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WAR ON THE BORDER PATROL

Sam Antonio



Jesus E.
Diaz, Jr.

U.S. prosecutors have targeted Border Patrol agents and other law officers for alleged crimes, winning by pardoning drug dealers, burying evidence, and relying on perjury.

by Andy Ramirez

Dedicated to all law-enforcement officers who serve honorably each day knowing what it could cost them by doing so, and to those we lost.

Border Patrol Agent Jesus E. Diaz, Jr. was on duty at 1:30 a.m. on October 16, 2008 when he responded to a call in the Eagle Pass Border Patrol Station's area of responsibility. A number of illegal aliens were attempting to cross the border into Texas. Agent Diaz apprehended and handcuffed one of the individuals while his fellow agents chased after the others who had scattered into the night. The border crossers, it turned out, were drug "mules," their backpacks loaded with 150 pounds of marijuana.

As his colleagues pursued the other smugglers, Agent Diaz' suspect became uncooperative and was resisting arrest. This is a dangerous predicament for any law-enforcement officer, but especially so for a Border Patrol agent in an area notorious for increasing violence. In the dark, with an unknown number of suspects/assailants, the officer must try to keep all senses alert to potential threats (to himself and fellow agents) from a 360-degree field of danger. In order to gain physical control over the uncooperative smuggler, who at any moment could have tried to make a break for it and run back into Mexico, Diaz "lifted the handcuffs," forcing the illegal to the ground.

Incredibly, only a few hours after the arrest, Mexico's consul in Eagle Pass filed a formal written complaint, alleging that

Agent Diaz had beaten the smuggler. The Mexican government has made it a regular practice to charge the U.S. Border Patrol and local law-enforcement agencies along the border with abuse, as part of its ongoing strategy to undermine U.S. border security. Unfortunately, under the Clinton, Bush, and Obama administrations, the U.S. Department of Justice (DOJ) has been only too willing to assist the Mexican government in this effort.

Did Agent Diaz beat and abuse his arrestee, as the consul charges? Official photos taken that night of the two smugglers who were arrested fail to show any bruises, scrapes, or other injuries to the "victim" to substantiate the consul's charge. However, according to Diaz' wife, Diana, a field operations supervisor (mid-management supervisorial BP agent), the smuggler's

shoulders still showed the marks made by the straps of his heavy backpack. In other words, the only marks on the smuggler's body were those self-inflicted marks caused by carrying a heavy backpack loaded with drugs.

Upon receiving the complaint by the Mexican Consulate, the DHS Office of Inspector General (OIG) and ICE Office of Professional Responsibility (OPR) both investigated the complaint and found nothing, so they cleared Diaz of any crime. However, Internal Affairs for Customs Border Patrol (CBP) decided otherwise. Enter Johnny Sutton, U.S. Attorney for the Western District of Texas. A year after the arrest of the smugglers, Sutton's office indicted Agent Jesus Diaz. A press release issued by Sutton's office declared Agent Diaz had "assaulted" the smuggler, "depriving him of his constitutional right to be free from the use of unreasonable force by one acting under color of law."

Johnny Sutton's name will ring a bell with many readers — an alarm bell. And well it should, since Sutton became particularly notorious during the administration of George W. Bush for doing the dirty work of the Mexican government in prosecuting Border Patrol agents Ignacio

Ramos and Jose Compean, one of several cases that bear eerie similarities to the Diaz case.

In February 2006, Agents Ramos and Compean intercepted drug smuggler Osvaldo Aldrete-Davila, a repeat offender, near the border at El Paso, Texas. Aldrete-Davila ditched his van, which was loaded with 800 pounds of marijuana, physically fought with the agents, and then headed for Mexico. When he pointed a gun at the pursuing agents, they opened fire, but he escaped back into Mexico. Later, the Mexican government claimed that Aldrete-Davila had been shot in the buttocks by Ramos and Compean and demanded that the United States prosecute them for violating his rights.

