Congress of the United States
Washington, DC 20515

November 17, 2011

President Barack H. Obama
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. President:

The U.S. Border Patrol is tasked with an extraordinarily dangerous mission. Every day, drug and human smugglers are going to new lengths to evade all elements of our nation's border security and the assumption remains that these criminals would not hesitate to take violent action against the Border Patrol agents that stand in their way.

Border Patrol agents are by no means above the laws they enforce. However, we must also put into perspective that a part of their duty, which often puts them face-to-face with traffickers and other criminals, is to keep drugs and the carriers of contraband out of the United States. Border Patrol Agent Jesus E. Diaz executed this difficult task by restraining a drug smuggler attempting to enter the U.S., which has resulted in an unfair and excessively disproportionate two-year prison sentence. It is our belief that the prosecution of Agent Diaz by the U.S. Attorney's Office for the Western District of Texas, also responsible for putting other agents behind bars, is a disservice to the men and women of the Border Patrol and the mission they undertake.

In the early morning hours of October 16, 2008, in Eagle Pass, Texas, Agent Diaz assisted in apprehending a 15-year old drug smuggler from Mexico who was carrying 75 pounds of marijuana into the U.S. Agent Diaz lifted the smuggler by the handcuffs and, according to the Department of Justice, violated the smuggler's constitutional right against unreasonable force. Despite claims of abuse by the smuggler, who was given full immunity in exchange for his testimony, photographic evidence and testimonies from other Agents at the scene have testified that no such violence took place.

We respectfully request that you consider and respond to the following points regarding the U.S. Justice Department's case against Agent Diaz:

- Agent Diaz was cleared of all wrongdoing in this matter by the U.S. Department of Homeland Security's Office of the Inspector General and the U.S. Customs and Immigration Enforcement's Office of Professional Wrongdoing. It was only a contradictory report from the U.S. Customs and Border Protection that provided the basis for the U.S. Attorney's Office's case;

- The prosecution of Agent Diaz was initiated at the request of the Mexican government;

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- Despite being described by the U.S. Customs and Immigration Enforcement's Office of Professional Wrongdoing as a witness whose "credibility is questionable at best," the smuggler in question was given full immunity and a visa to testify against Agent Diaz;

- Testimony from the suspected group of smugglers, including the one in question, changed considerably from what was initially given the night of the arrest to what was attested to in court; and

- The U.S. Attorney's office in the Western District of Texas, responsible for prosecuting this case, was the same office, under U.S. Attorney Johnny Sutton, that aggressively prosecuted the cases against Agents Ignacio Ramos and Jose Compean. Both of these agents were given 10-year prison sentences that were later commuted by President George W. Bush after two years;

Ultimately, we believe that prosecution of Border Patrol agents, including the case against Agent Diaz, sets a dangerous precedent for handling these issues in the future and could force agents to hesitate in the line of duty posing a risk to their own lives and the lives of others. Border Patrol agents must be able to appropriately and effectively protect our nation's border without the threat of federal prosecution hanging over their head. We certainly do not condone the use of excessive or unreasonable force, however, the facts in this case do not indicate that the drug smuggler was harmed during the arrest or that excessive force was used.

We have faith that the judicial system will carefully judge the merits of this case during the appeal process so that Agent Diaz can return to his family. We also would appreciate your views on whether you believe that a two-year prison sentence is justified in this situation, and how cases such as this one impact a border agent's ability to do his or her job.

Sincerely,

Duncan Hunter
Member of Congress

Brian Bilbray
Member of Congress

Dana Rohrabacher
Member of Congress

Sue Myrick
Member of Congress

Ed Royce
Member of Congress

Alan Nunnelee
Member of Congress

Walter Jones
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Dennis Ross
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John Duncan
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Dan Burton
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