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UNRESOLVED INTERNAL INVESTIGATIONS AT DHS: OVERSIGHT OF INVESTIGATION MANAGEMENT IN THE OFFICE OF THE DHS OIG

HEARING

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT ORGANIZATION, EFFICIENCY AND FINANCIAL MANAGEMENT

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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UNRESOLVED INTERNAL INVESTIGATIONS AT DHS: OVERSIGHT OF INVESTIGATION MANAGEMENT IN THE OFFICE OF THE DHS OIG

Wednesday, August 1, 2012,

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT ORGANIZATION,
EFFICIENCY AND FINANCIAL MANAGEMENT,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, D.C.

The subcommittee met, pursuant to call, at 9:35 a.m., in Room 2203, Rayburn House Office Building, Hon. Todd Russell Platts [chairman of the subcommittee] presiding.

Present: Representatives Platts, Lankford, Farenthold, Towns, and Connolly.

Staff Present: Ali Ahmad, Majority Communications Advisor; Molly Boyl, Majority Parliamentarian; John Cuaderes, Majority Deputy Staff Director; Linda Good, Majority Chief Clerk; Mitchell S. Kominsky, Majority Counsel; Mark D. Marin, Majority Director of Oversight; Tegan Millspaw, Majority Research Analyst; Cheyenne Steel, Majority Press Assistant; Noelle Turbitt, Majority Staff Assistant; Jaron Bourke, Minority Director of Administration; Beverly Britton Fraser, Minority Counsel; Ashley Etienne, Minority Director of Communications; and Devon Hill, Minority Staff Assistant.

Mr. PLATTS. This hearing of the Subcommittee on Government Organization, Efficiency, and Financial Management will come to order.

The purpose of today's hearing is to conduct oversight of the Department of Homeland Security Office of Inspector General and its management of investigative cases. The Department of Homeland Security is the third largest department in the Federal Government and has the crucial mission of ensuring the United States' safety, security, and that we are resilient against terrorism and other threats. Because of the importance of DHS's mission, it is crucial that it have a fully capable inspector general and staff to provide oversight and accountability.

Over the past few years, DHS OIG has had thousands of open investigations that must be properly managed and resolved. Our hearing today will review the number of open cases at DHS OIG, as well as its recent decision to transfer cases back to Immigration and Customs Enforcement and the Customs and Border Protection entities.

As of March 2012, DHS OIG had 2,361 open investigative cases. In its latest semiannual report, which covered a six month period between October 2011 and March 2012, DHS OIG closed only 730 cases. This is 31 percent of DHS's open cases.

Since 2009 the Office of OIG number of cases has not dropped below 2,000 at any point, while the number of cases closed has averaged approximately 566 per six month reporting period.

In April DHS OIG announced that it would transfer cases of misconduct involving employees at the United States Immigration and Customs Enforcement and the United States Customs and Border Protection entities back to these agencies for handling. In order to make sure that allegations of misconduct were fully investigated in a timely manner, 377 cases were transferred in April and another 280 transferred in June.

While transferring OIG's case work may help to ensure investigations are resolved more quickly, this process certainly must be overseen with great diligence. Allowing ICE and CBP to investigate their own misconduct, or staff within their entities, could create the appearance of a conflict of interest unless proper internal controls are maintained and emphasized.

Additionally, these transfers have resulted in a 68 percent increase in the cases at ICE and CBP's internal affairs offices. If ICE and CBP do not have sufficient resources to manage these cases, it could result in wrongdoing going undetected.

Our hearing today will review how ICE and CBP are managing these cases. It will also focus on the OIG's relationship with these component entities and how it can better collaborate to investigate and manage its cases.

In 2010, DHS OIG wrote, and I would emphasize not the current IG, but prior personnel wrote that its relationship with the agency was a longstanding problem due to resistance and lack of cooperation with OIG investigations.

Today we will learn more about that relationship between DHS and its OIG and staff, and examine ways to improve collaboration from now and into the future.

The United States is unique in the important role of inspectors general. The Inspector General Act of 1978 established IGs to act as independent watchdogs over federal departments and agencies. Today IGs are on the front lines of preventing waste, fraud, and abuse across the Federal Government. Their role directly benefits both Congress, in our oversight duties, and taxpayers by creating a government that is more transparent and accountable. In order to do their jobs well, IGs need to maintain strong accountability and integrity, while fostering a collaborative relationship with the agencies they oversee.

DHS OIG has an extremely important task of overseeing an agency that protects our borders, guards against terrorism, and ensures the security of our Country here at home. I commend OIG's efforts in moving forward in a productive manner, especially in the last year and a half, and working with their component entities that are represented here today, and certainly look forward to the testimony of all three of our witnesses and the insights you can share with this Committee.

With that, I yield to the Ranking Member, the gentleman from New York, Mr. Towns, for the purpose of an opening statement.

Mr. TOWNS. Thank you very much, Mr. Chairman, for holding this hearing today.

Today we will focus on the efficiency of investigations into employee misconduct at the Department of Homeland Security components, Customs, Border Protection, and Immigration and Customs Enforcement, ICE.

Mr. Chairman, I thank you for, again, holding this hearing.

The largest law enforcement agency in the Country, over 47,000 law enforcement personnel, are deployed along the U.S. borders, at ports of entry and overseas, on a continuous basis to secure our borders.

At ICE, the second largest federal law enforcement agency, over 20,000 employees enforce federal laws governing border control, customs, trade, and immigration.

These agencies, along with TSA, form the backbone of our homeland security enterprise.

I want to first acknowledge those that perform their missions with integrity and thank them for a job well done. Unfortunately, we must turn our attention to the few employees who have disgraced themselves and the agencies that employ them through acts of personal misconduct, and in many instances criminality.

Some employees come into contact with sensitive, sometimes classified, information, and in many cases our national security interests lie literally in the palms of their hands. Dishonest employees have leaked sensitive information to drug cartels, smugglers, and others under investigation. Others have taken cash bribes or other favors in exchange for allowing contraband or undocumented aliens to pass through our borders.

More than 140 CBP officers since 2004 have been arrested or indicted for acts of corruption. Many others are under investigation as we sit.

Corruption or misconduct occurring at DHS can have greater national security implications than misconduct occurring at other federal agencies. For this reason, investigations into CBR and ICE employees, misconduct and criminality must be dealt with swiftly and efficiently.

The Office of the Inspector General has the primary authority within DHS for investigating allegations of criminality and misconduct among employees. The inspector general has a staff of 219 investigators and a budget of $150 million to investigate a workforce of over 220,000 employees. That doesn't seem to be enough.

With the escalation of complaints of employee misconduct and corruption, and a decreasing IG budget, it is not surprising that the IG must find innovative ways to move the investigative process forward. The CBC Office of Internal Affairs at ICE, the Office of Professional Responsibility, are playing a critical role in the investigation of these complaints.

We have to remember that DHS was only created in 2002, when Congress joined together previously independent agencies that may not have had a history of cooperating with one another to resolve cases. But today cooperation between OIG, ICE, and CBP is ex-

tremely important to securing our border personnel against corruption.

Fortunately, under its current leadership, there is more DHS interagency cooperation than ever before. That recent positive development addresses a historic weakness present at the creation of DHS. I look forward to the testimony of our witnesses and hope we can find stronger pathways forward to such an important mission, because working together is very important, and without it we will not be able to achieve our goals.

On that note, Mr. Chairman, I yield back.

Mr. PLATTS. I thank the Ranking Member.

Before I yield to the gentleman from Virginia, I just want to echo very well stated important statement by the Ranking Member, that while we are here to talk about investigations of cases of wrongdoing, that we make sure we herald the great work of the 99 percent plus of the officers, agents, staff of DHS, all the entities who do great work, courageous work, are truly on the front lines of protecting this Nation and, Mr. Towns, I thank you for that reminder that I intended to include and did not reference. Well stated.

We are grateful to each of you and your staffs and your offices who are out there on the front line.

With that, I yield to the gentleman from Virginia, Mr. Connolly, for an opening statement.

Mr. CONNOLLY. Thank you, Mr. Chairman, and thank you for holding this hearing. I want to commend you personally for your longstanding commitment to holding fair and substantive oversight hearings that not only highlight deficiencies in government programs, but, importantly, do so in a productive manner, as you just, in fact, stated, that allows members to work in a bipartisan fashion to implement corrective actions. We are going to miss you around here.

Today's hearing is focused on the DHS OIG's performance adjudicating cases and coordinating investigative efforts with the U.S. Immigrations, Customs and Enforcement Office of Professional Responsibility, and the U.S. Customs Border Protection's Office of Internal Affairs.

However, I believe this hearing actually highlights a far more serious fundamental management challenge that can contribute to impeding our efforts across the Federal Government to prevent and detect waste, fraud, and abuse, while promoting departmental efficiency, economy, and effectiveness: longstanding vacancies in key agency leadership positions.

The U.S. Senate's inability to efficiently confirm presidential nominees has resulted in a dysfunctional oversight system that increases the threat of fraud and abuse going undetected, while, really, raising a question of the Senate's constitutional responsibility to provide advice and consent in a timely fashion. Unfortunately, it has become common for months to pass before non-controversial nominees are given an up or down vote.

A disgraceful, yet increasingly common experience is that of Michael Horowitz, his nomination to be inspector general for the Department of Justice. That was announced on July 29th, 2011, but did not receive a vote in the Senate until March 29th of this year, at which point he was approved unanimously.

Most concerning is that IG vacancies appear most prevalent among IG positions for the Federal Government's largest and most complex agencies, such as the Department of State, which has been without a permanent IG for 1,658 days; the Department of Defense, which has been without a permanent IG for 220 days; and the agency that is the focus of today's hearing, DHS, we are lucky to have an acting IG, but it has been without a permanent IG for 250 days.

Fortunately, there appears to be bipartisan recognition that OIGs require a permanent Senate confirmed leadership to be most effective and to best serve the American people.

Senator Grassley, a Republican from Iowa, stated recently that "even the best acting inspector general's lack the standing to make lasting changes needed to improve his or her office." I concur in that sentiment and hope even now that we can move forward to ensure federal IGS are adequately staffed, funded, and empowered to reduce wasteful spending, increase agency efficiency, and ultimately improve the lives of the people we serve.

I thank you, Mr. Chairman.

Mr. PLATTS. I thank the gentleman. You make very important relevant points here about the importance of the confirmation process and giving the Department a fully confirmed IG, and hopefully that will happen sooner than later. Not because we are not grateful for the current work of the acting, but the points that the gentleman made in giving that additional standing and presence of a Senate confirmed IG.

We are going to keep the record open for seven days for any members who want to submit opening statements or other materials, and we will now move to our testimony from our witnesses.

We are honored to have three very distinguished public servants with us: Mr. Charles Edwards, Acting Inspector General at the Department of Homeland Security; Mr. David Aguilar, Acting Commissioner of the United States Customs and Border Protection; and Mr. Daniel Ragsdale, Acting Deputy Director at United States Immigration and Customs Enforcement.

Pursuant to our Committee rules, if I could ask the three of you to stand and raise your right hand to be sworn in.

Do you solemnly swear or affirm that the testimony you are about to give this Committee will be the truth, the whole truth, and nothing but the truth?

[Witnesses respond in the affirmative.]

Mr. PLATTS. Let the record reflect all witnesses answered in the affirmative.

You will see a light system in front of you. The timer is set for five minutes, but if you need to go over that, that is understandable. We appreciate your written testimonies you have given us; I call it my homework in preparation for the hearing and allow me to have a better understanding and better exchange with you here today. But we are glad to have you here in person and share your oral testimony, so it is at five, but if you need to go over, don't worry about that.

We are glad to have you. Mr. Edwards, if you would like to begin.

WITNESS STATEMENTS

STATEMENT OF CHARLES K. EDWARDS

Mr. EDWARDS. Good morning, Chairman Platts, Ranking member Towns, and distinguished members of the Subcommittee. Thank you for inviting me to testify today about the critical investigative work of DHS OIG.

OIG has 219 criminal investigators deployed at 33 offices around the Country, with a concentration of resources in the southwest. While OIG has a primary focus on employee corruption, it also has jurisdiction for allegations involving DHS contractors and financial assistance beneficiaries, including disaster assistance recipients.

Both the personnel and organizational independence of OIG investigators, free to carry out their work without interference by agency officials, is essential to maintaining public trust in the DHS workforce. Resulting complex corruption investigations is challenging and time-consuming. OIG makes every attempt to expedite these investigations, but some of the more complex investigations take time to obtain the necessary evidence of corrupt activity and identify any additional employee involvement.

OIG recognizes the importance of ensuring that corrupt CBP officers and border patrol agencies who are willing to compromise homeland security for personal gain are quickly removed from any position that would allow harm to the Country, so we work closely with the components to balance homeland security needs, while investigating thoroughly to expose all wrongdoers, not just a single employee against whom allegations have been made.

