

**DEPARTMENT OF HOMELAND SECURITY: AN
EXAMINATION OF ETHICAL STANDARDS**

HEARING

BEFORE THE

**SUBCOMMITTEE ON OVERSIGHT,
INVESTIGATIONS, AND MANAGEMENT**

OF THE

**COMMITTEE ON HOMELAND SECURITY
HOUSE OF REPRESENTATIVES**

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DEPARTMENT OF HOMELAND SECURITY: AN EXAMINATION OF ETHICAL STANDARDS

Thursday, May 17, 2012

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS, AND
MANAGEMENT,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC.

The subcommittee met, pursuant to call, at 9:34 a.m., in Room 311, Cannon House Office Building, Hon. Michael T. McCaul [Chairman of the subcommittee] presiding.

Present: Representatives McCaul, Marino, Keating, and Clarke.
Mr. MCCAUL. The committee will come to order.

The purpose of this hearing is to examine the ethical policies, conduct, and alleged criminal activities within the Department of Homeland Security.

I now recognize myself for an opening statement.

May 6 through the 12 was Public Recognition Week. We set aside time each year to honor our public servants who keep us safe, care for our veterans, control our borders, and find cures for rare diseases. They make our country stronger and make a difference in the world.

Most of our employees understand that public service is a public trust. Each one has a responsibility to the United States Government and the citizens they all serve to place loyalty to the Constitution, laws, and ethical principles above private gain. Most public servants adhere to this trust.

However, the Pew Research Center interviewed more than 3,000 adults about their views of our Government. Fifty-four percent said the Federal Government is mostly corrupt while 31 percent said mostly honest and 11 percent said they don't know either.

The survey also showed just a third of Americans has a favorable opinion of the Federal Government: The lowest positive rating in its 15 years.

A measure of dissatisfaction these days is to be expected. The country is in economic trouble and our leaders promise things they cannot deliver. What compounds this dissatisfaction are Government scandals.

There have been many reports of Federal employees wasting taxpayer dollars and in some cases, committing crimes which erodes the trust American people put in our Government.

The General Services Administration employees spent over \$800,000 on a conference in Las Vegas. The Department of Home-

land Security spent nearly \$1 billion on the Secure Border Initiative Network with little return on this investment.

We have also found criminal activity within our bureaucracies. Custom and Border Protection personnel collaborating with drug smugglers, cartels, Immigration and Custom Enforcement personnel filing fraudulent travel claims, and TSA personnel stealing personal belongings of passengers.

Since 2004 over 130 agents of the United States Custom and Border Protection have been arrested, charged, or otherwise prosecuted on corruption charges. Allegations and convictions include alien and drug smuggling, money laundering, and conspiracy. The DHS acting inspector general, Mr. Charles Edwards states that Mexican drug cartels attempt to corrupt DHS employees and this impacts our National security. The inspector general also reports that since 2004 there has been a 38 percent increase in the number of complaints against CPB employees.

As recently as February 2012 an ICE agent pled guilty to 21 counts of obstruction and corruption violations. These charges include illegally obtaining and disseminating Government documents to individuals with ties to drug trafficking organizations.

There have also been allegations of convictions of ICE agents accepting thousands of dollars of bribes from immigrants seeking U.S. documentation. A former intelligence chief for U.S. Immigration and Customs Enforcement is accused of embezzling more than \$180,000 stemming from a travel voucher fraud, a kickback scheme that defrauded the Government of more than \$500,000. Four other ICE employees pled guilty to involvement in a scheme to defraud the Government.

In the past year alone there have been numerous incidents of alleged misconduct on the part of TSA officers and employees. Thousands of dollars in cash and items have been reported stolen. Dozens of TSA officers were fired over improper luggage screening because they had allowed thousands of pieces of luggage onto flights without proper screening.

TSA officers have allegedly taken bribes, allowing passengers expedited security checks. A number of additional allegations range from racially-charged statements and actions to inappropriate sexual harassment. A recent 22-count indictment alleges TSA employees took payments to provide drug couriers unfettered access through Los Angeles International Airport so that drugs could be smuggled into the United States.

