

**TESTIMONY OF**

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**BEFORE**

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COMMITTEE ON HOMELAND SECURITY**

**SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS AND MANAGEMENT**

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Chairman McCaul, Ranking Member Keating, and distinguished members of the Subcommittee, I am Thomas Winkowski, Acting Deputy Commissioner, U.S. Customs and Border Protection (CBP). It is a privilege and an honor to appear before you today to discuss CBP's efforts to address issues concerning corruption and misconduct in which CBP employees are involved. Ensuring the employees of CBP conduct themselves with integrity and in accordance with the ethical standards so critical to the positions of public trust they occupy is of the utmost importance to CBP.

CBP has taken several preemptive and proactive steps to reinforce with all its employees the standards of conduct to which they must adhere both on and off duty. These efforts include recruiting applicants of the highest integrity and moral character to become members of the CBP workforce; developing and enhancing ethics and integrity training delivered on a recurring basis throughout all levels of the organization; implementing methodologies and utilizing existing information and technology to enhance early detection of potential employee misconduct; enhancing our internal affairs program which includes the use of polygraph examinations in the hiring process for CBP law enforcement applicants; establishing an investigative support capacity within the Office of Internal Affairs (IA); and reinforcing a unified message that honor comes first and all employees must maintain their personal and professional integrity as public servants.

## **Background**

As America's frontline border agency, CBP is responsible for securing America's borders against threats, while facilitating legal travel and trade. To do this, CBP deploys a multi-layered, risk-based approach to enhance the security of our borders while facilitating the flow of lawful people and goods entering the United States. This layered approach reduces our reliance on any single point or program that has the potential to be compromised. It also extends our zone of security outward, ensuring our physical border is not the first or last line of defense, but is instead one of many. Ensuring the continued integrity of the CBP workforce is essential to the successful execution of the CBP mission.

CBP is the largest law enforcement agency in the country. We deploy over 60,000 law enforcement officers and mission support personnel along the U.S. borders, at ports of entry and overseas on a continuous basis in support of our critical border security mission. Not only do our officers and agents serve under difficult circumstances and in dangerous environments, they do so in an environment where transnational criminal organizations attempt to exploit our workforce for criminal gains.

After the creation of the Department of Homeland Security (DHS), CBP experienced a level of growth in personnel resources unprecedented in the history of U.S. law enforcement. Since the creation of CBP in March 2003, the U.S. Border Patrol more than doubled in size to a force today of 21,370 agents. During that time, CBP hired extraordinary men and women, many of whom continue to serve our country with great distinction and integrity every day. During the same period of time, CBP integrated the Office of Field Operations from the workforces of CBP's legacy agencies and grew the capabilities of the Office of Air and Marine to its current level.

The overwhelming majority of the men and women who comprise the CBP workforce serve with honor and integrity, adhering to the high standards demanded of CBP personnel. Our high standards are reflected in the quality of the people we hire, as well as in how we train and evaluate our employees. Central to our standards is an absolute commitment to integrity. Without integrity we cannot accomplish the mission which the nation has entrusted to us. Our commitment begins at the time of application for employment with CBP and continues throughout the careers of our officers, agents, and mission support personnel. It defines our relationship with one another and the nation we serve.

While the overwhelming majority serve with honor and integrity, a small minority have disgraced the agency and betrayed the trust of the American public and their fellow CBP employees by engaging in illegal and unethical behavior. Since October 1, 2004, 138 CBP employees have been arrested or indicted for acts of corruption including drug smuggling, alien smuggling, money laundering, and conspiracy. During this same period more than 2,000 CBP

employees have been charged in other criminal misconduct, including off duty behavior that serves to undermine the confidence of the public that we serve.

CBP takes all allegations of misconduct and corruption very seriously and is addressing the issue of misconduct and corruption through a comprehensive strategy that integrates prevention, detection and investigation capabilities to deter and, when necessary, rectify incidents of corruption and misconduct in the CBP workforce. No act of corruption or misconduct within our agency can or will be tolerated. CBP's leaders, including myself, are committed to creating and maintaining an organization in which all employees have the strength of character and support to reject all opportunities for corruption, in whatever form they may take, and to reveal them when discovered.

The standards cited above form the basis of CBP policy with regard to integrity and are in complete alignment with the mandates of Public Law 111-376, the *Anti-Border Corruption Act of 2010*. This law requires that by January 2013, all CBP law enforcement applicants must receive a polygraph examination before being hired. The law further requires that CBP initiate all periodic personnel reinvestigations that were overdue for initiation and that Congress receive bi-annual reports on CBP's progress toward meeting these requirements for a period of two years. These requirements – background and periodic investigations as well as polygraph examinations – are consistent with, and form the basis of, a comprehensive workforce integrity plan.