Generally, once a matter has been presented to the U.S. Attorney's Office and accepted for prosecution, the majority of investigative activity is complete. However, OIG still classifies the case as open until all judicial activity is done, which may take years.

Although case complexity and time to prosecute may extend some cases for several years, over 70 percent of OIG's criminal investigation cases have been open less than 24 months.

In August 2011, the CBP commissioner and I signed an agreement to enhance joint efforts against border corruption within the ranks of CBP workforce. Cooperative efforts between OIG and CBP IA have provided OIG with additional assets to meet the challenge of CBP's significant and ongoing expansion. Our agreement established and integrated DHS's approach to participation with other agencies investigating border corruption, recognizing both OIG's obligation to work independently of DHS's components and the need for collaboration and information sharing among law enforcement entities.

A key component of our investigative strategy is to leverage limited resources and share intelligence with law enforcement at all levels. DHS OIG has agents participating in border corruption task forces in many parts of the Country. These cooperative relationships ensure that different law enforcement agencies are not pursuing the same targets, which compromises law enforcement agents' safety and is a duplication of effort.

With respect to information sharing, the OIG and FBI have a mutual responsibility under the attorney general guidelines to

promptly notify one another upon initiation of any criminal investigation. OIG timely meets this responsibility.

By fiscal year 2011, OIG's policy to open allegations of employee corruption or compromise of border or transportation security, combined with the expanding workforce, led to a 95 percent increase over fiscal year 2004 of complaints involving CBP employees. The growth of OIG's cadre of criminal investigators did not match the growth in complaints. The increased volume led to increased case openings and the DHS OIG investigative staff was taxed beyond its capacity.

As a part of my commitment to ensuring that allegations of employee corruption are fully investigated, ICE Director Morton and I agreed, in April 2012, that OIG would transfer 370 cases involving CBP and ICE employees to ICE for completion. As a part of OIG oversight of the component internal affairs elements, OIG is requiring periodic reports from CBP on the status of the transferred investigations until each is closed. To date, ICE OPR has reported that it transferred about one-third of the cases it received to CBP IA and has closed 60 cases.

Also, in June 2012, OIG transmitted 287 completed investigations involving unknown subjects to the relevant DHS component for appropriate action. Because the cases were completed, OIG is requiring no follow-up.

We appreciate the Subcommittee's attention and interest in OIG's criminal investigative work. We will continue to pursue collaboration with all our law enforcement partners to ensure employee corruption does not jeopardize homeland security.

Chairman Platts, this concludes my prepared remarks. I would be happy to answer any questions that you or the members may have. Thank you, sir.

[Prepared statement of Mr. Edwards follows:]

STATEMENT OF CHARLES K. EDWARDS

ACTING INSPECTOR GENERAL

U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

SUBCOMMITTEE ON GOVERNMENT ORGANIZATION, EFFICIENCY AND FINANCIAL MANAGEMENT

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

U.S. HOUSE OF REPRESENTATIVES

August 1, 2012

Good morning Chairman Platts, Ranking Member Towns, and distinguished members of the subcommittee. I am Charles K. Edwards, Acting Inspector General of the Department of Homeland Security (DHS). Thank you for inviting me to testify today about the critical work of the DHS Office of Inspector General's (OIG's) Office of Investigations (INV).

Scope of Border Corruption Issue

The smuggling of people and goods across the Nation's borders is a large scale business dominated by organized criminal enterprises. The Mexican drug cartels today are more sophisticated and dangerous than any other organized criminal groups in our law enforcement experience. They use torture and brutality to control their members and intimidate or eliminate those who may be witnesses or informants to their activities.

As the United States (U.S.) enhances border security with successful technologies and increased staffing to disrupt smuggling routes and networks, drug trafficking organizations (DTOs) have become not only more violent and dangerous, but more clever as well. The DTOs have turned to recruiting and corrupting DHS employees. According to government reports, DTOs are becoming involved increasingly in systematic corruption of DHS employees to further alien and drug smuggling, including the smuggling of aliens from designated special interest countries likely to export terrorism. The obvious targets of corruption are front line Border Patrol agents and Customs and Border Protection (CBP) officers; less obvious are those employees who can provide access to sensitive law enforcement and intelligence information, allowing the cartels to track investigative activity or vet their members against law enforcement databases.

As demonstrated by investigations led by OIG, border corruption may take the form of cash bribes, sexual favors, and other gratuities in return for allowing contraband or undocumented aliens through primary inspection lanes or even protecting and escorting border crossings; leaking sensitive law enforcement information to persons under investigation and selling law enforcement intelligence to smugglers; and providing needed documents such as immigration papers.

Border corruption impacts national security. Corrupt employees most often are paid not to inspect, as opposed to allowing prohibited items, such as narcotics, to pass into the U.S. A corrupt DHS employee may accept a bribe for allowing what appear to be simply undocumented aliens into the U.S. while unwittingly helping terrorists enter the country. Likewise, what seems to be drug contraband could be weapons of mass destruction, such as chemical or biological weapons or bomb-making materials.

Smuggling of drugs and people into the U.S. has generated tens of billions of dollars for the smugglers. As efforts to secure the border meet with increasing success demonstrated by decreases in apprehensions of those crossing the border illegally and increases in seizures of cash, drugs, and weapons, the smugglers have been forced to become more creative and clever in their illicit activities. They have turned to tempting DHS employees to assist in smuggling efforts for private gain. While those who turn away

from their sworn duties are few, even one corrupt agent or officer who allows harmful goods or people to enter the country puts the Nation at risk.

OIG has made investigation of employee corruption a top priority, as we work to help secure the integrity of our immigration system, borders, ports of entry, and transportation systems. However, our investigations are complicated by the brutality the cartels use to control their organizations and coerce witnesses, and the sophistication and advanced technologies available to criminal organizations with unlimited money. DTOs use their monetary resources to purchase and deploy sophisticated and military grade equipment and weapons to carry out their crimes, avoid detection, and evade law enforcement. These criminals use the same sovereign borders they are attempting to breach as a barrier to law enforcement efforts to conduct surveillance and collect evidence.

Roles and Responsibilities within DHS for Employee Border Corruption

Through the *Inspector General Act of 1978* (IG Act), Congress established statutory Inspectors General, in part, in response to questions about integrity and accountability and failures of government oversight. The IG Act charged Inspectors General, among other tasks, with preventing and detecting fraud, waste, and abuse in agency programs and activities; conducting investigations; and recommending policies to promote efficiency, economy, and effectiveness. The position of Inspector General was strengthened by provisions in the IG Act creating independence from the officials responsible for the programs and activities overseen, providing powers of investigation and subpoena, and mandating reporting not just to the agency head but also to Congress.

Inspectors General play a critical role in assuring transparent, honest, effective, and accountable government. Both the personal and organizational independence of OIG investigators, free to carry out their work without interference from agency officials, is essential to maintaining the public trust in not only the work of the OIG, but also in the DHS workforce as a whole. The American public must have a fundamental trust that government employees are held accountable for their crimes or serious misconduct by an independent fact finder.

The *Homeland Security Act of 2002*, as amended, modified the IG Act to establish the DHS OIG as an independent organizational element within DHS tasked with, among other things, coordinating, conducting, and supervising investigations relating to DHS programs and operations. These acts vest the OIG with the authority and responsibility within DHS for investigating allegations of criminal misconduct of DHS employees.

The DHS Management Directive (MD) 0810.1, *The Office of Inspector General,* implements the authorities of the IG Act within DHS. MD 0810.1 plainly establishes OIG's right of first refusal to conduct investigations of criminal conduct by DHS employees, and the right to supervise any such investigations that are conducted by DHS internal affairs components. The MD requires that all allegations of criminal misconduct by DHS employees and certain other allegations received by the components be referred to the OIG immediately upon receipt of the allegations.

The MD mirrors language at page 12 of House Report 108-169 related to the DHS appropriations bill for Fiscal Year 2004:

> It is the Committee's intent that the IG serve as the primary entity within the Department for investigating, as to employees, contractors, and grantees, all criminal allegations of waste, fraud, abuse and mismanagement; allegations of misconduct against all political appointees, personnel at the level of GS-15 and above; and any allegations that indicate systemic problems in the Department or otherwise affect public health or safety. The IG's statutory independence, and its dual reporting responsibilities to the Department and to the Congress, make it ideally situated to address such matters. All employees must have immediate, direct, and unfettered access to the IG to report allegations without fear of retribution.
>
> The Department's numerous internal affairs offices can play a useful adjunct role to the IG. By handling less serious investigative matters of an administrative nature, these internal affairs offices can enable the IG to leverage its resources, provided these offices cooperate fully with the IG and regularly report their activities to the IG.

The Inspector General Act and the Homeland Security Act establish a clear line of authority for investigating allegations of criminal misconduct by DHS employees. The statutes vest investigative authority in the DHS OIG, with the Immigration and Customs Enforcement (ICE) Office of Professional Responsibility (OPR) having authority to investigate those allegations involving employees of ICE and CBP referred to it by OIG. The CBP Office of Internal Affairs (IA) investigates noncriminal allegations against CBP employees referred to it by ICE OPR.

CBP IA plays a crucial complementary role to OIG's criminal investigative function and the investigative function of ICE OPR. CBP IA focuses on preventive measures to ensure the integrity of the CBP workforce through pre-employment screening of applicants, including polygraph examinations; background investigations of employees; and integrity and security briefings that help employees recognize corruption signs and dangers. These preventive measures are critically important in fighting corruption and work hand in hand with OIG's criminal investigative activities.

Congress recognized the importance of these complementary activities in enacting the Anti-Border Corruption Act of 2010. This Act requires CBP IA, by the end of calendar year 2012, to subject all applicants for employment in law enforcement positions to polygraph examinations prior to hiring. The Act also requires CBP to timely initiate periodic background reinvestigations of CBP personnel. The legislative history points out that CBP finds 60 percent of applicants subjected to a polygraph exam ineligible for employment because of prior drug use or criminal histories.

As discussed above, Congress has identified the OIG as the focal point for criminal investigations of employee misconduct. Within DHS, MD 0810.1 requires referral of all

criminal allegations against DHS employees to OIG and prohibits any investigation, absent exigent circumstances, unless the OIG declines the case. DHS OIG operates a hotline for complaints which may be accessed through paper correspondence, telephone, facsimile, or electronically. In March 2004, ICE and CBP established the Joint Intake Center (JIC) responsible for receiving, documenting, and appropriately routing allegations of misconduct involving ICE and CBP employees. The JIC is staffed jointly by ICE OPR and CBP IA. Both the OIG hotline and the JIC provide DHS OIG and CBP and ICE executive management with insight into the nature and volume of allegations made against CBP and ICE employees as well as the results of investigations.

In addition to working closely with internal affairs elements within DHS, INV also works with ICE's Homeland Security Investigations (HSI) directorate. HSI investigates activities arising from the illegal movement of goods and people into, within, and out of the U.S. HSI investigates human smuggling and smuggling of narcotics, weapons, and other contraband that typically form the predicate, or underlying offense, for most border corruption cases. Consequently, INV works very closely with HSI and ICE OPR on many CBP employee corruption cases.

On May 30, 2012, the House of Representatives passed HR 915, *the Jaime Zapata Border Enforcement Security Task Force Act*. This bill would codify within ICE a Border Enforcement Security Task Force (BEST) program to enhance border security by facilitating collaboration and information sharing among federal, state, local, tribal, and foreign law enforcement agencies. ICE already operates over 20 BEST teams throughout the U.S. and Mexico to protect against transnational crime, including drug trafficking, arms smuggling, illegal alien trafficking and smuggling, and kidnapping along and across U.S. borders. As drafted, the OIG is not included in HR 915, even though a primary focus of our investigative activity is border corruption. Border corruption is essentially a DHS issue in that the predicate offense for most border corruption cases involves activities arising from the illegal movement of goods and people into, within, and out of the U.S, the exact focus of ICE's BEST teams.

OIG has consistently proposed a corporate DHS approach for working with external law enforcement on employee corruption based on statutory authority and responsibility. Inclusion of the DHS OIG in HR 915 with respect to DHS employees and contractors will bolster that corporate approach and reiterate that DHS OIG has the responsibility under law to investigate these cases and to supervise and coordinate the participation of the component internal affairs offices in employee corruption cases.

Beginning in January 2011, CBP IA detailed agents to work under ICE OPR to augment investigations of CBP employees. Under this arrangement, ICE OPR leverages the additional agents contributed by CBP and gains additional insight into CBP systems and processes. CBP agents participate in ICE OPR investigations of CBP employees and CBP management uses the information gained by its agents to take appropriate action against employees under investigation.

On August 12, 2011, the CBP Commissioner and I signed a similar cooperative working agreement to enhance joint efforts against border corruption within the ranks of the CBP workforce. The agreement resulted in the detail of 18 CBP IA investigators to participate in OIG criminal investigations of CBP employees. Cooperative efforts between OIG and CBP IA have provided OIG with additional assets to continue its policy of opening all allegations of employee corruption or compromise of systems related to border security. These additional assets are especially necessary to OIG as the CBP workforce continues to expand significantly, while OIG growth remains relatively flat. The agreement also established an integrated DHS approach to participation with other law enforcement agencies investigating border or public corruption, recognizing the OIG's obligation to work independently of DHS components as well as the need for collaboration and information sharing among law enforcement entities.

