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FOR IMMEDIATE RELEASE

April 25, 2007

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**UNITED STATES ATTORNEY JOHNNY SUTTON SETS THE RECORD STRAIGHT
REGARDING THE PROSECUTION OF RAMOS AND COMPEAN**

Former Border Patrol Agents Ignacio Ramos and Jose Compean were found guilty by a unanimous jury in a United States District Court after a trial that lasted more than two and a half weeks. The two agents were represented by four experienced and aggressive trial attorneys, all of whom vigorously challenged the Government's evidence through argument and direct and cross examination.

Both agents told their stories from the witness stand and had full opportunities to explain their version of events and to offer their own evidence. The jury heard all admissible evidence, including the defendants' claims of self defense, but the jury did not find their stories credible.

The case is now on appeal to the U.S. Court of Appeals for the Fifth Circuit, which recently agreed with the District Court that Ramos and Compean should not be released on bond pending appeal.

Unfortunately, some of the media attention and heated debate over the prosecution of this case has been based on, and has led to, many factual inaccuracies and unfounded criticism. The purpose of this fact sheet is to identify some of those inaccuracies and provide corrections with factual information from the public record, to the extent possible given that this case is currently on appeal.¹

Allegation: THE AGENTS WERE JUST DOING THEIR JOBS AND SHOULD NOT HAVE BEEN PROSECUTED

Response: Securing our nation's borders can be a tough and dangerous job. Often, Border Patrol agents find themselves in difficult and dangerous situations. The Border Patrol provides them with guns and the law allows them to defend themselves. The law allows for the use of deadly force when an agent reasonably fears imminent bodily injury or death. But, an agent is not permitted to shoot an unarmed suspect who is running away, regardless of whether the victim is illegally in this country or turns out to be a drug smuggler. In order to maintain the rule of law, federal prosecutors cannot look the other way when law enforcement officers shoot unarmed suspects who are running away, then destroy evidence, engage in a cover-up, and file official reports that are false.

¹ The page numbers referenced herein are to the transcript available on the website at http://www.usdoj.gov/usao/txw/press_releases/index.html

There was no credible evidence that the agents were in a life-threatening situation or that Osvaldo Aldrete Davila, the Mexican alien, had a weapon that would justify the use of deadly force. In fact, Border Patrol Agent Oscar Juarez, who was at the scene, testified at trial that he did not draw his pistol because he did not believe that Aldrete posed a threat to his or Agent Compean's safety. *Vol. VIII, p. 173; Vol. IX, p. 22*. He also testified that Aldrete's hands were empty when Compean attempted to strike Aldrete with the butt of Compean's shotgun. *Vol. VIII, p. 176*. By the time Agent Juarez saw Compean shooting, Aldrete was almost in Mexico. *Vol. IX, p. 21-22*.

The crimes committed by these agents are felonies, not mere administrative oversights. This was not a simple case of discharge of a firearm that was not reported. The truth of this case is that Agents Ramos and Compean intentionally, and with the intent to kill, shot 15 times at an unarmed man who was running away from them and who posed no threat.

Allegation: THE GOVERNMENT LET THE DRUG SMUGGLER GO FREE BY GIVING HIM BLANKET IMMUNITY

Response: We are in the business of putting guys like Aldrete behind bars. In fact, this office leads the nation in the number of drug smuggling cases we prosecute. My office would have much preferred to see Aldrete convicted and sent to prison for his crimes. Aldrete was not prosecuted for the drugs he had on February 17, 2005, because of the conduct of Agents Ramos and Compean. Instead of arresting Aldrete as he attempted to surrender, Agent Compean tried to strike Aldrete with the butt of his shotgun. *Vol. VIII, p. 174-175; Vol. IX, p. 13; Vol. VII, p.107*. When Agent Compean missed, lost his balance and fell into a ditch, Aldrete ran around him and toward Mexico. *Vol. VIII, pp. 176-178*. Compean got up, ran after Aldrete, and fired at him fourteen times as Aldrete ran away. *Vol. XIII, pp. 161-164; Vasquez Transcript, pp.37-38; Vol. XIV, p. 153*. When Compean stopped shooting, Ramos fired once, *Vol. XII, p. 209*, and struck Aldrete in the buttocks. *Vol. VII, pp. 117-122*. Aldrete fell to the ground and waited for the agents to arrest him. *Vol. VII, pp. 122, 133*. According to Aldrete, when he saw the agents had turned and walked away, making no effort to apprehend him, he crossed the river into Mexico. *Vol. VII, pp. 123-125, 133*.

