

Commerce Justice Science Appropriations Subcommittee Hearing
April 3, 2008
Attorney General Michael Mukasey

CULBERSON:

Thank you, Mr. Chairman.

Mr. Attorney General, I want you to know how much I admire the work you've done. You've just done a magnificent job as our new attorney general. I'm very proud of the work that you and your office are doing and look forward to supporting your budget request.

I'm pleased to see that you have asked for enough money that you look like you'll be in a position, if we're able to fully fund that -- and certainly, I'll do my best to see that that happens -- that you can support the work of our Border Patrol agents and our other law enforcement officers along the border.

I represent the state of Texas, the west side of Houston, and we have for a number of years -- my constituents, everybody in the state -- I know it's a concern to the country, but particularly in Texas -- been just apoplectic over the lack of enforcement of our immigration laws, the lack of enforcement of our laws at the border.

There have been an increasing number, as you know, of extremely dangerous criminals coming across the border -- MS-13 gang members, the human and drug smugglers.

Slavery still exists. I didn't fully appreciate that until I'd been to the border and seen the tragic circumstances of people coming here for economic reasons who are literally held in slavery. Pirates still exist. They prey on each other.

It's the Wild West, but today the Comanches are carrying machine guns and satellite phones and infrared binoculars. It's a scary place.

There's a war going on down there, as you know, sir, and I have been devoting as much time as I can as a member of Congress, as a member of this committee, to help support law enforcement to find effective, thoughtful ways to secure the border.

I have been very pleased at the work that Border Patrol is doing. This Congress has supported the Border Patrol and given them so much money, in fact, that the officers, the sector chiefs, the Border Patrol agents along the border have -- as Chief Gilbert in the Tucson sector told me, that the Border Patrol has been so generously and so well funded by the Congress that they have, like Napoleon, outrun their supply train in many cases.

And that's something, Mr. Chairman, I hope we'll work on here, because the U.S. prosecutors, the U.S. Marshals Service, is going to need help to help support this. Because truly, like Napoleon, in many ways the Border Patrol has outrun the supply train.

In the Del Rio sector and in the Laredo sector, Mr. Chairman and Mr. Attorney General, the Border Patrol, working with the U.S. Attorney's Office, have implemented an extremely successful policy that -- I've been working arm-in-arm with Ciro Rodriguez and Henry Cuellar, with the full support of the local community, which is 96 percent Hispanic.

In the Del Rio sector, they've begun a policy called Operation Streamline in which they are arresting and prosecuting essentially 100 percent of everybody they arrest, with, of course, obvious exceptions for good -- officers using their good judgment.

If it's a woman with children, they don't obviously throw them in jail. Somebody that's sick -- they're using good judgment.

But in the Del Rio sector, as a result of that, Mr. Attorney General, the crime rate in Del Rio has fallen 76 percent. The number of illegal apprehensions are down to the lowest level they've seen since 1973 when they began to keep statistics.

In the Laredo sector, I was able to persuade the sector chief there, Carlos Carrillo, who is a good man -- they have a terrible crime problem in Laredo with the drug war going on across the border.

Sector Chief Carrillo has implemented Operation Streamline and the results have been similar. They have seen a dramatic drop in the crime rate and a similar drop in illegal crossings.

I'm working to get it rolled out in Brownsville. What I'm leading up to, sir, is I made a trip to Tucson, Arizona in early February and met with the Border Patrol chief there.

I had understood they were interested in doing streamline out there and was dumbfounded -- and, Mr. Chairman, I mentioned -- to you, Mr. Frelinghuysen, before -- but I was dumbfounded to discover that in the Del Rio -- excuse me, in the Tucson sector, which has the largest number of illegal crossings in the country, absolutely out of control, drug smuggling problem -- the drug smugglers are so bold, in fact, that they've actually set up observation posts in the U.S. soil, on top of hilltops, where they put observers with satellite phones and infrared.

They're actually watching our agents and telling where -- telling the smugglers where the officers are.

So I went to Tucson to find out firsthand how I could help them with Operation Streamline and was dumbfounded to discover -- and what I'm about to tell you is absolutely -- I still couldn't believe it myself, had to quadruple check it.

If you are arrested by a Border Patrol agent in the Tucson sector carrying less than one-quarter ton of dope, you have a 99.6 percent chance of being home in time for dinner and never going to jail, because the U.S. Attorney's Office is not prosecuting them.

And it's deeply disturbing. And when you look at the prosecution rates up and down the border, obviously the Tucson sector's got a huge problem. They're arresting over 50 percent of all the people that are -- excuse me, the Border Patrol is arresting over 50 percent of the people coming across the border.

And the U.S. attorney in that sector was, I have to tell you, completely unhelpful, aggressively unhelpful, in providing me information. I went there with hat in hand, "How can I help you?" They wouldn't even talk to me. They were literally -- aggressively unhelpful is the most polite way I can put it.