External Partners

Since its beginning in 2003, DHS OIG has worked cooperatively with other law enforcement agencies on border corruption matters involving DHS employees. A key component of our investigative strategy is to leverage our limited resources and share intelligence with law enforcement at the Federal, State, and local levels. DHS OIG has agents participating in local Border Corruption Task Forces and Public Corruption Task Forces in many parts of the country. For example, OIG is currently working 142 cases jointly with the Federal Bureau of Investigation and another 18 are being worked together with Border Corruption Task Forces. These cooperative relationships serve to ensure that different law enforcement agencies are not pursuing the same targets which places law enforcement agents' safety at risk and is wastefully duplicative.

With respect to information sharing, the OIG and FBI have a mutual responsibility under the *Attorney General's Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority* to promptly notify one another upon initiation of any criminal investigation, a responsibility the OIG meets in a timely way. We recognize the importance of strong cooperative relationships and work diligently to maintain and enhance these relationships, while at the same time ensuring our independence in a way that inspires the public's trust in the outcome of our investigations.

OIG Investigative Statistics

INV's policy is to open all allegations of corruption of DHS employees or compromise of systems related to the security of our borders and transportation networks. INV has a total of 219 full time, permanent criminal investigators (GS-1811s) deployed at 33 offices around the country, with a concentration of resources in the Southwest. While INV has a primary focus on corruption allegations, it also has jurisdiction and responsibility for allegations involving DHS contractors, grantees, and other financial assistance beneficiaries, including disaster assistance recipients.

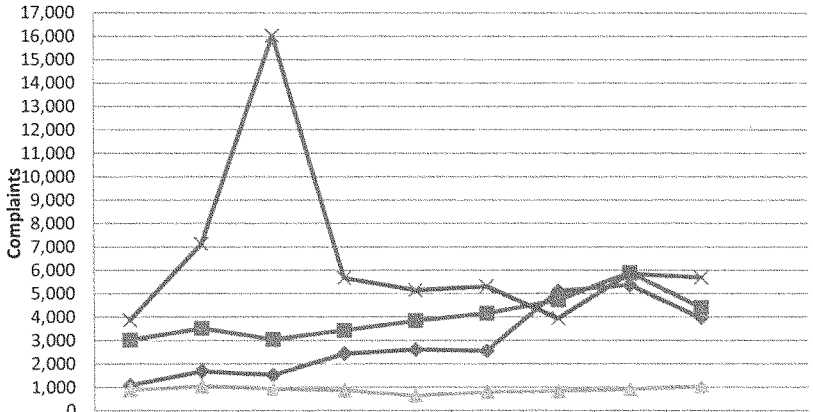
The growth of the OIG workforce necessary to investigate allegations of criminal misconduct by DHS employees has not kept pace with the growth of the DHS employee

population, now more than 225,000 strong. Component employee populations grew significantly from Fiscal Year 2006 through Fiscal Year 2009; for example, the CBP workforce grew 34 percent during that time. During this same period, the DHS OIG workforce only grew 6 percent.

INV has seen a 95 percent increase in complaints against CBP employees since Fiscal Year 2004 and a 25 percent increase from just Fiscal Year 2010 to 2011. As a result of the increase in complaints, and with little increase in staffing, INV also has initiated more investigations annually. For example, the OIG initiated 585 CBP related investigations in Fiscal Year 2009 and initiated 730 in Fiscal Year 2011, a 25 percent increase. Corruption related allegations are a priority of INV which opens 100 percent of all allegations of corruption it receives. The majority of both complaints received and investigations initiated by the OIG, however, are for allegations of other than corruption related activity.

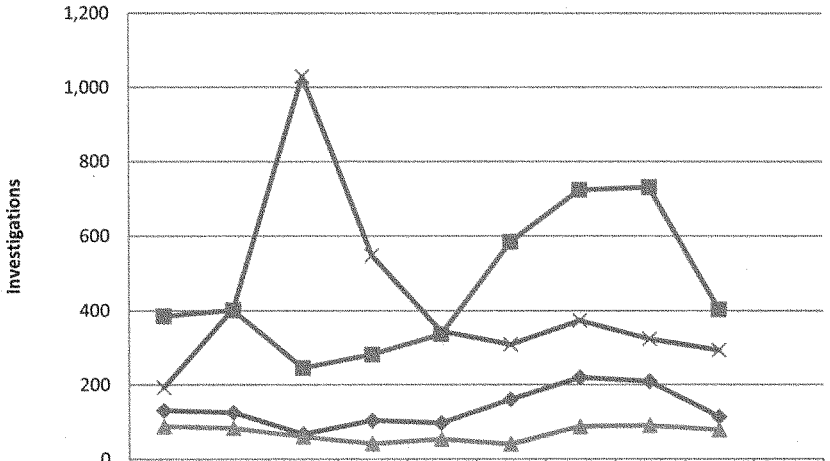
The charts below reflect investigative statistics starting with Fiscal Year 2004 through July 2012.

COMPLAINTS RECEIVED
FY 2004 to FY 2012 YTD JULY 15, 2012



	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY 12	TOTAL
ICE	1,076	1,680	1,515	2,431	2,593	2,544	5,088	5,359	3,956	26,242
CBP	3,013	3,515	3,038	3,419	3,828	4,147	4,714	5,885	4,393	35,952
TSA	891	1,046	941	859	653	800	834	918	1,042	7,984
Other	3,857	7,111	16,024	5,650	5,126	5,292	3,925	5,836	5,675	58,496
TOTAL	8,837	13,352	21,518	12,359	12,200	12,783	14,561	17,998	15,066	128,674

INVESTIGATIONS INITIATED
FY 2004 to FY 2012 YTD July 15, 2012



	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY 12	TOTAL
ICE	130	125	66	103	96	160	219	209	113	1,221
CBP	385	401	245	281	336	584	724	731	403	4,090
TSA	87	83	60	41	53	40	87	90	78	619
Other	192	404	1,029	548	344	308	373	323	293	3,814
TOTAL	794	1,013	1,400	973	829	1,092	1,403	1,353	887	9,744

For statistical and reporting purposes, the OIG classifies its investigative cases into four broad categories that reveal the breadth of our jurisdiction and responsibility:

1) *Employee Corruption*–Abuse of public office for private gain, financial or otherwise. Examples include:

- bribery;
- deliberate disclosure of classified, law enforcement, or national security related information;
- theft;
- espionage;
- kickbacks; and
- smuggling.

2) *Civil Rights/Civil Liberties*–Violations of civil rights or the deprivation of personal liberties by DHS employees while acting under color of their official authority. Examples include:

- coerced sexual contact;
- coercion of a statement from a witness or arrestee;
- custodial death;
- detainee/prisoner/suspect abuse;
- profiling; and
- excessive use of force.

3) *Program Fraud/Financial Crimes*–Alleged activity targeting DHS programs and/or financial systems, seeking to defraud the U.S. Government of program tax dollars. Examples include:

- contract fraud;
- conflict of interest;
- grant fraud;
- misapplication of Government funds;
- cost mischarging/defective pricing;
- product substitution;
- immigration program fraud; and
- program benefits theft.

4) *Miscellaneous*–Alleged violations of law or regulations with a nexus to DHS programs, employees, or operations (not otherwise classified as Corruption, Program Fraud/Financial Crimes or Civil Rights/Civil Liberties) which may, or may not, be criminal in nature, or which reflect unfavorably or suspiciously upon the character and integrity of DHS, its employees, or operations. Examples include:

- child pornography;
- computer fraud;
- false statements;
- harassment;
- unauthorized personal use of DHS computers/networks;
- unexplained affluence; and
- contact with foreign governments/nationals.

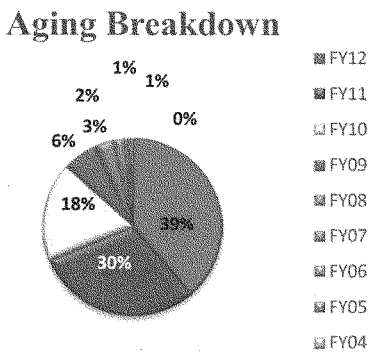
In this context, "DHS employee" means an individual who, at the time of the alleged offense, is appointed, contracted, or officially engaged under authority of law in the performance of a Federal function on behalf of DHS. This includes contractor

employees, interns, Coast Guard military personnel (active and Reserve), Coast Guard Auxiliarists, and employees detailed to DHS from other Federal agencies.

Many allegations of corruption received by DHS OIG are lodged against unknown or unnamed DHS employees. Historically, nearly 38 percent of the corruption allegations received by the OIG involve unknown or unidentified employee subjects. In order to address these investigative leads and identify these unknown subjects, INV established a Forensic Threat Analysis Unit. The unit integrates and analyzes incoming allegations and leads with information from ongoing and historical corruption cases, DHS databases, and other law enforcement and government databases, as well as open source data to document patterns of behavior, methods of operation, and other trends to aid in ferreting out corruption within DHS. OIG also collaborates with the DHS Office of Security, the Office of Intelligence and Analysis, and the intelligence units in various DHS components to ensure that information is shared and critical DHS assets are protected.

Resolution of many complex corruption investigations involving law enforcement personnel who have decided to engage in unlawful acts is both challenging and time consuming. DHS OIG attempts to expedite corruption investigations as much as possible, but some of the more complex investigations do take time to obtain the necessary evidence of corrupt activity and identify any additional employee involvement.

OIG recognizes the importance of ensuring that CBP officers and Border Patrol agents willing to compromise homeland security for their own personal gain are quickly removed from any position that would allow dangerous goods or people to enter the country. Accordingly, we work closely with the components to achieve the correct balance of protecting security while at the same time thoroughly investigating to uncover all those involved in a scheme to do harm, not just the single employee against whom allegations have been made. Further, OIG had been categorizing as an "open" case any matter which INV had investigated that was the subject of a judicial proceeding.



Generally, once the matter has been presented to a U.S. Attorney's office and accepted for prosecution, the majority of investigative activity is complete. However, INV still classifies the case as open and it will remain open in the case management system until all judicial activity is complete. Criminal cases may be open for several years through prosecution, sentencing, and appeals. OIG now identifies the number of open cases which are in the judicial process.

Although case complexity and length of time to prosecute may extend some cases for several years, over 70 percent of our open criminal investigations have been open for less than 24 months.

OPEN INVESTIGATIONS AS OF JULY 15, 2012

	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY 12	TOTAL	% of TOTAL
ICE	1	2	0	3	4	11	42	58	66	187	11.75%
CBP	2	5	4	6	19	45	105	204	232	622	39.09%
TSA	0	1	0	1	4	3	20	32	63	124	7.79%
Other	3	1	6	20	27	44	118	185	254	658	41.36%
TOTAL	6	9	10	30	54	103	285	479	615	1,591	
% of TOTAL	0.38	0.57	0.63	1.89	3.39	6.47	17.91	30.11	38.65		100

Since Fiscal Year 2004, DHS OIG has effected over 584 arrests of individuals, both employees and non-employees, associated with our CBP related investigations. Of those total arrests, 179 have been CBP employees. The remaining arrests were of individuals who have either conspired with an employee or were otherwise associated with the criminal activity DHS OIG investigated. The chart below shows convictions resulting from OIG's investigative work, including 358 from CBP related investigations.

CONVICTIONS BY FISCAL YEAR As of July 15, 2012

	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY 12	TOTAL	% of TOTAL
ICE	14	8	13	15	19	22	27	28	20	166	6.57%
CBP	21	54	45	23	33	51	58	38	35	358	14.17%
TSA	11	11	28	15	12	10	15	21	10	133	5.26%
FEMA	40	32	277	368	304	168	157	231	67	1,644	65.06%
Other	6	16	16	62	31	17	23	41	14	226	8.94%
TOTAL	92	121	379	483	399	268	280	359	146	2,527	

DHS OIG Recent Case Transfer

By Fiscal Year 2011, the combination of INV's policy to open cases on all allegations of corruption of DHS employees or compromise of systems related to the security of our borders and transportation networks and the expanding DHS workforce, led to a sizable increase from Fiscal Year 2004 in complaints received by OIG. The growth of INV's cadre of criminal investigators did not match the growth of the DHS employee population

or the growth in complaints. The increased complaint volume led to increased case openings and the DHS OIG investigative staff was taxed beyond its capacity, even with the addition of CBP IA detailees under the provisions of the August 2011 agreement.

In April 2012, as part of DHS OIG's commitment to ensuring that all allegations of employee corruption are fully investigated, ICE Director Morton and I agreed that OIG would transfer approximately 370 OIG initiated investigations involving various criminal and administrative allegations against named employees of CBP and ICE to ICE for completion. Under the supervision of OIG, these cases are being investigated by ICE OPR working with investigators from CBP IA and HSI. This is part of OIG's effort to leverage all investigatory resources to ensure that corruption allegations are swiftly investigated. Case materials were transferred at the field office level in May 2012.