Because the agents failed to apprehend him, and because they later lied about the shooting, there was no way to prove Aldrete's involvement except through Aldrete's own admissions and cooperation. Even Ramos admitted that by not reporting the shooting, he prevented the recovery of evidence that would have made it possible to prove the marijuana case against Aldrete. *Vol. XIII, p. 88*.

With respect to the immunity offered to Aldrete, it is not unusual for prosecutors to give immunity to witnesses, victims and even defendants suspected of criminal activity, in order to secure testimony, evidence, or other participation in a case. Given Ramos' and Compean's criminal conduct in this case, there was insufficient, legally admissible, competent evidence to prosecute Aldrete in this case, *Vol. XIII, p. 88; Vol. XIV, pp. 70-71*, and we could not force him to return to the United States through extradition. His testimony and evidence were needed to investigate and prosecute violent criminal activity by federal agents.

Accordingly, in exchange for his agreement to come to the United States and testify truthfully about the events that occurred on February 17, 2005, Aldrete was promised that he would not be prosecuted for offenses he disclosed that he committed on that date. This immunity, as a practical matter, gave up very little, since the case against him was not prosecutable.

Allegation: ALDRETE HAD A GUN AND THE AGENTS ONLY FIRED IN SELF DEFENSE

Response: The jury in this case evaluated the testimony from Border Patrol agents, including the defendants, whose testimony established that Aldrete did not have a gun in his hands when Compean had an opportunity to arrest him. Agent Juarez testified that Aldrete's hands were visible and empty as Aldrete approached Compean. *Vol. VIII, pp. 175-176; Vol. IX, p. 155.* Ramos testified that he did not see anything in Aldrete's hands as Aldrete moved through the ditch. *Vol. XIII, p. 43.* Compean testified that Aldrete's hands were empty as he went through the ditch and later, that Aldrete had no weapon in his hands. *Vol. XIII, pp. 154-155; Vol. XIV, pp. 66-68, 71-72.* In his statement to investigators, Compean admitted that Aldrete had attempted to surrender with both hands open and in the air. In their sworn testimony, Agents Juarez and Compean both confirmed that Aldrete had his hands in the air, *Vol. VIII, p. 175; Vol. IX, pp. 155-156; Vol. XIII, pp. 154-155; Vol. XIV, pp. 66-68, 71-72,* in an apparent effort to surrender.

Testimony also revealed that Agents Ramos and Compean never took cover nor did they ever warn the other agents to take cover. *Vol. VIII, p. 176; Vol. X, pp. 168-169.* This action contradicts their claims that they believed they were in danger. Had Agents Ramos and Compean truly believed Aldrete was a threat, they would not have abandoned him after the shooting, *Vol. VII, pp. 122-125,* and they would have warned their fellow agents who arrived at the scene to stay out of the open while an armed suspect was on the loose.

Agent Compean testified that after the shooting, he picked up his spent casings and threw them into the drainage ditch. *Vol. XIII, pp. 165-166; Vol. XIV, p. 157.* He even admitted that he may have picked up Ramos' casing. *Vol. XIV, p. 158.* He could not explain at trial why he did this. *Vol. XIII, pp. 165-166; Vol. XIV, pp. 156-158.* Agent Arturo Vasquez testified that Compean actually removed the casings from the scene, showing them to Vasquez as Compean was returning to the Fabens Border Patrol Station. *Vasquez Transcript, pp. 36-38.* According to Vasquez, Compean showed him nine spent casings and calculated he was missing five more, based on the number of live rounds remaining in his magazine. *Vasquez Transcript, pp. 37-38.* If the agents had believed that the shooting was justified, they would have left the crime scene undisturbed and let the investigation absolve them. Their conduct established that the agents knew that Aldrete did not have a weapon and they knew he posed no threat to them as he fled.

Immediately following the shooting, when Ramos encountered Agent Jose Luis Mendoza near the van, Ramos did not say he was in fear for his life or that he shot at anyone. *Vol. X, p. 35.* While Compean confessed to his fellow agents, David Jacquez and Vasquez, that he shot at the driver, he did not tell them that the driver had a gun, that he saw something shiny in the driver's left hand, or that he or Ramos were ever in danger. *Vol. X, pp. 69-70, 80; Vasquez Transcript, p. 35.* Had Aldrete actually had a gun or a shiny object in his left hand, or had Aldrete truly posed a danger to either Ramos or Compean at any time, they would have broadcast to any and everyone that the driver had a gun.

