

Testimony of

# Luis Barker

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STATEMENT OF LUIS BARKER  
FORMER CHIEF PATROL AGENT  
EL PASO BORDER PATROL SECTOR  
BEFORE THE UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY  
REGARDING THE PROSECUTION OF IGNACIO RAMOS AND JOSE COMPEAN

TUESDAY, JULY 17, 2007  
ROOM 226, DIRKSEN SENATE OFFICE BUILDING

Good Morning. Chairman Leahy, Chairwoman Feinstein, and members of the Committee; thank you for inviting me to this important hearing. It is an honor to be here to discuss the events of this case and to have the opportunity to answer questions. My name is Luis Barker and I retired from the U.S. Border Patrol on July 31, 2006 after more than 28 years of service. At the time of my retirement I was the national Deputy Chief of the Border Patrol in Washington, D.C. and, prior to this, served in a number of key leadership positions in the Border Patrol, including the position of Chief Patrol Agent in the Laredo and El Paso Sectors. Before joining the U.S. Border Patrol in 1978, I was a Police Officer/Actg. Detective for 5 ½ years with the Jersey City Police Department on the Narcotic Squad. Prior to that I was a Military Policeman in the US Army stationed at Fort Bragg, North Carolina.

As a senior leader in the Border Patrol, I was extremely proud of the men and women of the Border Patrol who serve to protect this nation and who I had the honor to lead. Today, even in retirement, I am still proud of the great work that these brave men and women do in defense of the homeland. Day after day they do this difficult and dangerous job of securing our borders under extreme conditions, and to do it with a personal pride and dedication that is to be applauded. They literally put their lives on the line every day, yet do great things to make us proud. They are genuine heroes and certainly deserving of your support and that of the American people.

To prepare them for the dangers and rigors of the job, each Agent undergoes extensive training, to include firearms training and the use of force. This training instills professionalism, makes every agent understand that he or she will be held to a higher standard, and must obey the laws of the land and of the community in which they live. Every agent that entered on when I was Chief Patrol agent in El Paso had this reinforced to them by me before going to the Academy and again upon their return from the academy and before reporting to field duties. They are told about the trust that is placed on them to enforce the laws within the limits authorized--a trust that if violated, has enduring consequences. The motto of the Border Patrol is "Honor First", an ideal that is instilled in the agent from the day they walk through the door of any sector in the Border Patrol, and woven into the training and indoctrination at the Border Patrol Academy. It is something that has sustained the Border Patrol.

During my tenure as Chief Patrol Agent of the El Paso Sector, there have been a numerous incidents where officers have discharged their weapons, but most of them accidental. Of these weapons discharges, six were incidents where agents used deadly force to defend themselves from a threat against them resulting in two fatalities. The Firearms Policy mandates the reporting of every shooting incident, accidental or otherwise, for proper investigation and disposition. For this reason, the scene must be secured and proper notification must be made to bring the investigative resources to bear. Every agent understands the requirement to notify supervisors of any discharge of a Service firearm and the implications of not doing so.

On or about March 4, 2005 we received a Memorandum from an agent in the Tucson Sector informing us of a shooting incident connected to a narcotic seizure that occurred in the El Paso Sector on February 17, 2005, approximately two weeks earlier. At that point in time we had no recent report of a shooting, so the information in this memorandum was surprising to us. After checking of the records and making some inquiries, we had reason to believe that the allegations in the memorandum had some merit. We immediately made the proper notifications and made an initial report to the Office of Inspector General (OIG) because of the seriousness of the allegations. As we all know the events of February 17, 2005 resulted in the conviction and sentencing of former Agents Ignacio Ramos and Jose Compean.

Osvaldo Aldrete-Davila "the victim" -and I use it in quotes since he is not deserving of this title because of his trade, a trade that supplies nothing but misery to those who are trapped in the clutches of his product; he deserves no sympathy and I give him none. Only the circumstances make this characterization of Aldrete-Davila possible. I do, however, feel for Agents Compean and Ramos and their families for what they have endured and will endure as a result of the terrible choices and decisions they (the agents) made on February 17, 2005. Though there is an emotional connection in this case, those of us in leadership and those having the responsibility to apply the rule of law cannot abdicate our responsibilities. Agent misconduct, even criminal misconduct does occur despite our best efforts in selection and training, but we do everything to deter it and act decisively when it occurs. It saddens me because had the two agents behaved with the integrity and honor that we instill, following procedure, disclosing the shooting, not tampering with evidence and encouraging others to do so, the results might have been very different. In fact, in my experience, almost every agent-involved shooting is resolved in the favor of the agent without criminal charges. So, to suggest that the Border Patrol "went after" these agents for nothing more than administrative violations is baseless and I believe the facts of this case support this premise.

Agents Compean and Ramos used deadly force when it should not have been applied; they shot a person in direct violation of the firearms policy contrary to the training that they have received in this regard. From the statistical information I gave earlier, it is obvious that this was not the first time agents used deadly force in the El Paso Sector. The differences between this case and the others are glaring--Agents involved in the other cases reported them, cooperated in the investigation allowing it to run its course, generally supporting the agents' decision to use deadly force. These agents destroyed evidence, filed an incomplete report on the incident in an effort to keep this shooting and the circumstances surrounding it from the leadership. Additionally, their actions prevented the proper investigation of this case--investigations, which I said generally, support the actions of the agents.

On April 28, 2005 when Agent Compean came before me to make his oral reply to the proposal to indefinitely suspend him, I asked him why he did not report the shooting. He said, "I didn't". He continued to say that he knew that it was wrong for them not to report and continued to say that if they thought that he had been hit, he would have. He also said that he knew that they would get in trouble; a thought that is confusing since I have established that when an action is appropriate, the investigation invariably proves this absolving the agent of any liability.

This has been a tragedy with emotional undercurrent; but there should be no mistake about it--it begins and ends with the actions of Agents Compean and Ramos; not the prosecutors, the judge, or the jury as has been suggested. The "distorted facts" have compounded this already tragic situation by tarnishing the reputation of other good people who did the right thing. The US Attorney, through his office in El Paso has been a strong supporter of the Agents in the El Paso Sector making it clear, by its prosecution of cases, that assaults on our agents will not be tolerated. They have also been on the front lines in those cases where agents have used deadly force under circumstances that warranted it or taken actions that resulted in injury or death, and worked the case vigorously in support of the agent. Conversely, they are also intolerant of official criminal misconduct or corruption as they should.

Finally, it is suggested that this case will make agents hesitate in situations where deadly force is warranted. The facts do not support this contention since in the last two months, agents have discharged their weapons against assailants in self defense on three occasions in El Paso, resulting in injury to one suspect. Agents have always defended themselves and I have no doubt that they will continue to do so when there is a threat.

Thank you for this opportunity and I look forward to answering any questions that you may have.