Because DHS OIG continues to have oversight of the component internal affairs elements, OIG is requiring periodic reports from ICE OPR on the status of the transferred investigations until each case has been resolved or closed. To date, ICE OPR has reported that it transferred about one third of the cases it received from OIG to CBP IA and has closed about 60 cases.

In addition, in June 2012, OIG transmitted 287 completed Reports of Investigation from INV's Forensic Threat Analysis Unit to the relevant component for any further action deemed appropriate. Twenty-five of the cases involved allegations about unknown subjects related to ICE and the remainder related to CBP. Because these cases were completed, OIG is requiring no follow up from the components.

Conclusion

We appreciate the Subcommittee's attention and interest in the investigative work of the OIG. We will continue to pursue collaboration and cooperation with our law enforcement partners within DHS and at the Federal, State, and local levels to ensure that employee corruption does not jeopardize our national security.

Chairman Platts, this concludes my prepared remarks. I would be happy to answer any questions that you or the Members may have. Thank you.

Mr. PLATTS. Thank you, Mr. Edwards. I appreciate your testimony.

Commissioner Aguilar, before you begin, I just want to recognize, as I referenced, appreciate the service of all three of you, but knowing, as we have talked, of your now over 34 years of service, I want to especially thank you for your service and leadership to our Nation and all of our citizens, and that dedication especially in such an important role with border protection.

Please proceed.

STATEMENT OF DAVID V. AGUILAR

Mr. AGUILAR. Thank you, Chairman. Chairman Platts, Ranking Member Towns, and distinguished members of the Subcommittee, thank you for the invitation to speak about the ongoing collaboration, the great collaboration, I believe, between U.S. Customs and Border Protection, DHS's Office of Inspector General, and Immigration and Customs Enforcement. Our efforts to combat corruption and maintain integrity within our ranks are critically important to CBP and to the public that we serve.

I would like to begin by recognizing the commitment, the bravery, vigilance, honor, and the character demonstrated by the overwhelming majority of CBP agents and officers who put their lives on the line every day to protect our Nation.

CBP has more than 60,000 employees, including over 47,000 uniformed agents and officers who carry out CBP's critical mission of securing our Nation's borders, while expediting lawful trade and travel. We recognize that public service is a public trust. That public service is a public trust is at the forefront of our interest.

At the center of CBP's core values is integrity, and it is of the utmost importance that all of our employees are guided by the highest ethical and moral principles. Tragically, embarrassingly, a small number within our ranks have disgraced, dishonored the proud men and women who serve honorably and with distinction each day to protect our Nation.

Although the number of CBP employees who have betrayed the trust of the American public and their peers is a fraction of one percent of our workforce, we continue to focus our efforts on rooting out this unacceptable and deplorable behavior. One act of corruption is one too many. It is unacceptable.

CBP prides itself on being a family. However, when one member of this family strays into criminality, he or she cannot go unchecked and without consequence. Our most valuable, and we recognize, sometimes vulnerable, resource has been and will continue to be our employees. They are key to our success in protecting this Nation. And it must be emphasized that no act of corruption within our agency can or will be tolerated.

Collaboration amongst us seated at the table here is key to combating corruption and other forms of serious misconduct. We rely on our partnerships with the Office of Inspector General, with ICE, with FBI to work towards this common goal.

In December of 2010, CBP and ICE executed a Memorandum of understanding that established protocols for agents with CBP's Office of Internal Affairs and ICE's Office of Professional Responsibility to collaborate in the investigation of CBP employee-related

misconduct and corruption. CBP and ICE are jointly working currently over 300 cases, many of which are a result of a transfer that Mr. Edwards just talked about, that came about as a result of our May 2012 agreement.

To date, ICE's Office of Professional Responsibility and CBP's Office of Internal Affairs have closed over 60 of these cases.

In August of 2011, CBP entered into a similar MOU with the DHS OIG and deployed 14 CBP internal affairs agents to OIG offices across the United States. This had never happened before. Today, CBP internal affairs agents are working side-by-side with DHS OIG agents on approximately 90 CBP employee-related investigations of alleged corruption and misconduct.

Collaboration with our DHS partners has greatly enhanced our effectiveness and has given CBP leadership unprecedented insight into the threat that potentially corrupt employees may pose to the homeland, giving us the opportunity to make adjustments, to look at our processes, and instill new workforce policies in order to avoid any kind of corruption.

Consistent with ICE and OIG efforts to pursue criminal investigations, CBP is also striving to more effectively use administrative authorities that rest within our capabilities 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. 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, our mission, and the responsibilities to the American public.

Chairman Platts, Ranking Member Towns, members of the Subcommittee, again, we thank you for the opportunity to testify today. Integrity is the great cornerstone of everything that we do at CBP on a daily basis in protecting this Nation. I look forward to addressing any questions that you might have of us.

[Prepared statement of Mr. Aguilar follows:]

U.S. Customs and Border Protection

STATEMENT

OF

DAVID V. AGUILAR
ACTING COMMISSIONER

U.S. CUSTOMS AND BORDER PROTECTION
DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON GOVERNMENT ORGANIZATION, EFFICIENCY AND FINANCIAL MANAGEMENT

Wednesday, August 1, 2012

Chairman Platts, Ranking Member Towns, and distinguished members of the Subcommittee, I am David Aguilar, Acting 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 prevent and detect corruption and misconduct in our workforce. I have no higher priority than ensuring that the employees of CBP conduct themselves with the highest standard of integrity as they carry out the critical mission of protecting and securing America's borders.

CBP has taken several proactive steps to reinforce the standards of conduct to which all of our employees must comply 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 of integrity and honor. We constantly strive to build on a culture where all our employees maintain the highest level of personal and professional integrity as public servants.

Background

As America's frontline border agency, CBP is responsible for securing America's borders against all threats while facilitating and expediting legal travel and trade. To do this, CBP deploys a multi-layered, risk-based approach that 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 that 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 47,000 law enforcement 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. For example, the U.S. Border Patrol more than doubled in size since March 2003 to a force today of more than 21,000 extraordinary men and women who 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.

I want to emphasize that the overwhelming majority of the men and women who constitute 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. 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.

Unfortunately, a small number within our ranks have disgraced and dishonored the proud men and women that serve honorably and with distinction day in and day out protecting this great nation. Since October 1, 2004, 141 CBP employees have been arrested or indicted for acts of corruption. Of the 141 arrests, 102 are considered mission compromising acts of corruption, which means the employee's illegal activities were for personal gain and violated, or facilitated the violation of, the laws CBP personnel are charged with enforcing. Examples of mission compromising corruption include such offenses as alien smuggling, allowing loads of narcotics through a port of entry or checkpoint, providing sensitive information to a drug trafficking organization, selling immigration documents, or circumventing CBP's detection systems. The remaining 39 CBP employees have been arrested or indicted for other corrupt acts that involve abuse of the knowledge, access, or authority granted by virtue of their official position. This

category includes offenses such as the theft of government property and use of confidential computer systems for purposes other than official business.

We take all allegations of corruption very seriously and are addressing the issue of corruption through a comprehensive integrity strategy that integrates prevention, detection and investigation capabilities to deter and rectify incidents of corruption and misconduct in the CBP workforce. While the number of corrupt individuals within our ranks who have betrayed the trust of the American public and their peers is a fraction of one percent of our workforce, we continue to focus our efforts on rooting out this unacceptable and deplorable behavior.

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 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 and pass a polygraph examination before being hired. The law further requires that CBP initiate all periodic personnel reinvestigations that were overdue for initiation and report to Congress bi-annually 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 a thorough 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 our capacity to polygraph all applicants for law enforcement positions before being hired consistent with the statutory requirements. Polygraph exams can be a valuable tool to screen law enforcement applicants, ensure workforce integrity, and where possible, for use with onboard employees on a voluntary or exculpatory basis.

CBP anticipates meeting the requirements of the Anti-Border Corruption Act, including implementation of 100 percent polygraph-testing of all new hires for CBP law enforcement positions by January 2013. Additionally, CBP initiated the backlog of periodic reinvestigations prior to December 31, 2010, has adjudicated virtually all of the backlogged periodic reinvestigations, and will remain current with initiation of periodic reinvestigations that will continue to come due in future years.

Integrity Initiatives

In 2006, as part of a comprehensive and persistent effort to enhance and promote a high level of ethics, integrity, and security CBP undertook numerous initiatives. 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 administrative and criminal misconduct, and who work collaboratively with DHS OIG and ICE OPR in support of investigations of corruption. IA is also engaged in a variety of proactive efforts including education, trend analysis, and behavioral research that are focused on the prevention and detection of employee misconduct, and the identification of individuals and organizations that may attempt to infiltrate and compromise the integrity of the CBP workforce.

CBP'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 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). The IPCC, designed and implemented by a retired two star Marine General - Michael Lehnert, is a forum involving CBP components and our law enforcement partners that allows each participating entity to openly discuss integrity related issues and ideas and to share best practices among the members. Best practices, suggestions, and numerous initiatives have been derived and implemented from this group of experts.

At the request of then-Commissioner Alan Bersin and the Integrity IPCC Chair, in June 2011, the Homeland Security Institute (HSI), a federally funded research and development center (FFRDC), commenced a review to evaluate existing integrity and counter-corruption programs within CBP, provide feedback on their effectiveness, identify areas of vulnerability, and identify and recommend best practices and strategies for improving or replacing existing programs. HSI conducted an extensive series of meetings and interviews with CBP personnel and outside agencies including the DHS OIG, U.S. Immigration and Customs Enforcement (ICE), Federal Bureau of Investigation (FBI), and others. In December 2011, the HSI team delivered its final report to CBP leadership, which included HSI's assessment of existing integrity operations and recommendations for areas of improvement.

In March 2012, based on the recommendations from the HSI report, I formally chartered the Integrity IPCC and related working groups to ensure and promote cross-agency coordination and successful implementation of CBP workforce integrity programs. The IPCC will serve as a single point of coordination to recommend best practices and strategies to synchronize integrity related efforts and/or initiatives to promote the agency's commitment to the highest standards of integrity. As a priority deliverable, I directed the Committee to propose actions to achieve the

recommendations outlined in the HSI report. The IPCC has identified a number of recommendations that have already been achieved or are almost achieved, such as the expansion of polygraph capabilities in order to ensure that all applicants for law enforcement positions are subject to polygraph examinations and the establishment of a Discipline Review Board (DRB) Assessment Working Group to determine whether greater efficiencies can be achieved in managing adverse actions. The IPCC continues to meet monthly to identify programs and/or initiatives to promote the agency's commitment to the highest level of integrity.

Integrity 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 important 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 concert with the agency-wide efforts to ensure the integrity of our workforce, the Office of Field Operations (OFO) has taken significant steps to utilize its resources to identify operational data to identify trends and patterns that may be indicative of integrity issues. 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 indicative of training, policy and potential corruption 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 to ensure the accuracy of system data. The Office of Border Patrol (OBP) also works in collaboration with AMSCO and IA to identify and mitigate any potential integrity 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 are 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.

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 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.

In the South Texas region, the CBP operational components have partnered with CBP IA to develop a multi-tiered anti-corruption strategy which addresses the challenges and threats specific to that area of operations. As a part of this strategy, the CBP South Texas Campaign has established an Integrity Workgroup to develop and make recommendations to the Unified Command on new initiatives and best practices to proactively combat infiltration and exploitation attempts by transnational criminal organizations. In addition to establishing the workgroup, the South Texas Campaign has produced a video illustrating the efforts used by TCOs to recruit and corrupt employees, which is presented to all CBP employees within the corridor. Additionally, CBP IA, in partnership with OFO and Border Patrol, has conducted outreach to over 400 CBP personnel in the highest threat areas within the South Texas region; this outreach is focused on providing greater awareness of recruitment, corruption, and bribery attempts by TCOs, and how to respond to and report these attempts.

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 highly experienced IA agents assigned to headquarters and 22 Internal Affairs field offices strategically located throughout the United States. CBP coordinates our internal investigative activities with the DHS Office of Inspector General (OIG), ICE's Office of Professional Responsibility (ICE OPR), the FBI, and numerous other federal, state, and local law enforcement authorities. Cross agency collaboration is absolutely critical to ensuring integrity in the CBP workforce. 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.

Cross agency collaboration was tremendously enhanced in December 2010, when CBP and ICE executed a Memorandum of Understanding (MOU) that established protocols for CBP IA and ICE OPR agents to collaborate and partner in CBP employee-related misconduct and corruption investigations. The collaboration and teamwork 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. Currently, CBP IA and ICE OPR are jointly working over 300 cases, many of which are a result of a transfer of case inventory from DHS OIG in May 2012 over to ICE OPR; to date ICE OPR and CBP IA have closed out 59 of these cases.