Allegation: THE AGENTS WERE NOT SURE OF WHAT THEY SAW BECAUSE IT WAS IN THE MIDDLE OF THE NIGHT

Response: The events of Feb. 17, 2005, occurred at approximately 1:00 P.M. MT. *Vol. VIII, pp. 103-104; Vol. X, p. 191.*

Allegation: AGENT COMPEAN WAS BLOODIED FROM A STRUGGLE WITH ALDRETE

Response: Compean testified at trial that he had a cut to his hand and a cut to his chin. *Vol XIII, p. 168.* He told Agent Mendoza that he cut his chin when he slipped and fell trying to apprehend Aldrete. *Vol. X, pp. 32-33.* Agent Jacquez noticed the cut between Compean's thumb and finger, but did not consider the injury to be traumatic. *Vol. X, p. 90.* Compean cleaned up the cuts in the bathroom at the station. *Vol. XI, p. 77.* Compean twice told his supervisor that he had not been hit or assaulted by Aldrete. *Vol. X, pp. 217; Vol. XI, p. 77.* He also refused to fill out an injury report. Had Compean been assaulted he would have reported this to his supervisor. *Vol. X, p. 217.*

Allegation: AGENT RAMOS CLAIMS THAT THE BULLET EXTRACTED FROM ALDRETE MIGHT NOT HAVE COME FROM HIS SERVICE WEAPON

Response: Agent Ramos stipulated and agreed before trial that the bullet extracted from Aldrete came from his service weapon. *Vol. VII, pp. 118-121.* This stipulation was based on independent forensic analysis that Ramos did not dispute at trial.

Allegation: THESE AGENTS DID NOT REPORT THE SHOOTING TO SUPERVISORS BECAUSE THE SUPERVISORS WERE ON THE SCENE OF THE SHOOTING

Response: The evidence introduced at trial and credited by the jury demonstrated that no supervisors were on the scene during the shooting. Two supervisors arrived after the shooting. *Vol. X, pp. 22-25.* Field Operations Supervisor Jonathan Richards arrived after the shooting, after all but two other agents were already on the scene. *Vol. X, p. 209.* Supervisor Robert Arnold arrived shortly after Richards. *Vol. X, p. 216; Vol. XI, p. 72.* Richards was not aware there had been a shooting, *Vol. X, p. 225,* and no one reported the shooting to him. Supervisor Richards testified that he first learned of the shooting when he was interviewed about the incident by the agent of the Inspector General in mid-March, about a month after the shooting. *Vol. X, p. 239.* Supervisor Arnold first learned of the shooting in mid-March, when he was told two agents were soon to be arrested for it. *Vol. XI, p. 78.*

Ramos admitted that he knew Border Patrol policy required him to report a shooting within an hour. *Vol. XIII, pp. 18-19.* He had been a firearms instructor *Vol. XIII, pp.19-20* and a member of the evidence recovery team responsible for investigating shootings. *Vol. XIII, p. 84.* Compean also knew he was required to report the shooting and he did not. *Vol. XIV, pp.169-170.* Compean admitted to Luis Barker, then the Chief of the El Paso Border Patrol Sector, that he knew he had to report the shooting and that he knew it was wrong for him and Ramos not to report the shooting. *Vol. XI, p.167.* Compean admitted to Barker that he knew that if he had reported the shooting, they would have gotten in trouble. *Vol. XI, p.167.*

Allegation: THESE AGENTS DID NOT REPORT THE SHOOTING BECAUSE BORDER PATROL POLICY PROHIBITS THEM FROM DOING SO

Response: Border Patrol policy requires that a Border Patrol agent who fires his or her weapon anytime (on or off duty), must notify their supervisor within an hour. Further, Border Patrol policy requires that all who participated in or observed the shooting shall report it to their supervisor. Testimony of several agents and supervisors as well as the transcript of the radio transmissions, indicate that no supervisor was on scene at the

time of the shooting. Yet, neither Ramos nor Compean reported the shooting of Aldrete as required by Border Patrol policy. Ramos' assertion that supervisors already knew about the shooting, or that someone else had reported it, is inaccurate, unsupported by the evidence, and did not excuse their obligation to report within an hour.