U.S. Attorney Johnny Sutton presented Aldrete-Davila as the victim of vicious Border Patrol agents. He even gave Aldrete-Davila a visa so that he could come and go to testify against Ramos and Compean. Aldrete-Davila used that visa to continue his smuggling operations! Before he could testify, he was arrested again with another shipment of drugs. But the jury didn't

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know about this when the "victim" testified in court; Johnny Sutton made sure that this important information was kept from the jurors. In a terrible travesty of justice, Agents Ramos and Compean were convicted and sentenced to, respectively, 11 and 12 years in prison, while Aldrete-Davila, encouraged by his success, launched a \$5 million civil suit against the U.S. government, claiming his civil rights had been violated.

Thanks to an outpouring of support for the incarcerated agents, President George W. Bush yielded to public pressure and commuted the sentences of Ramos and Compean in 2009, after they had served more than two years behind bars. Less well known than the Ramos-Compean case is the 2005 case of Deputy Sheriff Gilmer Hernandez of Rocksprings in Edwards County, Texas, who also was prosecuted by Johnny Sutton and the Bush administration (also at the behest of the Mexican government). Deputy Hernandez was accused of violating the civil rights of a Mexican criminal alien: He shot out the tires of an alien who attempted to run him over. Hernandez' action brought the vehicle to a stop, whereupon a number of illegal aliens who had been hidden in the vehicle bailed out and ran into the sagebrush. One of the illegal aliens, a woman, was apparently hit by ricocheting fragments from one of Deputy Hernandez' bullets, which shattered a couple of her teeth.

Johnny Sutton's office went after Hernandez with the type of zeal that should be directed at bringing down mafia bosses, terrorists, and genuinely corrupt officials — not law-enforcement officers legally and conscientiously performing their duties. Hernandez faced the same kind of courtroom shenanigans and rigging that Sutton would later use against Ramos and Compean. He was sentenced to 366 days in prison, though the federal prosecutors had pushed for a much longer sentence.



Border Patrol agent Jose Compean at a 2006 press conference, flanked by his wife, Patty (in white sweater), Rep. Dana Rohrabacher, and Andy Ramirez.

Returning to Agent Jesus Diaz, we see the same pattern of prosecution and disturbing collusion between U.S. and Mexican officials. Johnny Sutton retired from the Justice Department after initiating the Diaz investigation (and has become a partner as the Homeland Security expert in the law firm of his old boss, Attorney General John Ashcroft), but his underlings are continuing along the path he blazed. His successor, John E. Murphy (Acting U.S. Attorney until nominated by Obama after Sutton's resignation), proceeded with the Diaz prosecution. Murphy was Sutton's 1st Assistant for several years. Agent Jesus Diaz has received the same treatment that has been dished out to Agents Ramos and Compean, Deputy Hernandez, and others.

The first trial for Agent Diaz, in September 2010, resulted in a mistrial due to juror issues. The case was then retried in February 2011. By this time the government's star witnesses not only had changed their stories repeatedly, but a few even admitted they had lied to a grand jury, thereby committing perjury. It must be noted that several of the witnesses were trainees (probationary BP agents) who had improperly failed to report the alleged incident promptly and also improperly "unified" their stories. They did not report on Agent Diaz' alleged brutality until seven hours later, after first meeting at a local Whataburger fast food restaurant to get their stories straight. As in other cases, such as *U.S. v. Stephanie Mohr* (see below), and the well-known case *U.S. v. Ramos/Compean*, the federal judge blatantly filtered what the jury heard and improperly biased the jurors against the accused law-enforcement officer. Agent Diaz was convicted, while the federal prosecutors portrayed the smuggler he'd arrested as sympathetic victim. The smuggler, who was only 16 at the time of the arrest, was made out to be a poor kid who only sells drugs to take care of his family. He received immunity — and who knows what other perks. His government-provided benefits could include millions of dollars, if he sues, given that a "civil rights" conviction is pretty much a done deal. Agent Diaz, who was ordered into custody immediately by the judge, will be sentenced this fall and faces 10 to 35 years in federal prison. (Contrast this with the average sentence nationally for violent felony offenders — including

Photo Courtesy of Family



Torn family: The children of Jesus and Diana Diaz face the prospect of growing up with their father in prison.

murderers, rapists, and robbers — which, according to the federal Bureau of Justice Statistics, is seven-and-one-half years.) Diaz' request for release from incarceration under bond was denied on June 7, 2011. In fact, the judge declared him to be a "danger to society," though there was no gun play involved in the case, unlike Ramos and Compean who were released on bond after shooting at drug smuggler Aldrete-Davila.

