

When alien smugglers go free, morale suffers at Border Patrol

By STEPHEN LOSEY

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Morale among Border Patrol agents in the San Diego area is suffering because most illegal-alien smugglers are released without being prosecuted, according to an internal agency memo.

The memo, which was apparently written in August and released to *Federal Times* May 19 by the office of Rep. Darrell Issa, R-Calif., said that only violent smugglers or those transporting a dozen or more illegal aliens are prosecuted by the U.S. Attorney's Office of the Southern District of California.

The memo examines prosecutions of alleged smugglers caught by agents stationed at El Cajon, a small city east of San Diego, in fiscal 2003 and 2004. Border Patrol agents there caught more smugglers in fiscal 2004, but the U.S. Attorney's Office is prosecuting fewer smugglers overall.

"It is very difficult to keep agents' morale up when the laws they were told to uphold are being watered down or not prosecuted," the memo said. "Until this issue is resolved, more and more people (even minors) will get involved with aliens smuggling."

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Issa spokesman Frederick Hill said the concerns raised in the memo are startling, but not surprising. He said Issa is trying to find out whether other U.S. Attorney offices are having similar problems prosecuting human smugglers, but the Justice Department is "stonewalling" and not providing information. U.S. Attorneys appear to not have enough resources to prosecute all apprehended smugglers, Hill said, but Justice is also not saying what those offices need.

Carol Lam, the U.S. Attorney for the Southern District of California, issued a statement May 23 saying the memo is misleading and has been altered, though the statement did not say how. Lam's spokeswoman, Debra Hartman, did not respond to e-mails or telephone calls asking for clarifications on the alleged alterations.

Hill said his office trusts the source that provided the memo three months ago, whom he declined to identify, and said the congressman believes the memo is genuine.

The National Border Patrol Council said the concerns raised in the memo are genuine. Border Patrol agents are becoming discouraged, said Chris Bauder, president of the National Border Patrol Council Local 1613 in San Diego.

"They feel they're wasting their time," Bauder said. "They're risking their lives on the border and they see the same people show up at stations."

And the Border Patrol has tightened the reins on agents, Bauder said, further limiting their effectiveness and depressing morale. Rather than allow agents to visit day-labor sites and other places where illegal immigrants gather to question and arrest them, the Border Patrol has limited them to certain areas, such as patrolling the border and internal checkpoints.

T.J. Bonner, the national president of the National Border Patrol Council, which is part of the American Federation of Government Employees, said much of the Southwest border is having the same problems reported at El Cajon.

Justice and the Homeland Security Department have both focused their attention on the Arizona border in recent years, Bonner said, and smugglers adapted and moved to Southern California, New Mexico and Texas.

"We need a unified strategy if we're going to bring some semblance of order to the border," Bonner said.

Hill would not identify who wrote the Border Patrol memo or who it was sent to. A Homeland Security employee sent a copy to Issa's office, he said.

The memo said that prosecuting all accused smugglers — El Cajon agents caught 299 in fiscal 2004 — would severely overburden the nation's courts. So the U.S. Attorney's Office has set strict guidelines on whom they prosecute.

Word has spread among smugglers that transporting illegal aliens "is less risky and almost as financially rewarding as narcotic smuggling," the memo said.

The 1,531 illegal aliens captured by agents at El Cajon in fiscal 2004 paid smugglers, or "coyotes," an average fee of \$1,398, according to the memo.

The smugglers caught by El Cajon agents are transporting fewer illegal aliens than in the past, the memo said, which may be an effort to avoid prosecution.

The memo detailed a suspected smuggler's four encounters with El Cajon agents since 1999. The first three times, the suspected smuggler was caught with between two and seven illegal aliens, and was returned to Mexico after the Justice Department did not prosecute him. The fourth time, he allegedly was driving an overloaded vehicle when a tire blew, causing it to roll over and kill two illegal aliens he was smuggling. The U.S. Attorney's Office prosecuted the alleged smuggler after his fourth smuggling arrest, the memo said.

"Is this what it takes to get smugglers prosecuted — death?" the memo asked.

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