Additionally, Compean proceeded to write the I-44 report (the Report of Apprehension or Seizure) concerning the incident, with input from Ramos. The report made no reference to several key events that afternoon, including Compean's encounter with Aldrete on foot in the ditch, his having pointed the shotgun at Aldrete, the ensuing foot chase as Aldrete fled, and the firing of shots at Aldrete. The claim that Border Patrol policy does not require the reporting of a shooting in the I-44 is specious. To protect agents involved in shootings from self-incrimination, the Border Patrol practice allows for an agent other than the one involved in the shooting to write the I-44. The I-44 still must include all significant information about the events being reported. That includes the fact that shots were fired. By undertaking to write the I-44, Compean was required to write a truthful report, not a report that contained material omissions amounting to falsehoods. Indeed, in the context of Border Patrol practices and policy, by undertaking to write the I-44, Compean was intentionally creating the impression that there was no shooting. And by omitting the relevant facts, with the aid of Ramos, they submitted and caused to be submitted a false report.

Allegation: THE BALLISTICS REPORT FAILED TO PROVE THE BULLET CAME FROM RAMOS' GUN AND THE MEDICAL REPORT OF THE BULLET ENTRY WAS CONSISTENT WITH RAMOS' CONTENTION THAT THE SMUGGLER WAS TURNING AROUND WITH WHAT LOOKED LIKE A WEAPON

Response: Agent Ramos stipulated and agreed before trial that the bullet extracted from Aldrete came from his service weapon. *Vol. VII, pp. 118-121*. This stipulation was based on independent forensic analysis that Ramos did not dispute at trial. The stipulation was entered into evidence at trial with Ramos' agreement. Regarding Aldrete's movements at the time the bullet struck him, the medical testimony was inconclusive. *Vol. IX, pp. 197-98*. The doctor testified he could not know exactly how Aldrete was turned. *Vol. IX, p.195*.

Allegation: RAMOS AND COMPEAN DID NOT BELIEVE THEY WOUNDED THE SMUGGLER BECAUSE HE KEPT RUNNING AND ESCAPED ACROSS THE BORDER INTO A WAITING VEHICLE

Response: This assertion is directly contradicted by Compean's handwritten statement provided to the investigator in which Compean stated "I think Nacho [Ramos] might have hit him." *Vol. XIV, p. 155*.

Allegation: RAMOS AND COMPEAN'S ONLY "LIE" WAS THAT THEY GAVE AN INCOMPLETE REPORT OF THEIR CONFRONTATION WITH THE SMUGGLER ON FEBRUARY 17, 2005

Response: These agents were prosecuted and convicted of the serious felony offenses of illegally using deadly force when their lives were not in danger, depriving another of rights under color of law and obstructing justice. There was no credible evidence that the agents were in a life-threatening situation or that Aldrete had a weapon that would justify the use of deadly force. In fact, Border Patrol Agent Juarez, who was at the scene, testified at trial that he did not draw his pistol because he did not believe that Aldrete posed a threat to his or

Agent Compean's safety. *Vol. VIII, p. 173; Vol. IX, p. 22.* He also testified that Aldrete's hands were empty when Compean attempted to strike Aldrete with the butt of Compean's shotgun. *Vol. VIII, pp. 175-176.* By the time Agent Juarez saw Compean shooting, Aldrete was almost in Mexico. *Vol. IX, p. 22.*

Allegation: THE GOVERNMENT SHOULD HAVE PROSECUTED THE DRUG SMUGGLER AND GIVEN IMMUNITY TO THE BORDER PATROL AGENTS

Response: My office would have much preferred to see Aldrete convicted and sent to prison for his crimes. We are in the business of putting guys like Aldrete behind bars. In fact, this office leads the nation in the number of drug smuggling cases we prosecute. Because the agents could not identify him, found no fingerprints tying him to the van and did not apprehend him after shooting him, the case against Aldrete could not be proved. Furthermore, the shooting of a fleeing suspect who posed no threat to agents Ramos and Compean is a serious crime that federal prosecutors could not ignore.

Allegation: THE GOVERNMENT USED THE WRONG LAW THAT CARRIES A MANDATORY ADDITIONAL 10 YEAR SENTENCE.

Response: The prosecution used the law that Congress enacted. Congress made it a crime to discharge a firearm during a crime of violence, punishable by a mandatory prison term of at least ten years. Agents Ramos and Compean committed that crime, as well as others. Congress did not provide an exemption for law enforcement officers. The crimes committed by these agents were serious -- shooting 15 times at a fleeing, unarmed suspect -- and because of that this charge was warranted.