CBP's comprehensive integrity strategy includes improved initial screening of applicants, pre-employment polygraph examinations of law enforcement candidates and an exhaustive background investigation that commences upon the initial selection of a prospective employee. Each tool is capable of identifying vulnerabilities that the other cannot, and in combination allow for a thorough vetting of the men and women seeking employment with, or employed by, CBP. Periodic reinvestigations of an employee's background are conducted every five years throughout an onboard employee's career and may identify emerging integrity and conduct concerns that have the potential to impact execution of the CBP mission.

Currently, CBP is working diligently to increase its capacity to polygraph all applicants for law enforcement positions consistent with the statutory requirements. Polygraph exams, properly administered, can be a valuable tool to screen law enforcement applicants and to help ensure workforce integrity; and where possible, for use with onboard employees on a voluntary or exculpatory basis.

Logistically, in an effort to increase efficiencies in the background and periodic reinvestigation processes, the IA is moving to a paperless environment. This effort will allow CBP to most efficiently and effectively leverage its financial and human resources.

Based upon our progress to date, CBP is on track to fully meet the requirements of the Anti-Border Corruption Act, including implementation of 100 percent testing of all applicants for CBP law enforcement positions by January 2013. Additionally, CBP will complete its backlog of periodic reinvestigations by June 30, 2012 and will remain current with initiation of periodic reinvestigations that will continue to come due in future years.

### **Training**

Throughout an employee's career, CBP provides training that focuses on integrity, ethics, and ethical decision making as part of an anti-corruption continuum. When employees initially join CBP they receive training promoting workforce integrity as part of CBP's New Employee Orientation program. Newly hired CBP law enforcement officers receive an expanded level of mandatory integrity and ethics instruction as part of the basic training curriculum.

Recurring integrity training is also an integral part of the advanced and specialized training for CBP employees beyond their initial entry on duty. This training, combined with proper leadership, oversight, and management at all levels of the agency fosters a culture of personal accountability and integrity within CBP. It clearly communicates the standards of conduct with which all CBP employees must comply and identifies the consequences of engaging in inappropriate behavior. Most importantly, periodic in-service training equips CBP employees

with the tools they need to recognize, report, and respond to integrity challenges they will encounter both on- and off-duty.

Our focus on integrity is not limited to our non-supervisory personnel. CBP supervisory and leadership training programs such as Supervisory Leadership Training, Incumbent Supervisory Training, the Second Level Command Preparation, the CBP Leadership Institute, and the Department's Senior Executive Service Candidate Development Program incorporate classroom instruction and a series of practical exercises that prepare CBP leaders to guide and direct the workforce in a manner that promotes personal integrity and accountability through critical thinking and integrity-based, ethical decision making.

### **Additional Integrity Programs**

In 2006, IA was tasked with promoting the integrity and security of the CBP workforce. Since then, IA has aggressively reconstituted and reinvigorated its internal investigative capability as part of a comprehensive strategy to counter the threat of workforce corruption. The IA staff now includes nearly 200 experienced investigators who investigate employees suspected of misconduct and assist in investigations of corruption, as well as personnel responsible for the prevention and detection of these acts within prospective and onboard employees.

IA's comprehensive strategy integrates prevention, detection and investigation capabilities to deter, identify, and respond to corruption and serious misconduct in the CBP workforce. The strategy includes background investigations as explained previously, as well as security clearances; employee misconduct investigations; physical, informational, industrial, internal and operational security; and management inspections.

The integrity strategy includes the application of behavioral science and analytical research methods designed to flag indicators of potential workforce corruption. These tools support an intelligence-driven response to potential instances of corruption.

In 2011, CBP convened the Integrity Integrated Planning and Coordination Committee (IPCC). This committee is a collaborative effort amongst internal CBP components and its external law enforcement partners. The Integrity IPCC allows each participating entity to openly discuss integrity related issues and ideas and to share best practices among the members.

In concert with IA's efforts, the Office of Field Operations (OFO) has taken significant steps to utilize its resources to identify operational data anomalies. Under the leadership of OFO's Analytical Management Systems Control Office (AMSCO), CBP law enforcement officers and agents use CBP's automated systems to analyze crossing, referral, and results data to identify anomalies that may be indicative of integrity issues. This analysis is especially important as CBP continues to implement new systems to process travelers and cargo electronically in a more efficient and effective manner. The Office of Border Patrol (OBP) also works in collaboration with AMSCO and IA to identify and mitigate any potential threats.