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 on approximately 90 CBP employee-related investigations of alleged corruption and misconduct.

Twenty-eight CBP IA agents participate on a full-time basis with the FBI and other agencies on 22 FBI-led Border or Public Corruption Task Forces (BCTFs) nationwide. To date, CBP IA is working approximately 121 cases jointly with the BCTFs.

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 actions as deemed appropriate by the employee's supervisory chain of command. Where a preponderance of evidence indicates that a CBP employee is engaged in corruption or serious misconduct, CBP leadership 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 and our mission and responsibilities to the American public.

Conclusion

Chairman Platts and Ranking Member Towns, integrity is central to CBP's identity and effectiveness as guardians of the Nation's borders. It is the cornerstone of our organization and for the individuals that honorably serve as agents, officers, and members of the CBP family. I thank you and the members of the Subcommittee for the opportunity to appear today and make clear our core values and strategic approach to preventing, detecting, and deterring corruption and misconduct in the CBP workforce. I will be pleased to answer any questions that you might have.

Mr. PLATTS. Thank you, Commissioner.
Mr. Ragsdale?

STATEMENT OF DANIEL H. RAGSDALE

Mr. RAGSDALE. Good morning. Thank you. Chairman Platts, Ranking Member Towns, and distinguished members of the Subcommittee, on behalf of Secretary Napolitano and Director Morton, thank you for the opportunity to appear today and discuss the ways in which ICE upholds DHS's standards for integrity and professionalism.

With more than 20,000 employees in 72 offices around the world, ICE is the second largest federal investigative agency. ICE promotes homeland security and public safety through criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration. While the vast number of ICE and DHS employees perform their law enforcement and other duties with honor every day, isolated acts of employee misconduct do sometimes occur.

As noted in my written testimony, ICE's Office of Professional Responsibility is a robust program with over 500 employees and 252 special agents trained to investigate border crime and misconduct offenses. ICE's Office of Professional Responsibility works closely with our partners in DHS and CBP to ensure that a vigorous process exists to ensure the integrity of our shared mission.

To build on the partnership between DHS IG, ICE, and CBP, two MOUs were executed to ensure close collaboration among the agencies. In December 2010, ICE and CBP entered into a Memorandum of understanding that assigned CBP internal affairs personnel to ICE OPR to assist in investigations of CBP employee criminal misconduct. In August 2011, the IG and CBP executed a similar memorandum of understanding. I can candidly say that we did not always have this level of collaboration. However, I am proud to report that the MOUs have reinforced ICE's commitment to providing complete and timely awareness in cases involving criminal misconduct by DHS employees.

One example of the collaboration with our partners was found in the investigation of former CBP officer Devon Samuels in Atlanta. This individual used his position of trust to bypass TSA security measures to smuggle drugs, money, and guns for a Jamaican drug trafficking organization. ICE partnered in this effort with CBP's internal affairs and the DHS IG and federal, local, and international private partners. The investigation led to 17 arrests and the seizure of 15 guns, a kilogram of cocaine, more than 300 pounds of marijuana, a quarter of a million units of ecstacy, and a quarter of a million dollars in U.S. currency. Samuels ended up being sentenced to eight years in jail.

Likewise, in an ICE–OPR-led case with support from the FBI, former ICE special agent Jovana Deas was criminally convicted for abusing her position of trust to share information from law enforcement databases with members of a drug trafficking organization. Following this ICE-led investigation, she was arrested, pled this February to a 21 count indictment, and resigned her position. She was recently sentenced to two and a half years in jail.

While not every case involves the kind of allegations I just described, we regard every example of employee misconduct as potentially undermining our critical mission, and we take every matter that comes to our attention seriously.

As you know, as part of our continuing commitment to effective law enforcement, in May 2012, the DHS IG transferred approximately 370 cases to ICE regarding criminal and administrative misconduct allegations. ICE and CBP promptly began working to determine the next investigative steps needed in each case. Since we received the cases, ICE has transferred 155 non-criminal cases to CBP for administrative action and returned 4 to the IG. 195 cases remain open with ICE OPR, with assistance from CBP IA.

Further, I am proud to note, as the commissioner said, our partnership with CBP has already been effective in closing over 60 cases. As we strive toward swift resolution of these cases, regardless of the outcome, we look forward to resolving the remaining cases as efficiently as possible.

We are heavily invested in addressing all issues of misconduct to ensure that ICE upholds public trust and conducts its mission with integrity and professionalism. I am proud of the honesty of the overwhelming majority of ICE employees and assure you that the rare cases of employee misconduct are dealt with swiftly and fairly.

Thank you again for the opportunity to address you today, and I welcome any questions you may have. Thank you.

[Prepared statement of Mr. Ragsdale follows:]

U.S. Immigration and Customs Enforcement

STATEMENT
OF

DANIEL H. RAGSDALE
ACTING DEPUTY DIRECTOR
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

IN A HEARING TITLED

"UNRESOLVED INTERNAL INVESTIGATIONS AT DHS:
OVERSIGHT OF INVESTIGATION MANAGEMENT
IN THE OFFICE OF THE DHS IG"

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON GOVERNMENT ORGANIZATION,
EFFICIENCY AND FINANCIAL MANAGEMENT

WEDNESDAY, AUGUST 1, 2012, 10:00 AM
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INTRODUCTION

Chairman Platts, Ranking Member Towns and distinguished Members of the Subcommittee:

On behalf of Secretary Napolitano and Director Morton, thank you for the opportunity to appear before you today to discuss the ways in which U.S. Immigration and Customs Enforcement (ICE) upholds the U.S. Department of Homeland Security's (DHS) standards for integrity and professionalism and how we collaborate with DHS's Office of Inspector General (OIG) and U.S. Customs and Border Protection (CBP) to investigate and bring to resolution allegations of misconduct.

ICE is the principal investigative agency with the largest team of criminal investigators in DHS. With more than 20,000 employees nationwide and in 47 countries, ICE promotes homeland security and public safety through the criminal and civil enforcement of federal laws governing border control, customs, trade and immigration. ICE's primary priorities are to prevent terrorism and enhance security; protect the borders against illicit trade, travel and finance; and protect the borders through smart and effective interior immigration enforcement.

The overwhelming majority of ICE employees demonstrate the highest levels of integrity and perform their duties with honor every day. However, as in any other large organization, isolated acts of employee misconduct do occur from time to time. ICE's Office of Professional Responsibility (OPR), working in close coordination with our partners in DHS OIG and CBP, helps to ensure that a robust process is in place for investigating allegations of employee misconduct, and ensuring the integrity of the DHS mission.

THE ICE OFFICE OF PROFESSIONAL RESPONSIBILITY

ICE OPR investigates allegations of criminal and administrative misconduct involving ICE and CBP employees. In addition, OPR contains an inspection branch that ensures ICE operates consistently with the high standards we promulgate to regulate our program offices and civil detention system. OPR is also responsible for the employee suitability and security clearance processes. This is accomplished by preparing comprehensive reports of investigation in a thorough and impartial manner for judicial or management action; conducting inspections and reviews of ICE offices and detention facilities to assess adherence to Departmental policies and applicable standards; and managing a layered security approach in order to protect ICE personnel, facilities and information from criminal and/or terrorist organizations.

Roles and Responsibilities

Since the creation of DHS, OPR has been delegated the authority to investigate allegations of criminal and administrative misconduct committed by employees of ICE and CBP. Although DHS policy requires ICE and all other component agencies to refer allegations of employee misconduct to the DHS OIG for review and potential acceptance for investigation, many are referred back to OPR for appropriate investigative action, including criminal investigation. OPR is staffed by a workforce of criminal investigators who have an expert knowledge of immigration and customs laws, regulations and procedures.

In December 2010, ICE and CBP entered into a Memorandum of Understanding (MOU) ensuring that the integrity of DHS employees remains critical to fulfilling the DHS mission. Pursuant to this MOU, ICE and CBP have established a program whereby CBP Office of Internal Affairs (CBP IA) investigators are assigned to OPR field offices to participate in investigating

allegations of CBP employee criminal misconduct, thereby enabling CBP management to make informed decisions when considering alternative administrative remedies. This collaboration was not always available prior to the MOU, and has reinforced ICE's commitment to providing CBP with complete and timely awareness and involvement in criminal investigations of CBP employees.

Composition of the Office of Professional Responsibility

OPR comprises three operational divisions that play a major role in maintaining the highest level of ethical standards: Investigations, Inspections, and Security. OPR has a current staff of 503 full-time equivalent employees, including 251 criminal investigators.

The Investigations Division conducts criminal and administrative employee misconduct investigations and has personnel in 26 field offices across the United States and Puerto Rico, including an investigative unit based at ICE headquarters in Washington, D.C. OPR field offices within the Investigations Division are responsible for investigating allegations of criminal and serious administrative misconduct; reporting investigative results to principal offices; conducting field-delivered integrity training to ICE employees; and providing integrity guidance to all offices within their areas of responsibility.

The Inspections Division evaluates and inspects ICE offices, programs and detention facilities to ensure compliance with agency regulations and policies and applicable detention standards. The Inspection Division reviews ICE offices, programs, and processes in order to provide executive management with an independent review of the agency's organizational health and assess the effectiveness and efficiency of the overall ICE mission.

The Security Division is responsible for the implementation of agency-wide security programs, including personnel, physical, information, operational and counterintelligence security.

The ICE and CBP Joint Intake Center (JIC) serves as the central clearinghouse for receiving, processing and assigning allegations of misconduct involving ICE and CBP employees and contractors. In Fiscal Year 2011, the JIC received 10,374 unconfirmed allegations of misconduct and other reportable information. While most of the allegations reported to the JIC are less serious in nature and are best addressed by referring the matter to ICE and CBP management for review and appropriate action, OPR, OIG, and CBP IA conduct investigations of criminal and serious administrative allegations. As a result of the allegations reported to the JIC in Fiscal Year 2011, OPR initiated over 1,030 criminal and administrative investigations, which led to the criminal arrests of 16 ICE and CBP employees and 70 civilians, 86 indictments and 55 convictions. OPR also completed 265 administrative investigations involving ICE employees. Some of the violations investigated included bribery, narcotics smuggling, theft of government money/property, wire fraud, and the trafficking of counterfeit goods. The civilian arrests consisted largely of persons impersonating DHS officers or agents and persons who attempted to bribe DHS personnel. These arrests reflect the commitment ICE personnel have to maintaining the highest levels of integrity, and can be attributed to continual integrity awareness education and training.

DHS OIG Transfer of Cases

As part of our continuing commitment to effective law enforcement, in May 2012, DHS OIG transferred 374 cases to ICE OPR regarding criminal and administrative employee

misconduct allegations involving ICE and CBP employees. The number of total cases to be reviewed has since increased to 415, as some of the transferred cases had multiple subjects, and have now been broken into separate cases. Pursuant to their MOU, ICE OPR "will partner" with CBP to investigate these cases.

Upon receipt of these cases, OPR and CBP collaborated on an extensive review to determine an appropriate course of action in the cases. Part of this review process involved analyzing cases in order to determine the likelihood of potential prosecution, and to identify and prioritize cases that touched on potential vulnerabilities to the agency. As of July 30, 2012, this review has resulted in 155 of the cases being transferred to CBP for administrative action. These cases primarily involved violations of agency policy, and did not warrant criminal investigation. In addition, 195 cases involving both ICE and CBP employees will be retained by OPR for investigation. This partnership has already been effective in closing 88 cases to date.

This transfer of cases from DHS OIG is a top priority for ICE and we are fully committed to utilizing all available resources. Because the majority of the cases are along the Southwest border, ICE is detailing 30 special agents for a temporary assignment to bring a resolution to these cases.

COMPREHENSIVE INTEGRITY STRATEGY

ICE has a comprehensive integrity strategy that integrates training, prevention, detection and investigation capabilities to deter and respond to misconduct in the ICE workforce. This strategy involves collaboration with other law enforcement entities, a vigorous comprehensive screening process for new hires and education and training of employees. OPR's investigative

strategy is a multi-layered approach utilizing the full capabilities of the three operational divisions previously mentioned.

Collaboration

OPR collaborates with numerous other federal, state and local law enforcement authorities in criminal misconduct investigations. This collaboration is critical to the mission of enhancing employee integrity.

One noteworthy example of this collaboration is the corruption investigation of former CBP Officer (CBPO) Devon Samuels in Atlanta, Georgia. CBPO Samuels utilized his position of trust with CBP to bypass Transportation Security Administration (TSA) security measures at the Hartsfield-Jackson Atlanta International Airport to smuggle narcotics, currency and firearms for a major Jamaican drug trafficking organization. This OPR-led investigation was conducted in close coordination with various federal, state, local and international law enforcement partners, including ICE's Homeland Security Investigations; the DHS OIG; CBP Internal Affairs; the U.S. Drug Enforcement Administration; the Federal Bureau of Investigation (FBI); the Internal Revenue Service; the Bureau of Alcohol, Tobacco, Firearms, and Explosives; the U.S. Marshals Service; TSA; the U.S. Attorney's Office for the Northern District of Georgia; the DeKalb County [Georgia] Police Department; the Jamaica Constabulary Force; and the corporate security department for Delta Air Lines. Through a coordinated effort, the investigation resulted in a total of 17 arrests, 18 indictments and the seizure of 15 firearms, 1 kilogram of cocaine, 314 pounds of marijuana, over 750,000 units of ecstasy and over $226,400 in U.S. currency. CBPO Samuels pled guilty to conspiracy to commit money laundering and trafficking in firearms and was sentenced to eight years' incarceration.