Allegation: THE GOVERNMENT WITHHELD CRUCIAL EVIDENCE FROM THE JURY

Response: The prosecution did not withhold any admissible evidence from the jury. The prosecution provided the defense an opportunity to see the government's evidence before trial. This is standard operating procedure. The trial judge ruled on a number of evidentiary issues during trial, and excluded evidence that was not relevant or admissible under the Federal Rules of Criminal Procedure and the Federal Rules of Evidence, which govern all federal trials. Those rulings are subject to review on appeal by the Fifth Circuit Court of Appeals and the United States Supreme Court. This procedure is what distinguishes a trial at law from a street fight or free-for-all. Deciding guilt or innocence according to established rules is what makes this a civilized country.

Allegation: THE JUDGE KEPT FROM THE JURY ALDRETE'S CLAIM THAT HIS FRIENDS HAD CONSIDERED A "HUNTING PARTY" TO GO SHOOT SOME BORDER PATROL AGENTS

Response: These allegations were addressed by the district court. *Vol. VII, pp. 215-217.* The admissibility of testimony is committed to the discretion of the trial judge, based on the Federal Rules of Evidence and other legal precedent, and is subject to review by the Court of Appeals. Beyond that, the government cannot comment other than to say that the defendants received a fair and thorough trial and will have full opportunity to have their case reviewed on appeal.

Allegation: A DEPARTMENT OF HOMELAND SECURITY MEMO DATED MAY 15, 2005, SHOWS THAT THE TWO AGENTS DID GIVE A PROMPT, COMPLETE, ORAL REPORT TO SUPERVISORS WHO WERE ACTUALLY PRESENT ON FEBRUARY 17, 2005. THE SUPERVISORS DECIDED NOT TO MAKE A WRITTEN REPORT

Response: The evidence demonstrated that no supervisors were on the scene during the shooting. Two supervisors arrived after the shooting. Field Operations Supervisor Jonathan Richards arrived after the shooting, after all but two other agents were already on the scene. *Vol. X, p. 209.* The second supervisor, Robert Arnold, arrived shortly after Richards. *Vol. X, p. 216; Vol. XI, p. 72.* Radio transmissions admitted at trial corroborated this testimony. Richards was not aware there had been a shooting, *Vol. X, p. 225,* and no one reported the shooting to him. Supervisor Richards first learned of the shooting when he was interviewed about the incident by the Inspector General agent in mid-March, about a month after the shooting. *Vol. X, p. 239.* Supervisor Arnold first learned of the shooting in mid-March, when he was told two agents were soon to be arrested for it. *Vol. XI, p. 78.* Both Ramos and Compean admitted in their testimony at trial that they did not report the shooting as required.

Ramos admitted that he knew Border Patrol policy required him to report a shooting within an hour. *Vol. XIII, pp. 18-19.* He had been a firearms instructor and a member of the evidence recovery team responsible for investigating shootings. *Vol. XIII, pp. 19-20, 84.* Compean also knew he was required to report the shooting and he did not. *Vol. XIV, pp. 169-170.*

Allegation: THESE AGENTS WERE SENTENCED TO TOO MUCH TIME IN FEDERAL PRISON

Response: Congress determined the penalties imposed on Ramos and Compean by setting the punishment for discharging a firearm during a crime of violence at a mandatory minimum of ten years (in addition to any other sentence imposed). Title 18, United States Code section 924(c)(1)(A)(iii). Congress did not make an exception for law enforcement officers. Instead, Congress specifically debated the issue and determined that no exception should be made and that the law should apply to officers who misuse their privilege to carry a firearm.

Allegation: SINCE THE TRIAL, JURORS HAVE STATED THAT THEY WERE COERCED BY THE FOREPERSON INTO RENDERING A GUILTY VERDICT

Response: Because an appeal is pending, we cannot directly comment on the content or legal implication of possible juror statements. However, we can clarify a few facts. On March 8, 2006, the jurors were polled in open court immediately after announcing their verdicts and all said without hesitation or equivocation that the verdicts were theirs. Ramos and Compean filed motions for new trials based on juror affidavits in October 2006. The government responded and the District Court denied their motion.

Allegation: RAMOS WAS IMPROPERLY PLACED IN THE GENERAL PRISON POPULATION WHERE HE WAS BEATEN.

Response: Ramos was processed into the federal prison system in much the same manner as other former law enforcement officers who are convicted of crimes and currently serving sentences in prison. As a general

matter, the Federal Bureau of Prisons (BOP) determines the appropriate institution in which to house inmates based on information from many sources, including the courts, the probation office, the U.S. Marshals Service and the prisoner. There are some inmates who, based on their backgrounds and other characteristics, have difficulty functioning in the general population. The BOP has the ability to segregate such offenders from other inmates. When inmates arrive at the institution to which they have been designated, as a part of the intake screening process, staff discuss with inmates the living conditions in segregation and in general population. The decision to segregate is based on the totality of the circumstances and necessarily limits the prisoner's freedom of movement, recreation, visitation, and communication. As such, whenever it is possible to do so safely, inmates are housed in the general population.