It must be noted that the judge, Alia Moses Ludlum, is a former Assistant U.S. Attorney in the same district led by Bush appointee Johnny Sutton. Judge Ludlum was appointed by President George W. Bush to the federal bench in 2002. Given the players involved, who this author is certain have worked together, it's no coincidence that Diaz is receiving the harsh treatment he is by the government, which should set off alarms and should require close scrutiny by the public and ultimately the U.S. Congress.

Jesus and his wife, Diana, have four children, with an additional two from a previous marriage. Diana is able to see Jesus twice each week for 20 minutes each visit. However, for his safety, he is in solitary confinement, 23 hours a day, seven days a week. She reports his hands and wrists are bruised and scratched up from his hand-

cuffs — unlike the doper's from his alleged ordeal — and Jesus is shackled with handcuffs and additional cuffs on his ankles.

The War on Law Enforcement

In the 21st century's first decade, the American public became familiar with such terms as the War on Terror, No Child Left Behind, Compassionate Conservatism, and, of course, Virtual Fence. However, there was a term I coined that has been relatively ignored by the mainstream media, this being the "War on Law Enforcement."

The War on Law Enforcement is a political assault by the federal executive branch, using the U.S. Department of Justice (DOJ) — or as some refer to it, the "Department of In-Justice" — against their own personnel. As founder and president of Friends of the Border Patrol, I have investigated many of these unjust attacks on Border Patrol agents. I later founded the Law Enforcement Officers Advocates Council because Border Patrol agents were not the only ones coming under attack; Customs, Immigration, FBI, and other federal law-enforcement agents, as well as state, county, and local police, were also being targeted — especially along the U.S.-Mexican border, and in cases involving criminal activity by illegal aliens.

There is not sufficient space here to go

into greater detail about the cases mentioned in this article, but I have reported on them, and many others, in much greater depth on my websites, www.friendsoftheborderpatrol.com and www.advocates-council.us. I have also posted congressional testimony, along with many court documents, affidavits, and interviews.

As I've stated in testimony before Congress, "Trade and Commerce have been given a higher priority over national security."

This war started late in the Clinton administration, exploded during the George W. Bush administration, and has continued under Barack Obama's administration. DOJ has failed to use its power against terrorists, drug and human traffickers, or illegal aliens. Instead they abuse their power against law-enforcement officers doing their jobs.

Beginning in March 2006, I personally investigated some of these cases. I found that some officers were maliciously prosecuted, while others were harassed internally under the administrative process. This means that when someone could not be prosecuted, in order to discredit the officer, he or she was targeted for employment termination.

Are all cases bad prosecutions? No, not at all. In one case, the issues were of such a difficult nature that it was initially difficult

for this writer to determine if the case was a matter of entrapment or if the government was correct. Considering the jurisdiction was Johnny Sutton's Western District of Texas, the argument could be made either way. Alas, the evidence of the case stacked up so strongly against the defendant that the best decision for me was to stand aside.

THE NEW AMERICAN and other news agencies have reported extensively on the explosion of cases of egregious abuse by federal, state, and local law-enforcement agencies against American citizens. Much of this has come about due to the federalizing and militarizing of law enforcement since 9/11, in the misguided "War on Terror," which continues to give terrorists easy access through our unprotected borders while subjecting American citizens to increasing police-state measures: unwarranted search, seizure, and surveillance; severe restrictions on movement and expression; increased shootings and tasings; and brutal arrest methods employed on non-confrontational, law-abiding citizens, even those that are frail and elderly. Incredibly, many of these flagrant violations have gone unpunished, while a vastly disproportionate investment of money and manpower has been spent by

Deputy Hernandez was accused of violating the civil rights of a Mexican criminal alien: He shot out the tires of an alien who attempted to run him over.

DOJ on prosecuting and persecuting law-enforcement officers who are legitimately doing their jobs.

The cases of Jesus Diaz, Gilmer Hernandez, Ignacio Ramos, and Jose Compean barely scratch the surface of the extensive war on law enforcement. At Friends of the Border Patrol and Law Enforcement Officers Advocates Council we have investigated and documented many cases of blatant abuse of honorable law-enforcement officers. They include:

- Noe Aleman, Senior Border Patrol Agent in El Paso, Texas. Agent Aleman was sent to prison for six months on trumped-up DOJ charges for what amounts to a typographical error when he brought his nieces (whom he and his wife had legally adopted) from Mexico to live in Texas.