Another significant example of collaboration is the investigation of former ICE Special Agent (SA) Jovana Deas. Former SA Deas utilized her position of trust to access law enforcement databases illegally, and shared the accessed information with members of a drug trafficking organization which included members of her family. The investigation was conducted by OPR and the FBI under the auspices of the Southern Arizona Border Corruption Task Force. Former SA Deas was arrested and on February 1, 2012, pled guilty to a 21-count indictment for misuse of a government computer; false statements; conversion of public money, property or records; obstruction of agency proceedings; and conspiracy. SA Deas was sentenced to 2 ½ years' incarceration.

Comprehensive Screening Process for New Hires

ICE requires a vigorous screening process for new applicants. This includes pre-employment security checks, followed by full background investigations and periodic background investigations every five or ten years (depending on the sensitivity level of the position). OPR then administers a continuous evaluation program, a method of evaluating people after their initial investigation and adjudication. These evaluations depend on employees and supervisors to report misconduct as well as events that could potentially have a significant effect on an employee's personal finances, thereby potentially making them susceptible to committing acts of fraud.

Education and Training

Once a new employee begins working for ICE, we apply proactive training measures and oversight and management of employees at every level to ensure the integrity of the ICE

workforce. This professional development continues throughout the entire careers of all employees. ICE also developed a mandatory annual Integrity Awareness Program Training for all employees, which reinforces the standard that every employee is responsible for upholding the integrity of ICE. The course encompasses sections on integrity, professional conduct and reporting misconduct.

All new law enforcement agents and officers, as well as all new supervisors, receive integrity training at the ICE Academy. ICE OPR also conducts recurring integrity presentations to ICE programs which emphasize that actions and decisions by employees can often have implications that not only affect the individuals involved, but also DHS as a whole.

In addition, ICE OPR provides numerous information security-related training courses/briefings to the ICE workforce. The subject matter of the training programs include counter-intelligence awareness, operational security, foreign travel threats, security awareness and classified information protection. The ICE OPR-developed training is designed to provide the ICE workforce with information that will assist them in performing their duties effectively and in a safe manner. In addition to the training provided by ICE OPR, the ICE Ethics Office provides training and guidance to all ICE employees with respect to the Standards of Conduct for Employees of the Executive Branch and the federal conflicts of interest statutes. All new employees must complete the ICE Ethics Orientation for new employees within 90 days of coming on board. In addition, all required financial disclosure filers receive mandatory ethics training annually.

As noted earlier, ICE has offices in 47 countries, in addition to our domestic offices. For years, ICE OPR has provided anti-corruption outreach training to international law enforcement partners. The training program informs our strategic allies about procedures used by OPR to

combat corruption and other criminal misconduct. The program is coordinated through the ICE Office of International Affairs, the U.S. Department of State, and the World Customs Organization. In furthering its efforts to promote integrity in the foreign environment, ICE OPR provides pre-deployment integrity presentations for ICE employees departing for long-term foreign assignments, as well as mandatory on-site integrity training when conducting inspections of foreign offices.

CONCLUSION

ICE takes employee misconduct extremely seriously, and we are heavily invested in addressing these issues to ensure that ICE upholds the public trust and conducts its mission with integrity and professionalism. Thank you again for the opportunity to testify today, and I would now be pleased to answer any questions.

Mr. PLATTS. Thank you, Mr. Ragsdale.

I will yield myself five minutes for the purpose of questioning to kick things off.

General Edwards, I will start with you in the sense of just the overall big picture and the number of cases, as referenced in my testimony, the number of open cases that remain, now over 2,000 for several years.

In your written testimony, as well as here today, in talking about the demands on your workforce and a significant increase in the number of open cases in recent years, and there is a chart that shows the number of open cases kind of spiking up here; whereas, the number of closed cases is pretty level. Is it fair to say that one aspect of the number of open cases is related to the huge ramp up in border protection officers, customs, so we have many more personnel up there, and with more personnel comes greater risk, especially with the type of enemy that we are dealing with here, the drug cartels and terrorist organizations, what we are guarding against, that, first, the amount of increase in that workload is directly due to the increase in the size of these component entities?

Mr. EDWARDS. Thank you, Chairman. Let me start by saying that the vast majority of CBP employees are not having this corruption issue. Our border patrol has increased over 38 percent in the last several years and OIG has remained relatively flat. OIG is fully supportive of the President's budget; however, we have been asking for resources over the last several years.

As of July 15, we have 1,591 open cases. We have done a number of things internally, and also a number of things, based on Secretary Napolitano's leadership, both Director Morton and Commissioner Aguilar and myself met to force multiply and get more resources to address the cases. Out of the 1,591, there are 661 employee corruption and there is about, non-employees, 473; and a majority of them, 457 of them, are unnamed subjects.

We have done a number of things internally. One is when we have tried to vet this turnout the unnamed subjects to a potential lead and then we still kept holding on to it. What we have done now is when we cannot get any further with that, they close that. That was the 287 that we transferred to ICE on the second round. We have a holding it and trying to come up with some more information, but it is not getting us anywhere. So that was holding us.

The other thing is also, the way we categorize our cases, we have open and closed. When you look at the number of cases that are open, a lot of these cases, well over 70 percent of these cases are open less than two years. But what we found was, or what we are finding is that a number of these cases we have done the investigative work and we are waiting for the U.S. attorneys for some judicial action. So now we are have categorized our system to better capture that.

So these are some of the internal things we are doing, and also working with our partners, the commissioner and John Morton, we are able to force multiple and work the cases. So there is no backlog; we have this under control.

Mr. PLATTS. Let me come back to that, about the backlog. So internally you have requested additional funds for more investigation related personnel, but that has not been included, ultimately, in

the decision, what is submitted up here as far as the President's budget?

Mr. EDWARDS. Right. Every year since 2009 I have been requesting 50 investigators.

Mr. PLATTS. Yes. As far as not having a backlog, with over 1500 still open and, again, recognizing the limitation of your resources, there is only so many investigators you can assign to pursue these cases, what would constitute a backlog? If it is over 2,000 or at what point do you have a backlog that each of these cases—because I don't think, of the ones that are open, are all 1,500-plus actively being worked?

Mr. EDWARDS. Yes, sir.

Mr. PLATTS. So none are sitting, waiting for attention?

Mr. EDWARDS. No, sir.

Mr. PLATTS. Okay.

Mr. EDWARDS. What has happened, as you indicated earlier, out of the 2,061 open cases, our average caseload for an agent was well over 12 cases per agent. These are some of the most complex. If it is a FEMA disaster relief fraud case, an agent can hold up to 22 to 25 cases. But every one of these cases were worked, but it was just the volume of it was too much for them to handle. And then we were also holding on these unnamed subjects. So working this partnership, we were able to transfer some of these. But there has not been any case that has been in a backlog or pending or not being investigated.

Mr. PLATTS. Okay.

Mr. Ragsdale, of the 270 or 280 or so cases that were transferred back most recently that were the ones that were unnamed and ICE kind of ran the distance on them, couldn't find anything, transferred back, where do those stand now with ICE? Are they still being looked at to see if you can identify other leads or are they being closed out? What is the status?

Mr. RAGSDALE. Well, that is exactly right. We are obviously looking at every case to make sure that there is no investigative steps that are outstanding, but as the inspector general said, at least in the IG's view, those cases should be closed, so we will obviously do just a quick independent look to see if there is any logical next steps that could be gleaned from our vantage point and, if not, then they will be closed.

Mr. PLATTS. Quick final question. I am way over my time before I go to the Ranking Member. To all three of you, are you aware of any cases that because of the volume and the increase, without the increase in staffing to account for the increase in volume, that statute of limitation on a possible criminal charge has run because of just the inability to get all the way through that case in a timely fashion?

Mr. EDWARDS. No, sir. It is the agents' responsibility and the manager at the local office to make sure that they work with the U.S. Attorney's Office to make sure that the statute of limitations does not run out. If there is a potential for that to happen, we all, working with our components, we always start working the HR piece of it so the administrative action can take place. We haven't gotten anywhere where the statute of limitation has run out.

Mr. PLATTS. So when you talk about open cases with the U.S. Attorney's Office and kind of waiting, it is not to the point where you are waiting and, while you are waiting, a statute is running? You are tracking that so that, if you are getting close, it gets a higher attention, trying to make sure that charges are properly filed and the statute is told?

Mr. EDWARDS. Absolutely, sir. Another thing we have done internally with our case management system is an agent is supposed to submit a memorandum of activity when he meets with the U.S. Attorney's Office to get an update of the case, to see where it is. That information needs to be uploaded into our case management system and his or her immediate supervisor should also be approving that. We also have the ability at headquarters in DHS OIG now to randomly go and select, and we also have alerts in place so we are aware of this and make sure that we take active steps.

But also one point, sir, is while we are working, because many times the U.S. attorney would require us to get multiple transactions to prove an intent, but just in case the U.S. attorney does not accept it, we get the components involved early on so the HR piece of it can start so we are not waiting to the tail end to do that part of it.

Mr. PLATTS. Okay.

And Commissioner Aguilar, Mr. Ragsdale, as far as your knowledge of any cases where the statute has run, are you familiar with any?

Mr. RAGSDALE. From the ICE OPR perspective, we have not seen any cases where the statute of limitations has run in the criminal context. And as the IG said, the administrative context does not have an applicable statute of limitations, so, from our perspective, we have not seen any cases that have become stale because of the statute.

Mr. AGUILAR. My response would be the same. We count on the case management and our two partnerships.

Mr. PLATTS. Okay. Thank you.

I yield to the Ranking Member for the purpose of questions.

Mr. TOWNS. Thank you very much, Mr. Chairman.

Let me just ask all of you how have the MOUs improved the working relationship and information sharing between your organizations. Has it helped? Right down the line. Mr. Edwards? Right down. Yes.

Mr. EDWARDS. Thank you, sir. Absolutely. There is absolutely no turf battles between OIG, CBP, or ICE or the Bureau. Sitting up at the component head level, we have excellent working relationship. We need to put that in writing and make sure that the agents at the field office level work well together; we just have to have a process in place. And getting this MOU to work together, because if you look at it, it is a DHS problem and we have to address this together.

If you don't have the resources, you have to use the force multiplier. And having this MOU signed with CBP really has enabled CBP agents to work under our supervision, but also have given the commissioner meaningful information that he was looking for, because getting rid of an employee is not just the immediate solution. For example, if you have a weed, just pulling out the weed isn't

going to help; you need to get to the root of the problem. And working jointly with us and sharing that information with the commissioner has been very fruitful.

Mr. TOWNS. So duplication is not a problem?

Mr. EDWARDS. Well, there is no duplication, sir, because we are trying to avoid that. That is why we are working together, we are working the same case. There is well over 90 cases, as the commissioner talked about, that we are working together. They are not working independently or we are not working independently; we are working jointly together under our authority. So, one, the IG's independence is never sacrificed. We are transparent. At the same time, the commissioner gets meaningful information on where the cases are.

Mr. AGUILAR. Congressman, I would answer your question in the following manner. The current relationship that we have between our three organizations is unprecedented. The level of transparency, both on the quantity, the type of issues that we are facing, the cases that we are facing, and the qualitative efforts ongoing between us we have never seen before.

As to the duplicity duplication effort, because of the relationship that we have, it provides for de-confliction at the lowest level and at the earliest time in any one of these cases. So it gives me, it gives us in CBP an insight that we have never had before, gives us the ability to act as quickly as possible in support of removing any possibility of integrity lapses, ethical lapses and things of that nature. So I am very happy to report that we are at a level that is tremendous. I think all of us would agree that we have some challenges ahead of us, but with the processes in place, we have good processes in place to continue chipping away at the things that may challenge us in the future.

Mr. TOWNS. It is encouraging.

Yes?

Mr. RAGSDALE. And I would just add that what the MOUs do is balance very nicely some competing interests. If either the IG or ICE OPR has a criminal case open on an employee, we certainly want to balance the integrity of that investigation to make sure that it is secure in itself. Having said that, there has to be transparency to CBP and ICE managers to make sure that the extent that employee's ability to damage border security is limited. So we see a very nice balance in these MOUs that balance those competing interests.

And certainly from the ICE perspective, as we know that employee corruption does not exist in a vacuum, and as we look at transnational border crime, ICE homeland security investigations often has paralleled investigations that may in fact be an umbrella of a criminal strategy of which the employee misconduct was only one piece. So we are seeing a very good level of coordination among us, as well as sort of a very integrated strategy to make sure that the employee misconduct is not allowed to sort of damage border security.