When AMSCO identifies an anomaly in the manner in which a CBP employee is performing his duties, the office works collaboratively with IA to mitigate any potential threat to the CBP mission. As a result of the excellent work AMSCO is doing, CBP has already identified and corrected operational vulnerabilities that created potential opportunities for employee corruption. The efforts AMSCO has undertaken have also resulted in the development of new approaches, methodologies and tools that, once fully tested, will be deployed at the ports of entry to identify performance deficiencies and counter potential acts of corruption as well as serve as an important training and instructional tool.

The OFO also established the OFO Integrity Committee, composed of members from Headquarters Office of Field Operations, the Directors of Field Operations, Port Management, CBP IA, OBP, and Human Resources Management Labor and Employee Relations. The objectives of the OFO Integrity Committee include reviewing various types of misconduct and corruption cases regarding OFO employees that have resulted in arrests; analyzing misconduct and corruption trends to determine what actions OFO can take to eradicate those types of behavior; and assessing current OFO integrity initiatives. OFO has also established Integrity Officers within each of its 20 Field Offices. These officers act as liaisons to field personnel on

integrity issues and are a conduit to headquarters for potential integrity concerns. Integrity Officers participate in local task forces, committees, and working groups, and collaborate with various federal law enforcement agencies to provide assistance in operational inquiries, research, and analysis to assist in the detection and deterrence of corruption and misconduct.

The U.S. Border Patrol has an Integrity Advisory Committee (IAC) – comprised of selected field leadership ranging from first-line Supervisory Border Patrol Agents through members of the Senior Executive Service – to proactively combat the threat of corruption within its ranks. The IAC provides a strategic analysis of vulnerabilities to corruption that can exist due to the unique nature of the Border Patrol operating environment and provides recommendations to effectively address and reduce vulnerabilities. In addition, the Border Patrol has established ethics committees in the majority of its 20 sectors – many of which have integrated with other CBP offices in a cooperative effort to build greater character and integrity within the workforce.

### **Corruption Investigations**

Beyond our proactive measures to prevent corruption before it begins, CBP is prepared to address allegations of employee corruption and misconduct in a timely and effective manner to ensure the integrity of the border. CBP maintains a cadre of experienced IA agents assigned to headquarters and 22 Internal Affairs field offices strategically located throughout the United States where the potential threat of workforce corruption is most acute. CBP coordinates its internal investigative activities with the DHS Office of Inspector General (OIG), U.S. Immigration and Customs Enforcement's Office of Professional Responsibility (ICE OPR), the Federal Bureau of Investigation (FBI), and numerous other federal, state, local and tribal law enforcement authorities. Effective collaboration and information sharing among the federal agencies that have a stake in border corruption is a critical factor in maintaining border integrity and security and effectively addressing allegations of corruption lodged against CBP employees.

These efforts were enhanced in December 2010, when CBP and ICE executed a Memorandum of Understanding (MOU) that established protocols for IA agents and ICE OPR to collaborate in CBP employee-related misconduct and corruption investigations. The collaboration of CBP IA

and ICE OPR agents in these CBP employee-related investigations provides a level of insight and dialogue not previously available to the CBP leadership team and has increased CBP's and ICE's combined ability to ensure the integrity of the border.

In August 2011, CBP entered into a similar MOU with the DHS OIG and deployed approximately 14 CBP IA agents to OIG offices across the United States. Today, CBP IA agents are working side-by-side with DHS OIG agents in approximately 90 CBP employee-related investigations of alleged corruption and misconduct.

CBP is striving to more effectively and expediently use existing administrative authorities to mitigate the threat caused by CBP employees accused of corruption during the course of an investigation. This may include reassignment to administrative duties, administrative leave, indefinite suspension, suspension of law enforcement authorities, or other appropriate actions. Where a preponderance of evidence indicates that a CBP employee is engaged in corruption or serious misconduct, CBP managers will take appropriate actions without undue delay to address the issue and where appropriate, remove the employee from his or her position. This forward-leaning approach provides CBP with the flexibility to address the threat posed by employee corruption and misconduct in a manner that reduces the impact on the agency, its mission and its responsibilities to the American public.

## **Conclusion**

Chairman McCaul and Ranking Member Keating, integrity is central to CBP's identity and effectiveness as guardian of the nation's borders. It is the cornerstone of leadership and success not only for an organization such as CBP, but also for individuals. I thank you and the members of the Subcommittee for the opportunity to appear today and make clear our core values and strategic approach. I will be pleased to answer any questions that you might have.