

Published on TownHall.com on May 6, 2009

Escalating violence along our nation's Southern border with Mexico continues to present a serious threat to communities and law enforcement on both sides of the border. As Mexico's drug cartels fight for dominance of the Southwest border region, it is clear that more resources and a strategic plan that focuses on more than information and technology sharing are needed to effectively address this threat.

Nonetheless, the Obama Administration appears committed to advancing its Southwest Border Initiative. The problem with this strategy is that it relies entirely on Mexico suddenly getting serious about border control. While there definitely needs to be some level of coordination between the U.S. and Mexico, sending more money and equipment south of the border - without first closing dangerous smuggling corridors -- is not an effective enforcement strategy.

Until we take the necessary steps to secure our borders through an interlocking combination of personnel, technology and infrastructure, Mexico's drug cartels will maintain their stronghold on the Southwest border region. Perhaps even more importantly, we must also improve the outdated relationships and policy arrangements between our federal agencies that continue to unnecessarily impede border enforcement.

Right now, even with border violence at record levels, thousands of federal agents are severely limited in their ability to enforce existing drug laws. That is because a needless turf battle exists between the Departments of Justice (DOJ) and Homeland Security (DHS) over which federal agency is better suited to enforce these laws along our borders.

The relationship between DOJ and DHS on drug enforcement matters is primarily dictated by a patchwork of Memorandums of Understanding last updated in 1994 that selectively provide legal authority - commonly referred to as "Title 21 authority" -- to border enforcement agencies. It is because of these guidelines that, for example, most Immigration and Customs Enforcement (ICE) agents under the jurisdiction of DHS are prevented from investigating cross-border drug cases.

In every situation, DHS must get approval from the Drug Enforcement Agency (DEA) -- a component of DOJ -- before investigating transnational drug cases. DEA also arbitrarily limits the total number of ICE agents with Title 21 authority to less than 1,500 special agents. In other words, more than 5,000 fully trained special agents are prohibited from investigating cross-border drug crimes.

Fully extending this authority to DHS would add thousands of additional agents along our borders without diverting any personnel or resources for training purposes. Given this

extraordinary benefit, I introduced the Border Sovereignty and Protection Act in the House of Representatives. This legislation - which is intended to address some of the reoccurring enforcement challenges on the U.S.-Mexico border - provides DHS with complete Title 21 authority.

Creating an enforceable border that is closed to illegal entry and strengthening the enforcement of existing laws must be among our top priorities. At the same time the Obama Administration is focused on improving our partnership with Mexico through its Southwest Border Initiative, the U.S.-Mexico border remains largely open and unprotected, with thousands of our own federal agents unable to do their job.

Over the coming weeks and months, the Obama Administration needs to demonstrate that it's serious about securing the border once and for all. A good starting point would be to provide DHS with full Title 21 authority.