



**Statement of Congressman Darrell Issa  
House Committee on the Judiciary  
Subcommittee on Commercial and Administrative Law  
H.R. 580, "Restoring Checks and Balances in the Confirmation Process of U.S. Attorneys"  
March 6, 2007**

Chairwoman Sanchez, Ranking Member Cannon, thank you for allowing me to join you today to share with you some of my experiences surrounding this hearing.

I recognize that this hearing is about the removal of seven U.S. Attorneys, and the concerns of some members that President Bush will use an appointment process stipulated within the Patriot Act reauthorization. In my view, my colleagues with such concerns are putting the cart before the horse, because we have little reason to believe the President will abuse this temporary appointment procedure. To the contrary, the Administration has given me assurances that it plans to work with the Senate to fill the U.S. Attorney positions recently vacated.

Beyond the legislation at hand, it seems the other key issues are whether or not U.S. Attorneys serve at the pleasure of the President, and beyond this point, whether or not any foundation existed for their removal. To the first issue, U.S. Attorneys absolutely serve at the pleasure of the President. The President and the Vice President are the only elected officials within the Administration, and every political appointee is an at-will employee. Period. Significantly, the U.S. Attorneys' testimony states this point quite clearly. I will focus my testimony on the second issue, whether or not any foundation for removal existed, in my experience and knowledge of the US Attorney whose jurisdiction covered my congressional district.

First of all, I would like to recognize Carol Lam for the many positive achievements during her service as U.S. Attorney for the Southern District of California. It would be difficult to overstate the importance of her successful prosecution of Congressman Randy "Duke" Cunningham and other corrupt public officials in San Diego.

U.S. Attorneys, however, are given a myriad of responsibilities, and are expected to prosecute many different criminal activities. People have taken notice of U.S. Attorney Lam's prosecution of corrupt officials, and hopefully this has scared straight any would be profiteers of the public trust. That being said, I am afraid that criminal cartels that traffic in human beings are taking notice that they are less likely to be prosecuted in the San Diego Sector than other areas along the Southwest border.

Last June, Senator Feinstein wrote to Attorney General Gonzales to share her similar concern that Carol Lam's failure to prosecute most alien smugglers would endanger the lives of Border Patrol agents and bring even more violent smuggling syndicates to the California border region.

I first wrote to Carol Lam about border crimes more than three years ago after learning from a reporter that her office had declined to prosecute an alien smuggler apprehended while transporting a car loaded with undocumented immigrants near Temecula, California, in my district. The smuggler, Antonio Amparo-Lopez, had attempted to escape the arresting Border Patrol agents and, upon capture, the Border Patrol learned that the smuggler had 21 known aliases and had been arrested and deported more than 20 times without ever having been prosecuted.

I sought information from sources in the Border Patrol, and others in the law enforcement community, about what was really happening with border prosecutions. Border Patrol agents were forced to accept a reality in which smugglers knew what they could get away with. A smuggler knew he could drive a van full of illegal immigrants across the border without fear of any consequence other than being sent back to Mexico to try again. Smugglers who were American citizens faced no consequences at all.

Border Patrol agents and others within the Department of Homeland Security would privately bring my office information about the problems with prosecutorial guidelines put into effect by U.S. Attorney Carol Lam created in their efforts to secure the border near San Diego from organized smuggling cartels. In May 2006, my office released to the press a memo prepared by a senior source within the Border Patrol that detailed how Carol Lam's policies adversely affected efforts to stop smuggling syndicates. According to the memo, only 6 percent of 289 smuggling suspects caught by Border Patrol agents from the El Cajon station east of San Diego in the 12 months ending in September 2004 were prosecuted.

In August of 2006, former Judiciary Committee Chairman Jim Sensenbrenner and I had consecutive meetings with the Border Patrol's San Diego Sector Chief Darryl Griffen and Carol Lam about this subject. While we attempted to persuade the U.S. Attorney to focus more resources in a way advocated by Federal law enforcement officers charged with securing the border, we left the meeting unconvinced that U.S. Attorney Lam was prepared to direct more resources toward the prosecution of actual foot soldiers for the smuggling cartels.

For three years, I and other members of Congress wrote Ms. Lam, the U.S. Attorney General, and the President asking that more be done to prosecute those who traffic in human beings. Only someone who believes that trafficking human beings isn't a serious crime could look at Carol Lam's record and see an area that does not deserve legitimate criticism.

My efforts to bring accountability and justice to the foot soldiers of smuggling organizations has not been limited to sending letters to the Administration. I have successfully secured both funding authorizations and appropriations to bring more prosecutorial resources to focus on alien smugglers. Last summer, these efforts began to pay dividends as the Department of Justice announced the addition of 35 new prosecutors to border region offices such as San Diego who will focus exclusively on alien smuggling and other border crimes.

I fully intend to continue my work, on a bipartisan basis, with California's senators and my colleagues in the House of Representatives to ensure that our next U.S. attorney focuses on both border crimes and other critical cases here in the San Diego area.