Executive branch employees are subject to Executive Orders issued by the President and ethics regulations issued by the U.S. Office of Government Ethics. Some agencies also have issued supplemental ethics regulations that apply to their employees. Even though there are stacks of Government manuals, training materials, and yearly briefings about ethics, these lapses continue. They not only waste taxpayer dollars, they are a threat to the security of our Nation.

While the majority of bureaucratic personnel are law-abiding, this hearing will examine the ethical policies and procedures of selected components of the Department of Homeland Security in an attempt to understand why these ethical lapses continue and what is to be done to prevent them from happening in the future.

One final note; it is unfortunate the Department of Homeland Security in the face of such serious ethical mishaps refuses to provide witnesses from leadership to discuss these matters in the open before the American people. We requested the leadership from CBP, ICE, and TSA. However, only CBP recognized the importance of these issues.

With that, I now recognize the Ranking Member of the subcommittee.

[The statement of Chairman McCaul follows:]

STATEMENT OF CHAIRMAN MICHAEL T. MCCAUL

MAY 17, 2012

May 6–12 was Public Recognition Week. We set aside time each year to honor our public servants who keep us safe, care for our veterans, patrol our borders, and find cures for rare diseases.

They make our country stronger and make a difference in the world.

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Each one has a responsibility to the United States Government and the citizens they all serve to place loyalty to the Constitution, laws, and ethical principles above private gain. And most public servants adhere to this trust.

However, the Pew Research Center interviewed more than 3,000 adults about their views of our Government. Fifty-four percent said the Federal Government is “mostly corrupt,” while 31 percent said “mostly honest,” and 11 percent said they did not know, or neither. The survey also showed just a third of Americans has a favorable opinion of the Federal Government, the lowest positive rating in 15 years.

A measure of dissatisfaction, these days, is to be expected. The country is in economic trouble and our leaders promise things they cannot deliver. What compounds this dissatisfaction are Government scandals.

There have been many reports of Federal employees wasting taxpayer dollars, and in some cases committing crimes, which erodes the trust American people have in our Government.

The General Services Administration employees spent over \$800,000 on a conference in Las Vegas. The Department of Homeland security spent nearly \$1 billion on the Secure Border Initiative Network with little return on investment.

We have also found criminal activity in our bureaucracies; Customs and Border Protection (CBP) personnel collaborating with drug smugglers, Immigration and Customs Enforcement (ICE) personnel filing fraudulent travel claims and Transportation Security Administration (TSA) personnel stealing personal belongings of passengers.

Since 2004, over 130 agents of the U.S. Customs and Border Protection have been arrested, charged, or otherwise prosecuted on corruption charges. Allegations and convictions include alien and drug smuggling, money laundering, and conspiracy. The DHS Acting Inspector General, Dr. Charles Edwards, states Mexican drug cartels attempt to corrupt DHS employees and this impacts National security.

The IG also reports that since 2004 there has been a 38% increase in the number of complaints against CBP employees.

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Four other ICE employees pleaded guilty to involvement in the scheme to defraud the Government.

In the past year alone, there have been numerous incidents of alleged misconduct on the part of TSA Officers and employees. Thousands of dollars in cash and items have been reported stolen.

Dozens of TSA Officers were fired over improper luggage screening because they allowed thousands of pieces of luggage onto flights without proper screening. TSA Officers have allegedly taken bribes allowing passengers expedited security checks.

A number of additional allegations range from racially charged statements and actions to inappropriate sexual harassment.

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While the majority of bureaucratic personnel are law-abiding, this hearing will examine the ethical policies and procedures of selected components of the Department of Homeland Security and attempt to understand why these ethical lapses continue, and what is being done to prevent them from happening.

One final note; it is unfortunate the Department of Homeland Security, in the face of such serious ethical mishaps, refuses to provide witnesses from leadership to discuss these matters in the open before the American public. We requested the leadership from CBP, ICE, and TSA. However, only CBP recognized the importance of these issues.