Mr. TOWNS. Let me put this properly out. Have you evaluated overall trends or patterns of corruption that could lead to problems? Have you looked at that in any way, the overall pattern? I guess to you, Mr. Edwards. The overall pattern in terms of the

trends that have led to corruption that you could point to something specific.

Mr. EDWARDS. Well, if you look at the CBP or the border corruption, the drug cartels have the resources, the money, and they have the technology, and they want to infiltrate DHS employees. Not only just getting to one corrupt employee, and corrupting the employee could be for—the employee could be going through financial difficulties, gambling debts, or sexual infidelity, and the drug cartels know this, so they target this one employee.

So just by getting rid of that one employee is not a deterrent, because you need to make sure these law enforcement officers, there is a process in place, and if there is corruption, the penalty is you are going to be, hopefully, serving time. So just getting rid of the employee is not going to be helpful.

Also, like I indicated earlier, we need to get to the root of the problem and see what is causing that and get rid of that. So as we are looking at—but at the same time it is just a small percentage of the entire CBP workforce, so I don't want to say that the entire CBP is a problem; there is just a very small number, and these small numbers are getting influenced by the drug cartels.

Mr. TOWNS. Do you think any kind of special training would make a difference?

Mr. AGUILAR. Congressman, you have asked some very, very important questions here, and, if I might, and this goes to one of the questions that the Chairman asked. The successes that we have had in hardening the borders to the degree that we have and making them as safe as they are today, which, by the way, they are safer today than they have been in decades, has caused some of the situations that we are looking at. The Chairman's question as to the escalation, in my years of service, it used to be that what we used to worry about the most was the dopers, the alien smugglers, the coyotes basically walking around us, getting around us because there was just not enough of us in physical presence, in technological capability, investigators and things of that nature.

As a Country, we have ramped up our capability tremendously over the last eight, nine years, especially over the last two to three years. What that has caused now is because they can no longer go around us, below us, over us because we are in the water, we are in the air, we are actually have tunnel detection and thing of that nature, now they come at us, directly towards our employees, trying to corrupt us. So that is one of the reasons. So our success is part of the issue here, so we need to recognize that.

And then every time that we take a look for developing trends, we look at the stats, we look at the numbers, we look at activities and things of that nature. Some quick stats that we have looked at: of the 141 cases, the average time in service of the officers that have fallen by the wayside is about 9.2, 9.3 years in service. We took a look at the time frame of the so-called hiring surge, between 2006 and 2009; a total of 21 employees hired during that time surge are part of that 141. Very small compared to the over 9,000 border patrol that we hired. So we take a look at those trends all the time.

One of the most important things that we do, which goes to the latter part of your question, as to training or anything else that we

take a look at, is we now take a look and de-construct at every opportunity every one of these corruption cases, looking to whether it was a failure of the individual to go corrupt and, if so, was there a failure on the part of leadership on procedural processes that we need to take a look and make adjustments in order to tighten up a process, or is it an organizational process that we need to take a look at. So we are constantly looking for those trends and for ways to address it.

One of the things that we often do is focus on what I would call the obvious. When we take the actions that we take on investigating allegations, we need to do that and we need to do better and we need to do more. That is what I refer to as the reactive portion of our responsibility. Again, I reiterate, do better and do more, as we are doing today.

But more importantly to me, from an organizational standpoint, is taking a look at what we can do preemptively, what we can do proactively to constantly be persistent in trying to prevent integrity lapses or corruption situations, do more of the reactive and then do a heck of a lot more in the area of sustaining a culture that is just not accepting of any lapses in integrity and corruption.

Mr. TOWNS. Thank you very much. Thank you.

Mr. PLATTS. I thank the gentleman.

Mr. TOWNS. Mr. Ragsdale?

Mr. RAGSDALE. The only thing I would add is I think one of the things that we have seen is we look at border crime and sort of transnational criminal organizations. One of the reasons why we are particularly effective at locating what is, thankfully, a very small number of employees is the folks in ICE OPR come from homeland security investigations, where they are trained or ready to investigate border crimes.

So we see a technique here to exploit employees, as the commissioner said, because of the hardening and security that exists on the border now. So as we look at sort of drug trafficking organizations', nailing smuggling organizations' ability to move both contraband and people across the border, we see this as a technique and we see these robust misconduct investigations in the larger strategy to combat transnational crime.

Mr. TOWNS. Thank you.

Thank you, Mr. Chairman, for your generosity.

Mr. PLATTS. You are welcome.

I now yield to the distinguished gentleman from Texas, Mr. Farenthold.

Mr. FARENTHOLD. Thank you very much. I would like to first start and ask Mr. Edwards kind of a Texas based question, but it also has huge national implications. The DHS OIG is under grand jury investigation for falsifying documents out of the McAllen Office. Can you give us an update, understanding that there is obviously litigation involved, as to what is happening there and what has happened to the personnel in that office?

Mr. EDWARDS. There is a criminal investigation by the Department of Justice and I am not at liberty to comment on that, sir. I would be glad to come by and talk to you in a private setting.

Mr. FARENTHOLD. Can you tell us what has happened to the agents there? The Center for Investigative Reports has said, I

think, 11 of them are on administrative leave and others are being transferred. Can you tell me if that report is accurate?

Mr. EDWARDS. There are 8 people on administrative leave.

Mr. FARENTHOLD. Well, my concern is you have to be very worried when the watchdog organization is having some problems. Do we have an issue where there is such a pressure to get cases turned out that we are doing sloppy work or there is something encouraging employees to take shortcuts?

Mr. EDWARDS. Without getting into specifics of that investigation, sir, I want to point out that there is not an overload, there are not too many cases that an agent has to work. I have and we have put effective processes in place to ensure that the integrity of our cases are maintained. We have policies and procedures both from an agent perspective and also from a case management and a review process that there is integrity in the work that we do.

Mr. FARENTHOLD. Well, with the number of investigations going on, not just within your organization, but within the government in general, you see the length of time it is taking getting longer and longer, and in a lot of instances employees under investigation are on administrative leave, and we are basically paying them to sit at home. So obviously the delay is costing the taxpayers some money.

Can you talk a little bit about the decision-making process, about what the OIG determines they are going to investigate versus what they refer back to the various internal affairs or professional responsibility departments of other agencies? What are the guidelines there or the general principles that are in place?

Mr. EDWARDS. According to the IG Act and Homeland Security Act and our internal management directive, all employee corruption criminal investigation comes to the OIG and OIG opens these allegations and works these cases not by themselves; we work jointly with many of our partners. For instance, in the 1,591 cases I talked about that are open, we have about 18 cases we are working with the BCTF even though we haven't signed a MOU there; we are working with the FBI on 142 cases; and we are working on a number of cases internally with ICE OPR and with ICE HSI and with CBP IA. So we open the case and if there are cases that we are not going to work them, we transfer them over to ICE OPR. But we still have very strict and stringent internal controls and reporting process to report back to us.

Mr. FARENTHOLD. Now, does that leave you the resources? I always envision the way it should work is the Office of Inspector General is a big picture organization that is looking for waste, fraud, and abuse almost on an institutional basis, while the internal affairs is more towards an individual agent or officer. Do you have the resources to do investigations of the big picture? Is there enough resources for you or people in your office to be looking at the forest, instead of just focusing on the trees?

Mr. EDWARDS. Absolutely, sir. That is why we have taken a number of internal steps to better and streamline our processes internally, and also working with our partners within DHS, but at the same time looking at the big picture, that is what our audit function does; they look at systemic issues, they look at programmatic issues, and that is also what our inspections division does. So apart

from looking at a specific individual and allegation that an investigation looks, the overarching for audit function and there is not just at CBP or TSA or ICE, we look at DHS as a whole, and our audit function does a number of reports on that.

Mr. FARENTHOLD. Thank you very much. I see my time has expired.

Mr. PLATTS. I thank the gentleman.

I now recognize the distinguished gentleman from Virginia, Mr. Connolly.

Mr. CONNOLLY. I thank you.

Mr. Ragsdale, your title is Acting Deputy Director?

Mr. RAGSDALE. It is.

Mr. CONNOLLY. Why are you Acting?

Mr. RAGSDALE. I am a member of the Senior Executive Service. I am permanently in a different job at ICE, but I have been Acting since June, early June.

Mr. CONNOLLY. But why isn't there a permanent deputy director?

Mr. RAGSDALE. The last permanent deputy director just left the post and we are looking to see when the job will be filled permanently.

Mr. CONNOLLY. Mr. Aguilar, your title is Acting Commissioner.

Mr. AGUILAR. Yes, sir.

Mr. CONNOLLY. Why are you Acting?

Mr. AGUILAR. My answer is very simple, sir: the commissioner that was nominated was not confirmed.

Mr. CONNOLLY. By the U.S. Senate.

Mr. AGUILAR. By the U.S. Senate back in the December, and the Secretary asked me to step in; I did back in January.

Mr. CONNOLLY. And, Mr. Edwards, you are an Acting Inspector General. Why are you Acting?

Mr. EDWARDS. Well, having a permanent inspector general is desirable, but I can tell you, even as Acting, I have not taken this job as Acting for a day; I have ensured and made sure that I act very independent. The secretary, deputy and all of the component heads treat me as being very——

Mr. CONNOLLY. No, Mr. Edwards, absolutely true. By all accounts, all three of you have sterling reputations and are doing a great job in service to your Country and to the respective agencies. I am asking a different question, though. Why don't we have a permanent, an inspector general, as opposed to an acting inspector general?

Mr. EDWARDS. There is no nominee yet, sir.

Mr. CONNOLLY. There is no nominee. Had there been one?

Mr. EDWARDS. There was one, yes.

Mr. CONNOLLY. And what happened to that?

Mr. EDWARDS. The Senate did not confirm.

Mr. CONNOLLY. Senate did not confirm.

Mr. EDWARDS. Let me take back. The Senate had a confirmation hearing and they did not vote on it.

Mr. CONNOLLY. Did not vote on it. They must be very busy over there, that distracts them from their advise and consent role.

I just want to ask each of you to comment on the relationship you have with the intelligence sections of your respective agencies. How would you characterize the relationship between, for example,

DHS, Mr. Edwards, OIG investigators and the intelligence sections, various intelligence sections of DHS?

Mr. EDWARDS. Sir, I just want to go back. You asked me the question about the nominee. One last point I wanted to add to that question.

Mr. CONNOLLY. Sure.

Mr. EDWARDS. The nominee to the press reporting withdrew herself. That is the latest on that.

Mr. CONNOLLY. Sometimes, though, somebody—I mean, I can't judge the merits of the case, but a reasonable human being at some point is unwilling to put their life entirely on hold for months and months and months and years and years and years, and may very well decide to get on with their life and withdraw their nomination because it is just more than a mortal can bear.

Mr. EDWARDS. Answering your question about working with intelligence within DHS, I am also part of the intelligence IG form, so we do a number of inspections on the intelligence portion of DHS, but I am also among the 15 or so IC committee members, I am an active member of that as well.

Mr. CONNOLLY. But I guess I am asking a little different question, and I welcome Mr. Aguilar and Mr. Ragsdale to also comment on this. In theory, if I am doing highly classified intelligence work that needs to be carefully guarded in terms of what we are trying to do and the mission is very important, I may not want some pain in the neck IG staffer coming into my shop and mucking around and perhaps, like an elephant in a china shop, stepping on very fragile glass that we worked so carefully to protect or create or whatever, and my cooperation might just be culturally wanting, for reasons I think are good. Maybe you don't, but—I don't mean I, the congressman, but if I were in that situation, you could see how that mentality might develop. Is that a problem, in getting cooperation from intelligence sections in respective agencies? Mr. Ragsdale?

Mr. RAGSDALE. Well, from my perspective, we understand our obligation as a component to respond to the IG. Certainly, the IG, like ICE employees that have security clearances, in fact, make sure that those are appropriate at the appropriate levels to make sure the information flows freely. Again, the inspector general sits in a unique place in the department, and we have an obligation to respond. So I know of no problem in that regard.

If I may also just add to your first question. This job is not a political appointment; it is not a Senate confirmation job.

Mr. AGUILAR. To your question, sir, specific to intelligence, I think all of us recognize the importance of intelligence to any kind of enforcement work that we are responsible for carrying out. In Customs and Border Protection, we actually took the affirmative act of not only creating, when we created our office of intelligence, but we created our office of intelligence and investigative liaison because of that recognition. So our head of intelligence has basically, I am going to say, daily, ongoing contact with our investigative partners in order to ensure that any kind of intelligence that is gleaned either by us or by them is instituted in carrying forth our responsibilities, to include ethics, integrity, and corruption.

Mr. CONNOLLY. Just a final point. I am over my time, but, Mr. Edwards, would you concur it really hasn't been much of a problem, cooperation?