In this case, Compean, through his counsel, requested to be separated from the general prison population, and he was. In response to BOP's inquiry, Ramos' counsel indicated in a letter that Ramos did not want to suffer any of the "punitive consequences" of segregation and that he preferred to be housed in the general population. The Federal Bureau of Prison's objective is to ensure that all of its more than 195,000 inmates are housed safely and securely and provided appropriate programs and services, including appropriate medical care.

Allegations: THE GOVERNMENT WOULD NOT RELEASE THE TRANSCRIPT OF THE TRIAL WITHOUT WHICH THE BORDER PATROL AGENTS COULD NOT APPEAL

Response: The United States Attorney's Office has no involvement in the preparation of the trial transcript and made it available to the public soon after it was received. Indeed, our office requested an expedited copy of the trial transcript from the court reporter on October 17, 2006, even though the government did not plan to bring an appeal. The transcript was received from the court reporter on Friday, February 9, 2007, and as a public service, we posted it to our website by Tuesday, February 13, 2007.

The ability of Ramos and Compean to appeal has no relation to the prosecution receiving a copy of the transcript. The former agents had the same ability to order the transcript from the court reporter as the prosecution.

Allegation: THE GOVERNMENT DENIED RAMOS AND COMPEAN'S FREEDOM PENDING APPEAL

Response: The district court properly applied the law enacted by Congress, which mandated the agents' detention pending appeal after they were convicted of crimes of violence. On February 22, 2007, the Court of Appeals for the Fifth Circuit affirmed the District Court's ruling, No. 06-51489.

Allegation: ALDRETE HAS BEEN SUBSEQUENTLY ARRESTED FOR SMUGGLING MORE DRUGS INTO THE UNITED STATES, BUT THE GOVERNMENT WILL NOT PROSECUTE HIM

Response: Our office aggressively prosecutes drug offenders every day in court. If we had a provable case against Aldrete, we would prosecute him. There have been allegations about subsequent drug activity by Aldrete. As of today, to our knowledge there has been no arrest or indictment of Aldrete for any drug activity. As a general matter, U.S. Attorneys' offices do not comment on pending investigations. Moreover, because

some evidence evaluated by the trial court has been placed under seal and the appeal in this case is currently pending, we cannot comment specifically on the facts alleged by some in the media and Congress. But, to be clear, the immunity provided to Aldrete extended only to offenses committed on February 17, 2005. In conjunction with law enforcement agencies that investigate crimes, this office vigorously enforces the nation's laws, and will continue to do so. If we obtain information that gives us a provable case of criminal activity by Aldrete, we will prosecute him.

Allegation: THE DRUG SMUGGLER WAS AWARDED A GREEN CARD OR OFFERED PERMANENT RESIDENT STATUS IN EXCHANGE FOR HIS TESTIMONY

Response: Aldrete was not given a green card or offered permanent resident status in the United States. As is common practice in investigations and law enforcement operations that require assistance from persons not legally residing in the United States, immigration officials obtained "paroles" or fixed term, limited use documents that permitted Aldrete to enter the United States. In this case, Aldrete was permitted to enter the United States for medical treatment associated with the removal of the bullet, a key piece of evidence in the case, as well as to help prepare for and provide testimony at trial in El Paso. To the best of our knowledge, the last time he was legally allowed to enter the United States was in February 2006, to testify at trial.

Allegation: ILLEGAL ALIENS DO NOT HAVE ANY CONSTITUTIONAL RIGHTS

Response: The United States Supreme Court has held that the Constitution protects all persons in the United States whether they are here legally or illegally. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It is a violation of the Fourth Amendment to shoot an unarmed person who poses no threat to the shooter. *Tennessee v. Garner*, 471 U.S. 1 (1985). This law applies regardless of immigration status. *Zadvydas*, 533 U.S. at 693.

Allegation: AGENT RAMOS WAS BORDER PATROL AGENT OF THE YEAR

Response: Agent Ramos has never received any formal recognition or award for being the Border Patrol Agent of the year. In fact, he has been arrested on at least three occasions for domestic abuse and was formally suspended by the U.S. Border Patrol on two occasions. *Vol. IV, pp. 3-22.*