Mr. KEATING. Thank you, Mr. Chairman. I want to thank you for holding today's hearing examining the ethical standards at the Department of Homeland Security.

In the beginning I would like to point out there were over 220,000 Department of Homeland Security employees who work every day to secure our homeland from dangerous threats and natural disasters. So, before I begin, I would like to thank them for their service.

Unfortunately there are some among them that use their position of public trust for their own personal gain. In doing so they put the very Nation they were sworn to protect in harm's way.

Since October 2004, 137 U.S. Customs and Border Protection, CBP, employees have been indicted or convicted of corruption-related charges. Many coming in recent years as the Border Patrol doubled in size. During fiscal years 2010 and 2011 there were at least 33 incidents of corruption or mission-compromising corruption at CBP.

Furthermore, the U.S. Immigration and Customs Enforcement, ICE, Office of Professional Responsibility Investigations, they have had investigations and allegations of misconduct occurring at both CBP and ICE. The number of allegations pursued by that office is staggering.

In 2012 alone, and this is only May, there have been a total of 101 corruption allegations involving ICE employees, and 362 from CBP. At the Transportation and Security Administration in 2011 there were three allegations involving corruption, 33 involving security and intelligence violations, and 210 alleged general misconducts.

Although these allegations have not been proven, they are a testament to the fact that eliminating public corruption in the Department of Homeland Security is in dire need of improvement. I am therefore pleased that representatives from TSA, CBP, and ICE are testifying this morning, and look forward to hearing from them regarding the steps that they are taking to remedy this situation.

Of course there are other incidents of corruption that we can point to. But what sets the situations at ICE, CBP, and TSA apart is the risk to National security. That is inherent in the public trust violations on the border and at our Nation's airports.

I am troubled by allegations of turf battles within the Department and disagreements on who should be in charge. Recent efforts have been implemented to improve working relationships among DHS, OIG, CBP, Internal Affairs—in addition to CBP Internal Affairs—and ICE Office of Professional Responsibilities.

I hope that new memoranda of understanding will truly cause each agency to understand the delayed investigations as a result of internal disputes will not only undermine efforts, they will also perpetuate this kind of misconduct. Again I look forward to hearing from the witnesses and I thank them for their participation in this important hearing.

I yield back.

[The statement of Ranking Member Keating follows:]

STATEMENT OF RANKING MEMBER WILLIAM KEATING

MAY 17, 2012

There are over 220,000 Department of Homeland Security employees who work every day to secure our homeland from dangerous threats and natural disasters. I would like to thank them for their service.

Unfortunately, there are some among them that use their position of public trust for their own personal gain. In doing so they put the very Nation they were sworn to protect in harm's way.

Since October 2004, 137 U.S. Customs and Border Protection (CBP) employees have been indicted on or convicted of corruption-related charges—many coming in recent years as the Border Patrol doubled in size.

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Although these allegations have not been proven, they are a testament to the fact that eliminating public corruption at the Department of Homeland Security is in dire need of improvement.

I am therefore pleased that representatives from TSA, CBP, and ICE are testifying this morning and look forward to hearing from them regarding steps that are being taken to remedy this situation.

However, ICE, CBP and TSA are not unique in that serious allegations of public trust violations occur Department-wide.

Likewise, DHS is not unique in that each and every Executive branch agency faces similar challenges and always have.

However, what sets these situations apart is the risk to National security that is inherent in public trust violations on the border and at our Nation's airports.

I am troubled by allegations of turf battles within the Department and disagreements on who should be in charge.

Recent efforts have been implemented to improve working relations among the DHS OIG and CBP Internal Affairs in addition to CBP Internal Affairs and ICE Office of Professional Responsibility.

I hope that new Memoranda of Understanding will truly cause each agency to understand that delayed investigations as a result of internal disputes will only undermine efforts and perpetuate misconduct.

Again, I look forward to hearing from the witnesses and thank them for their participation in today's hearing.