I've met with your folks at the Department of Justice -- and grateful to know that this budget request you've given us will help.

But I wanted to particularly ask you, sir, if you could just direct some personal attention -- because I know what a good man you are. You are focused on law enforcement.

A 0.39 percent prosecution rate this year, 0.14 percent prosecution rate last year, is not a matter of not enough resources. I mean, that's a policy decision that somebody in the U.S. Attorney's Office out there, because -- let me wrap up and say that I looked at the evidence room.

The U.S. attorney in Tucson actually notified the Border Patrol that they were only going to prosecute a very narrow range of violent cases, a very narrow range of cases, anybody else was not going to be prosecuted.

And the Border Patrol officers asked for clarification, and we want it in writing, and the U.S. attorney actually sent out a memo to the Border Patrol saying that if you arrest anybody with less than 500 pounds we're not going to prosecute.

And I asked the officers how long did it take the smugglers to come in with loads at 499 or less, and they said about 48 hours. The loads of dope that are in the evidence room at Tucson are all below 500 pounds.

They even had a 28-pound load of cocaine that would not -- the U.S. attorney would not prosecute.

And then finally -- and I'm going to have to take up most of my time with the question -- forgive me, Mr. Chairman.

But I wanted to lay the predicate, because I've done the homework on this. And I really admire what you're doing. And I know that you folks are doing your best. But

Tucson is a hemorrhage. It's like we've got a bleeding artery in Tucson that's going to need your personal attention.

Quick example. The Border Patrol has invested tens of millions of dollars in unmanned aerial vehicles. They've got state-of-the-art UAVs, the ones that they're using in Iraq, based at Fort Huachuca. I went and saw them.

And the proud officers there working in the trailer -- they showed me videos of arrests that they've made at 2 o'clock in the morning. The Border Patrol agents are vectored out to intercept a caravan of smugglers coming in, one that was carrying 1,000 pounds of dope.

The UAV saw them in Mexico in the vehicles, tracked them crossing the border with armed men with machine guns escorting them. They vector in the Border Patrol agents at 2 o'clock in the morning out in that dangerous desert.

These proud Border Patrol agents go out with helicopters, vehicles. They go in. They make the arrest. Everything's on film, unbroken. They give it to the U.S. attorney in Arizona and she says no, not going to prosecute.

That load is not -- so what this does, of course -- it's utterly demoralizing to the officers. They're laughing at us. I mean, the smugglers are laughing at us out there. And it's a terrible problem.

And I hope that if you could, please, talk to me a little bit about what can you do, your office personally, to make sure that we stop the bleeding in Tucson -- and that sector is absolutely out of control -- and get this prosecution rate of 0.4 percent up.

<MUKASEY>:

A couple things. First of all, I'm familiar with -- principally by discussion, with the successes in Del Rio and elsewhere in Texas.

CULBERSON:

Laredo.

<MUKASEY>:

And Laredo, that you mentioned.

CULBERSON:

And we're working on Brownsville, I hope with your help -- love to have your help in Brownsville, because they're ready. The local community wants it.

<MUKASEY>:

Hope to help with Brownsville.

But respectfully, those numbers in Del Rio and Laredo and presumably in Brownsville are much, much smaller than the numbers involved in Tucson.

And we've had great success in Del Rio and Laredo in large part because of the nature of people who are coming over in those areas who turn out to be people who are simply looking for work and people who whom the fact of a criminal prosecution, whether they get a little bit of time or -- I mean, even as little as two weeks or 30 days, is a major message, because they simply didn't think of their activity as criminal.

CULBERSON:

And as a federal crime, if they come back again, it's a felony, and they're barred forever. So there's real meaning to that prosecution...

<MUKASEY>:

Correct.

CULBERSON:

... even if it's for a few days.

<MUKASEY>:

Correct. Move up, however to Tucson...

CULBERSON:

Yes, sir.

≤MUKASEY≥:

... which I actually visited on my trip -- I made a trip to the border and to Mexico.

CULBERSON:

OK.

≤MUKASEY≥:

Their numbers are enormous, and my experience did not coincide with yours -- and I think I need to revisit this by phone or otherwise -- insofar as this supposed 500-pound threshold.

My understanding is that when they get people -- the backpackers who use diversion and then come across with their backpacks, put it all together and ship it up to cities north -- that those people are being prosecuted -- but rather, that the percentages that you refer to are the other folks who are not involved in that kind of activity, but that they do, in fact, take quite seriously the smuggling of marijuana and other drugs.

CULBERSON:

Unfortunately, I think they might have put on a good dog and pony -- your local office might have put on a good dog and pony show. I poked around a lot. I went around and got off the radar and poked around.

The evidence room is full of loads under 500 pounds. But I'd love to work with you on this, and I want to be supportive and helpful.

≤MUKASEY≥:

Well, I understand that you do, and I'd be happy to work with you.

CULBERSON:

Thank you.