Mr. EDWARDS. Well, at the highest level the cooperation is there, at the best level. I don't want to sit here and say that it is a perfect marriage. That is why we have IGs. IGs will go and say they are there to help and, really, some people may not like that part of they are there to help. At the same time, if there are instances that there is not cooperation, we have a resolution and de-confliction process. So, overall, it has been working very well in my tenure at DHS OIG.

Mr. CONNOLLY. Thank you very much.

My time is up, Mr. Chairman. Thank you again for holding this hearing.

Mr. PLATTS. I thank the gentleman and thank him for his participation.

I am going to yield to myself again for a second round, a couple follow-up questions. One is initially, I guess, more of a comment.

Inspector General Edwards, you had stated earlier absolutely no turf battles today, and that is, I think, an important message to be heard today, which probably two years or so ago might have been very different, and that is an important part of this hearing; where are we, where have we come from, where are we heading, and that is, I think, critically important.

And then related to that, Commissioner Aguilar, you referenced, again, the positive interactions and MOUs and the cooperation and kind of more unprecedented understanding of cases that you have because of that cooperation. But you also said yet we have challenges ahead of us. What would you, and then if I could ask the other two as well, each of you to identify, what are the greatest challenges, as we go forward, to maintain and further enhance the cooperation that is ongoing so that, two years from now, we are not back to where we have department personnel, IG personnel saying, hey, there is no real relationship here, there is no cooperation, and that we don't revert back? So what are those challenges and how do we guard against going back?

Mr. AGUILAR. I think one of the challenges that we have at this point in time is making sure that we do everything that we can to institutionalize what we have now come to recognize the right way of doing business. I lived this two years ago, and two years ago it was not a good way of doing business. When the component heads got together, decided to move forward, we started making some strides immediately. The advancements that we have made have been tremendous.

There is a recognition on the part of us; more importantly, I think, there is a recognition on the part of our people on the ground, the boots on the ground that really do the work. So it is continuing the relationship; it is building the institutionalization of these processes to ensure that we do not step back, regardless who is sitting at these chairs five, ten years from now.

Mr. PLATTS. And before the others answer, in reference to Mr. Connolly's question, identifying all three of you as Acting, given the direction we are heading with all three of you as Acting, maybe we don't want permanent. Maybe Acting is good. Because we seem to

be heading in that right direction and that cooperation. The three of you aren't just here at the table today together, but are interacting on a regular basis, and your subordinates. And I think that is an important aspect, is putting in place the structure so, as you well stated, whoever will be in these seats in the coming years, if it is not you, that we still have the same level of cooperation.

General Edwards?

Mr. EDWARDS. I totally agree with what the commissioner said. Having these MOUs solidifies that. We have to continue in that direction; we cannot go back. But also within DHS we know it is inherently DHS's problem and we are trying to address it. My hope is that I need to have an MOU with the Bureau.

Mr. PLATTS. I am sorry, say that again, with the Bureau?

Mr. EDWARDS. Yes. I have been working for the last several months meeting with officials from FBI, and I am hopeful. We have agreement in the majority of areas, and as long as IG independence and transparency is attained, I am really, really hopeful that we will have a signed MOU that we all can work together jointly and get this, because it is a problem that we all need to address, and everybody's heart is in the right place and we just need to move forward.

Mr. PLATTS. Mr. Ragsdale?

Mr. RAGSDALE. I would just add, also, as the commissioner and the inspector general said, what we certainly want to see is a complete codification of sort of the business practice that has led to an appropriate level of workload at each of our various components at the front end. As we all staff the Joint Intake Center, or as we know it, the JIC, we want to make sure that at the earliest possible stage the cases are assigned out for early action.

From the ICE OPR perspective, we complete most cases, or at least for the year, about 80 percent in about six months, and we are actually doing a little better so far in fiscal year 2012. We want to make sure that we can continue to do that, and the way to do that is obviously to have sort of the cases separated as early as possible.

Mr. PLATTS. And that goes to, I guess, a follow-up about the challenges that none of the three of you referenced, and that is the caseload and that early identification. Is it safe to say, IG, that the roughly 600 or so, the two turn-backs combined, that going forward there is probably going to be an effort to better identify them up front or more quickly to go back, versus holding them and then turning them back at a latter date? Is that a fair statement about the approach?

Mr. EDWARDS. Absolutely. I mean, we have given more authority to the SACs in the field. For instance, if there is a SAC and they have 10 agents, and there is an average of about nine cases a person, and the more allegations that come in, rather than adding to the inventory, the SAC needs to make a quick, immediate judgment and assess it, and then look at the case details and transfer it over to ICE OPR. So, system-wise, we have put processes in place and also this cooperation that we are venturing towards and want this to happen. I think this is a good way of addressing the cases now and in the future.

Mr. PLATTS. With the caseload that has come back, the number of cases that have come back, certainly it has increased significantly the caseload that your entities are handling. Do you envision, at your level, making requests for additional staff investigators, as well as the IG has been making at the department level?

Mr. RAGSDALE. One of the things that does make ICE somewhat unique in this situation is because we have between 6,500 and 7,000 special agents in homeland security investigation, ICE OPR is able to, internally within ICE, get extra investigative support sort of internally. In sort of an era of sort of limited resources, we have to be very careful about sort of balancing requests for additional personnel, but we do have the luxury at least for what I would say a built-in surge capacity at ICE that will let us sort of deal with this both now and going forward.

Mr. PLATTS. Okay.

Mr. AGUILAR. In the case of CBP, Chairman, we have a total of about, as of this morning, 199 investigators assigned to these types of cases. At the present time, I think between both entities here, we have probably close to 50 officers; of those officers assigned to either one of these entities on either side of me. They serve as force enhancers to ICE and to IG. I believe that we could add some more to ICE and IG from within the ranks of the ones that we have now. So at the present time I think we are in good shape.

Mr. PLATTS. Okay. Thank you.

Inspector General Edwards, you talked about the 140-plus cases that you are currently working with the FBI, and then also about working to try to get an MOU with the Bureau. How would you describe that relationship, where it is today versus a year ago? You have been in your position about a year and a half, maybe from when you came in to where it is today, and where you are trying to get with that MOU?

Mr. EDWARDS. Right after I signed the MOU with Commissioner Burson, my next step was to work with the Bureau, so I met with officials there and talked to them about the IG independence and also having an agreement with them, because in March of 2010 we didn't sign the BCTF MOU because it didn't take into account IG independence. So I expressed my desire to work with them and they seemed very interested and willing to do as well. But as we have progressed over several months, there are key issues that they are working, and I am hopeful that we will get that resolved. I am hopeful before my tenure is up that an MOU is signed.

But at the same time, at the field level, the 142 cases, whether it is the Bureau, DEA, ATF, ICE, or CBP IA, at the field level the agents really work well together, because when you look down, there are only a few agents; they have to work together. The relationship is great. Even though we haven't signed the BCTF MOU, there are a number of places we are working cases together. It is just in the headquarters level we need to come to an agreement so we set a precedence in place that, going forward, we are going to work this way, have a signed MOU, and I am hopeful of that.

Mr. PLATTS. Okay. Thank you.

My colleague from Texas talked about the McAllen situation. I realize you can't go into the details there, but also how it relates at headquarters with the top two officials at the Office of Investiga-

tions being on leave as well. That is related to those ongoing investigations and the grand jury that is currently seated, is that correct? I think the approach of transparency as those investigations are concluded, then the more information you will be able to share, what did transpire at that specific center and then how the Department has responded to those allegations.

A specific question as the type of investigations, just so I have a better understanding, criminal versus administrative. Each of you or if one of you can appropriately explain what is the difference in level of misconduct and how, when we talk about in the testimony there is a lot about the number of investigations, this many that were criminal and being pursued, but this many that are administrative. Where is that dividing line between administrative wrongdoing and criminal?

Mr. EDWARDS. Well, let me start out, sir. When we get an allegation, either through our DHS OIG hotline or any sources through the JIC, the Joint Intake Center, when we look at an allegation, essentially if it is of administrative in nature and we are not going to work it—we call it box 1, box 2, and box 3—we will send it to the component level and ask them to work it administratively——

Mr. PLATTS. And what would constitute that type of case?

Mr. EDWARDS. Let's say somebody is cheating on a T&A, time and attendance. It is more of an administrative nature that the component needs to deal with. So they will have their internal affairs component look into that, work it. But if it is something of administrative in nature but it is at a higher level, the threshold is higher, than we will ask them to investigate it administratively and then report back to us what the closure, what the outcome was.

If it is criminal in nature, then we will take the case and then looking at the location where we are, suppose we are in south Texas and it is something to do with ICE HSI, then we will work jointly with them, because for that particular matter ICE Homeland Security is better equipped because they are the subject matter expert, so we will work with them jointly.

So a lot of these cases OIG is not working independently; they are working jointly with each one of the components or other law enforcement partners.

We also have—we need to notify the Bureau within 30 days, the OIG and the Bureau, according to the attorney general guidelines, when we open a case at the district that this case is being opened. So when we notify them, many times they will want to work with us, or they will get the lead and they will ask us if they want to work with us. So the relationship was not the best, but it is getting better, and I am hopeful that just like we are sitting here together and saying that we are working well, my hope is that the Bureau will be sitting with us and say we all are working well together.

Mr. PLATTS. Is it fair to say that line between administrative case being investigated and a criminal, it is a judgment call by your investigators that pilfering supplies may be handled administratively, but if it got to a point where they are embezzling not just supplies, but large amounts of equipment or something to get to a level that it would rise to a criminal? Is that a fair statement, that there is a subjective determination here?

Mr. EDWARDS. And based on our experience and cases in the past, there is a certain amount of judgment call one needs to make. Also, at the end of the day, is the U.S. attorney going to accept it?

Mr. RAGSDALE. I would add that is exactly right. If the investigation may not be, clearly on its face, either administrative or criminal, the special agent would take the case to the U.S. Attorney's Office for a charging decision, and recognizing that the Department of Justice, like every other agency, has limited resources, while the facts may sound both administratively or in a criminal violation, the resolution just based on sort of the gravity of them may sort of favor one or the other.

Mr. PLATTS. And my follow-up, there is probably a good number of cases that maybe could be pursued criminally, but they are at a level where that is not going to happen, but you still do pursue them with administrative punishment or repercussions internally?

Mr. RAGSDALE. That is exactly right. Just like there is a range of sort of ability to investigate and sort of prosecute the conduct, it could either be through, again, a criminal prosecution or an administrative resolution that could lead to firing or a suspension.

Mr. PLATTS. Okay.

Mr. TOWNS. No further questions, Mr. Chairman, but I want to thank them because it is very encouraging to know that they are working together, because I think in government, as you know, a lot of times we waste resources because we just don't have a working relationship; we don't talk to each other. So sometimes we are involved in duplication and, of course, you seem to have been able to sort of work that through and work it out.

And sometimes you have agencies that they don't want to share and they just want to do whatever they are doing and don't want anybody to—and a lot of times they are not even in the best position to even follow through or to carry it out. To come this morning and to hear you are working together and that your Memorandum of Understanding is something that all of you respect, I want you to know that I am really encouraged by that.

However, when I look at the fact that 220,000 employees and only 219 investigators, I think I get a little nervous when I look at that. I understand you said that you support the budget, but sometimes we support when it is not really the proper thing to do.

But I think that is something that needs to be talked about, Mr. Chairman, and to see whether or not that is adequate for the 220,000, only to have 219 investigators. That seems to me to be inadequate. But here again I think it is something that needs to be explored and looked at further.

I understand your position, Mr. Edwards. It is very clear to me that you support the budget. I understand that. I do understand it, but sometimes we have to go beyond that.

So thank you, Mr. Chairman.

Mr. PLATTS. I thank the gentleman.

I will wrap up with one, again, thanks to each of you for your testimony here today, your written testimony, but, most importantly, day in and day out your leadership of your respective components and the importance of what you are doing in a broad sense and as you are focused on that more rare bad apple, and not just

holding them accountable, but also because of the importance of what your department and component agency missions are.

So when that individual who is, unfortunately, corrupt is letting products come through that shouldn't, and they may think it is less of a threat, but it might be weapons; if it is persons, it might be terrorists, not what they think, just somebody, an illegal alien, but it may be an enemy of our Nation. So all the more what you are doing is critically important.

And, Mr. Towns, just well captured the message that you conveyed in our interactions, both staff and members, prior to the hearing and today, is, I think, a very important message and, most importantly, a most important direction that you are following, and that is let turf battles be on the football turf or the soccer turf, not in public service or government, and to truly work hand in hand with each other; and that is clearly what you are seeking to do. As the commissioner said, that doesn't mean there aren't challenges yet to institutionalize this approach so it is pervasive and continuous. That is something we all up here, we certainly know the challenge of working to improve our cooperation.

But I commend you for the approach you are taking and very much thank you for your dedication to our Nation and our citizens.

We will keep the record open for seven days for any other materials. This hearing stands adjourned.

[Whereupon, at 11:32 a.m., the subcommittee was adjourned.]

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