Mr. McCAUL. Thank the Ranking Member. Other Members of the subcommittee are reminded opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

Today's hearing will focus on the ethical standards in place at the Department of Homeland Security and allegations regarding employee misconduct at the U.S. Customs and Border Protection, Immigrations and Customs Enforcement, and the Transportation Security Administration. I would like to say at the outset that these three agencies form the backbone of our homeland security enterprise.

Everyday CBP employees work tirelessly to secure our land and maritime borders at and between ports of entry. At ICE—the second-largest Federal law enforcement agency—over 20,000 employees enforce Federal laws governing border control, customs, trade, and immigration. And everyday almost 2 million travelers at 450 airports across the United States depend on TSA employees to implement our multi-layered approach to aviation security.

While we discuss the small percentage that represents the bad apples in the barrel, I want to first acknowledge those that perform their mission with integrity and thank them for a job well done. However, as the saying goes, a chain is only as strong as its weakest link. It is imperative that the Department take seriously each and every allegation of employee misconduct.

Department of Homeland Security employees come into contact with sensitive, sometimes classified, information and, in many instances, are National security interests literally lie in the palms of their hands. As a result, corruption or ethical misconduct occurring at the Department can have far greater National security implications than misconduct occurring at other Federal agencies. Therefore, the Department must have robust internal policies, standards, and procedures in place that address head-on employee corruption.

The DHS Office of Inspector General is independent and has the primary authority within the Department for investigating allegations of criminal misconduct among Department employees. Yet, the OIG's budget declined in fiscal year 2011 and only received a slight increase in fiscal year 2012. Moreover, it is woefully understaffed given the size and magnitude of the Department's mission.

To put this in perspective, the Department of Homeland Security has over 220,000 employees. The Department of Health and Human Services has 65,000 employees, approximately one-third of the Department's workforce. Yet, the Department's OIG budget was less than half of the HHS OIG budget in fiscal year 2010 and 2011. The HHS OIG had a fiscal year 2010 budget of \$312 million and a fiscal year 2011 budget of \$342 million. In comparison, the Department's OIG budget was \$151 million in fiscal year 2010 and \$150 million in fiscal year 2011.

In light of the OIG being understaffed and underfunded, it comes as no surprise that there exists a backlog of cases needing further attention. Moreover, I am concerned about whether the numerous agencies responsible for investigating employee misconduct at the component level operate in a cooperative manner with the DHS OIG and with each other. Hopefully, the witnesses can shed light on this today.

Mr. MCCAUL. We are pleased to have a very distinguished panel of witnesses before us here today on this very important topic.

First, Mr. Charles Edwards is acting inspector general of the Department of Homeland Security. He is a frequent guest here before this subcommittee. He assumed this position in February 2011, served as deputy inspector general of the Department of Homeland Security, has over 20 years of experience in the Federal Government.

Next we have Mr. Thomas Winkowski who is the acting deputy commissioner of the U.S. Customs and Border Protection. In this capacity Mr. Winkowski serves as chief operating officer overseeing the daily operations of CBP's 60,000 employees, and manages an operation—operating budget of \$11.5 billion. He began work with the U.S. Customs Service in 1975 as a student. We thank you for your service, Mr. Winkowski.

Next we have Mr. James Duncan who was appointed as assistant administrator of TSA's Office of Professional Responsibility in 2011. Mr. Duncan has more than 16 years of experience supervising and handling employee misconduct cases at OPR in the Department of Justice, my alma mater as well.

Next Mr. Tim Moynihan is assistant director at the Office of Professional Responsibility at the U.S. Immigration and Customs Enforcement. He has more than 23 years of experience working for the U.S. Government, has been in his current position since 2009 where he focuses on workforce integrity, personnel screening, inspections, and security management.

I want to thank all of you for being here today. With that the Chairman now recognizes Mr. Edwards for his testimony.

**STATEMENT OF CHARLES K. EDWARDS, ACTING INSPECTOR
GENERAL, DEPARTMENT OF HOMELAND SECURITY**

Mr. EDWARDS. Good morning, Chairman McCaul, Ranking Member Keating, and distinguished Members of the subcommittee. Thank you for inviting me to testify today about ethical standards within the Department of Homeland Security.

