to..." Under this assumption, should it be possible for 2 agents to commit and conceal crimes while in the course of duty? In this instance, are you aware of any investigation into the conduct of other agents who may have been on the scene but who did not say anything about the alleged wrongdoing?

Answer: Unfortunately, as we have seen with many federal, state, and local law enforcement agencies it is possible for officers to commit crimes. The percentages of officers that commit crimes or are involved in misconduct are extremely low. The overwhelming majority of the more than 14,100 Border Patrol Agents who have sworn an oath to protect our country live the Border Patrol's "Honor First" motto and protect America's borders every day, by placing their lives on the line to enforce, and abide by, the laws that govern us all. They consider themselves law enforcement officers with a responsibility to uphold our American laws. They hold themselves to rigid standards that are expected and demanded by the American public. The American public deserves no less.

Other agents, besides Compean and Ramos, which were involved in misconduct or criminal activities relative to the case, were fully investigated and disciplinary actions were taken: one agent resigned when faced with termination, two others were terminated.

QUESTIONS FROM SENATOR FEINSTEIN

Question #5: U.S. Attorney Sutton acknowledged at the hearing that it had been a mistake to give Aldrete-Davila legal access to the United States without advance notice of his border crossings, allowing him to cross the border at least 10 times in the eight months after he smuggled over \$1 million worth of drugs into the U.S. We are aware that on at least one of those occasions, Aldrete-Davila was wholly unsupervised, and there are allegations that he may have used that opportunity to smuggle in another similar-sized drug load. What policies exist within your agency for the entry and supervision of illegal aliens who serve as witnesses in criminal cases in U.S. courts? Has your agency considered or made any changes to its policies in light of the revelations of Aldrete-Davila's conduct?

Answer: Aldrete- Davila was paroled into the United States under the supervision of the DHS Office of Inspector General. It is the responsibility of the requesting and supervising agency and case agent's responsibility to oversee, monitor, and supervise the parolee. The United States Border Patrol was not involved in the parole process of Aldrete-Davila. In the case of any parolee managed by the Border Patrol, the case agent, in coordination with any other interested agency or law enforcement agent, would have the responsibility to set the parameters or conditions under which the parolee would be admitted into the United States while under parole status sponsored by the Border Patrol.

Question #6: What should a Border Patrol Agent do when faced with a suspected drug smuggler or terrorist who is fleeing toward the border, where he will then be beyond U.S. jurisdiction, if the suspect where he will be and who boldly refuses to stop even after a command to halt? Must the agent simply let him go?

Answer: When attempting to arrest a suspect who is fleeing toward the border, Border Patrol Agents must evaluate the totality of the situation literally "on the run", ensuring their safety, the safety of their partners, innocent bystanders, and the known or perceived "value" of making the arrest. The level of suspicion and information available to the agent related to the event plays a large part in the actions of the officer. Moreover, there are situations where the officer determines that it is appropriate, prudent, necessary, or absolutely essential to disengage in an attempt to make an arrest.

If the fleeing suspect crosses the international border and is back in Mexico or Canada, the agent must generally terminate his pursuit as his authority and jurisdiction end at the border. At the present time there are no bi-national agreements that would allow our officers to pursue onto another country's sovereign lands without having first secured permission of that country. Because of our partnership and shared responsibility of securing the border and making the border safe, Mexican and Canadian law enforcement agencies work very closely with us in those instances where our resources can support joint operations.

Question #7: Do you know if the Department of Homeland Security or its Office of Customs and Border Patrol is considering revisions to its policies regarding the steps to be taken when agents pursue a fleeing person suspected of criminal behavior? Is so, what changes are being considered?

Answer: To the best of my knowledge there are currently no plans to change the policy on pursuing a fleeing suspect.

QUESTIONS FROM SENATOR FEINSTEIN FOR ALL WITNESSES

Question #1: What lessons have been learned from the Ramos and Compean prosecutions, and what revisions, if any, do you believe are appropriate to the laws or regulations governing 18 U.S.C. 924 (c), the use of force against fleeing suspects at the border, or any other provisions of law?

Answer: I believe the current regulations and laws in place relative to use of force (to include deadly force) and administered by American law enforcement officers are appropriate. Law enforcement officers must operate within their agency's policies and procedures. All agents are taught the use of force continuum, which governs the level of force to use when affecting an arrest, responding to threats or force by an adversary.