- Stephanie Mohr, a K-9 officer for Prince George's County Police Department (Maryland). Officer Mohr is serving 10 years in prison because her dog bit an illegal alien burglar who was fleeing a crime scene.



U.S. Attorney Johnny Sutton (left) and David V. Aguilar, Chief of the Office of Border Patrol for U.S. Customs and Border Protection, testify on July 17, 2007, before the Senate Judiciary hearing on the prosecution of agents Jose Compean and Ignacio Ramos.

- Hardrick Crawford, special agent in charge (SAC) of the FBI's El Paso, Texas, office. Crawford, with a sterling record of 20-plus years, was prosecuted at the behest of the Mexican government because he was looking into the cross-border corruption involving the Juarez drug cartel and the murder of nearly 400 women in Juarez. He served six months in a federal prison.

- Brian Israel, a U.S. Customs officer in Champlain, New York. Officer Israel, who is Jewish, was harassed by a notoriously outspoken anti-Semitic supervisor and ultimately fired by Customs Border Patrol on trumped-up charges.

Additional cases that we have extensively investigated and reported on include Border Patrol agents David Sipe, Gary Brugman, and Nicholas Corbett, and Customs officer Robert Rhodes, III.

Final Thoughts

Clearly, we have definitive proof of a War on the Border Patrol and a War on Law Enforcement being waged by the executive branch against its own employees, as well as against local law enforcement. The Department of Homeland Security provides the trumped-up charges, fails to investigate properly, and abuses its powers without any regard for justice. Then it turns the cases over to the Justice Department, which prosecutes the law-enforcement officers without any thought of protecting the Constitution. Far too many federal district and appellate courts ignore such facts even when they are informed of them. Documentation, witnesses, and evidence that benefit the accused are suppressed, which all but ensures anything but fair hearings and trials. This is exactly what one would find to be the norm in the kangaroo courtrooms of Mexico and far too many Third World courts.

What is scary to ponder is that you can



Courtesy of El Paso Times

Former Border Patrol agent Ignacio Ramos and his wife, Monica, in tearful embrace before his sentencing to prison.

spend your career as a law-enforcement officer and do your job, knowing each day when you head off to work it might just be your last day alive. The last day you see your spouse, children, friends. You do your job as you were trained, and you work to protect and defend not only your area of responsibility, but the nation itself. But you're ready to do it, even to take that bullet, not because you have a death wish. No, it's a greater or higher calling. You love what it represents, and want better for your family, community, and nation.

Then, a new administration decides that it has different priorities. Instead of protecting the nation, it decides that its best interest lies in forming global and/or regional

partnerships. Suddenly, treaties that are not always cleared in public hearings and lack Senate approval are crafted.

Now we hear complaints about traffic not moving fast enough at the ports of entry along our borders. Then Customs officers are told not to ask for documentation, and if the person doesn't have it, that's fine, give them the official welcome greeting you learned at muster today and let them in. Don't screen vehicles for dope and other contraband, including human trafficking, keep the traffic moving. Even if border crossers say unkind things about America or have phony or stolen documents, don't run a query, just keep the traffic moving.

Now when a Border Patrol agent, Deputy Sheriff, K-9 officer, or other law-enforcement officer responds to a call from dispatch and the perpetrator or border crosser turns out to be an illegal alien or individual who has an expired visa, it's time to start sweating. You know if you pull on their handcuffs, or use one of your weapons that can result in escalating your use of force, including discharging your firearm, a U.S. Attorney is just a phone call away the second a consular official files a formal protest.

When that happens your career for all intents and purposes is over. You know you will be investigated and prosecuted if at all possible. Your fate has been predetermined by DOJ; the investigators and prosecutors will go back and make sure that their facts and their star witnesses fit together to prove your guilt.

The rules have changed. Border Patrol agents today are more afraid of their own government than they are of the bad guys who cross the borders. Why? At least you can identify the dopers and human traffickers crossing in front of you, unlike the bad guys who might be wearing the same uniform from your own agency or your government. ■