The vast majority of employees within DHS are dedicated civil servants focused on protecting the Nation. While a small percentage of employees have committed criminal acts and other gross misconduct, those few should not be used to draw conclusions about the character, integrity, or work ethic of the many.

Over the past year DHS employees continue to demonstrate this ethic of service from responding to 99 Federally-declared disasters to unprecedented efforts to secure America's borders, and to advances in protecting the Nation's transportation networks and critical infrastructure, while those who violate their sworn duties, a few, even one corrupt agent or officer who allows harmful goods or people to enter the country puts the Nation at risk.

Corruption within the ranks of DHS can have severe consequences. A corrupt DHS employee may accept a bribe for allowing what appear to be undocumented aliens into the United States, while unwittingly helping terrorists enter the country. Likewise, taking a bribe to allow the entry of what appears to be drug contraband could expose the Nation to weapons of mass destruction such as chemical or biological bombs.

OIG has made investigating employee corruption a top priority. Both the personnel and organizational independence of OIG investigators, free to carry out their work without interference by agency officials, is essential to maintaining the public trust in not only the work of the OIG, but also in the DHS's workforce as a whole.

The OIG investigates all allegations of corruption involving DHS employees or compromise of systems related to the security of our borders and transportation networks. For example, OIG received information about that a CBP officer was using his position at a large, urban airport to support an international drug trafficking organization. OIG joined a multi-agency investigation led by ICE OPR, which led to the dismantling of the entire drug trafficking organization and the arrest of multiple offenders, including the CBP officer.

On at least 19 separate occasions the CBP officer had bypassed airport security using his own badge to smuggle money and weapons for the drug traffickers. In December 2010 he was convicted and sentenced to 8 years in prison.

In another case, OIG conducted an investigation into allegation of theft involving a transportation security officer at the Orlando

International Airport. The TSO had stolen more than 80 laptop computers, cellphones, and iPods, estimated at \$80,000, from passenger luggage over the 3-year period from 2008 to 2011.

TSA terminated his employment in March 2011. In August 2011, the TSO plead guilty to Federal charges of embezzlement and theft in connection with the investigation. In January 2012, was sentenced to 24 months of probation. On May 1, 2012, the former acting director of intelligence of ICE plead guilty to defrauding the Government of more than \$180,000 in a 3-year scheme involving fraudulent travel vouchers and time and attendance claims. Sentencing is scheduled for July 2012.

He faces a likely prison sentence of 18 to 27 months. Three other ICE employees and a contractor employee previously plead guilty to charges related to the scheme, which cost ICE more than \$600,000. These examples of intolerable behavior by a very small number of DHS employees, each represent a threat to our Nation's security and the public's perception of DHS and its mission. DHS employees are held to the highest standards of professional conduct and OIG is committed to aggressively pursuing those who violate DHS standards.

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

[The statement of Mr. Edwards follows:]

PREPARED STATEMENT OF CHARLES K. EDWARDS

MAY 17, 2012

Good morning Chairman McCaul, Ranking Member Keating, 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 ethical standards within the Department.

First, let me state clearly that the vast majority of employees within DHS are dedicated civil servants focused on protecting the Nation. While a small percentage of employees have committed criminal acts and other egregious misconduct warranting stiff sanctions, including incarceration and removal from Federal employment, those few should not be used to draw conclusions about the character, integrity, or work ethic of the many. Over the past year, DHS employees continued to demonstrate this ethic of service—from a historic response to 99 Federally-declared disasters, to unprecedented efforts to secure America's borders, to advances in protecting the Nation's transportation networks and critical infrastructure. These accomplishments would not be possible without workforce commitment and sacrifice, including long hours and time away from families, frequently in demanding work environments. I am personally grateful for the hard work and commitment to mission demonstrated daily by the DHS workforce.

SCOPE OF CORRUPTION ISSUE

As I have testified previously, 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. As the United States has enhanced border security with successful technologies and increased staffing to disrupt smuggling routes and networks, drug trafficking organizations have become not only more violent and dangerous, but more clever as well. The drug trafficking organizations have turned to recruiting and corrupting DHS employees. The obvious targets of corruption are Border Patrol agents and Customs and Border Protection (CBP) officers who can facilitate and aid in smuggling; 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 the Office of Inspector General (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. A corrupt DHS employee may accept a bribe for allowing what appears to be simply undocumented aliens into the United States 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 material. 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 organizations with unlimited money. Drug trafficking organizations 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. 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 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 and abuse in agency programs and activities; conducting investigations and audits; 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 programs and activities overseen, providing powers of investigation and subpoena, and mandating reporting not just to the agency head but 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 by 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 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.

For statistical and reporting purposes, the OIG classifies its investigative cases into four categories:

(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.

The IG Act and the Homeland Security Act of 2002, as amended, 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 non-criminal allegations against CBP employees referred to it by ICE OPR.

Component internal affairs units, such as CBP IA, have a crucial complementary role to OIG’s criminal investigative function. For example, 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 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 telephone, facsimile, electronic mail, or paper correspondence. 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 executive management with insight into the nature and volume of allegations made against employees as well as the results of investigations.

In addition to working closely with internal affairs elements within DHS, we also work 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 United States. 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, we work very closely with HSI and ICE OPR on many CBP employee corruption cases.

DHS OIG RECENT CASE TRANSFER

It is the OIG Office of Investigations’ policy to open all allegations of corruption of DHS employees or compromise of systems related to the security of our borders

and transportation networks. OIG 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.

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 over 225,000 strong, including Coast Guard military personnel. In fiscal year 2010, the OIG Office of Investigations increased by 10 authorized positions to address allegations of criminal wrongdoing across the entire DHS workforce. The Border Patrol alone increased to more than 20,700 agents in fiscal year 2010, double its size from 2004. With the increasing DHS workforce, by fiscal year 2011, the OIG Office of Investigations saw a 38% increase from fiscal year 2004 in complaints against just CBP employees. 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 agreement executed between DHS OIG and CBP in August 2011. The average per agent caseload is 12, while OIG's goal is an average caseload of 8.

Last month, 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 will be investigated by ICE OPR which will work with investigators from CBP IA and HSI. This effort is part of OIG's effort to leverage all investigatory resources to ensure that corruption allegations are swiftly investigated. The actual transfer of case material will be done at the field office level and is expected to be completed no later than June 1, 2012.

Because DHS OIG continues to have oversight of the component internal affairs elements, such as ICE OPR, OIG is requiring periodic reports from ICE OPR on the status of the transferred investigations until each investigation has been resolved or closed.

DHS OIG INVESTIGATIVE CASE STATISTICS

The charts below show investigative statistics related to indictments, arrests, and convictions arising out of OIG investigations involving ICE, CBP, and the Transportation Security Administration (TSA) for fiscal years 2008 through fiscal year 2012 to date. The numbers show a somewhat steady increase in convictions over this period which may be attributable to OIG's policy, adopted in 2009, of opening 100% of corruption-related allegations.

ICE, CBP, AND TSA RELATED INDICTMENTS BY FISCAL YEAR AS OF APRIL 30, 2012

	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012 Year To Date	Total
CBP	46	52	54	60	20	232
ICE	36	16	28	30	20	130
TSA	19	12	10	21	3	65
TOTAL	101	80	92	111	43	427

ICE, CBP, AND TSA RELATED ARRESTS BY FISCAL YEAR AS OF APRIL 30, 2012

	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012 Year To Date	Total
CBP	44	63	92	77	66	342
ICE	46	22	32	40	28	168
TSA	19	12	14	25	14	84

ICE, CBP, AND TSA RELATED ARRESTS BY FISCAL YEAR AS OF APRIL 30, 2012—Continued

	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012 Year To Date	Total
TOTAL	109	97	138	142	108	594

ICE, CBP, AND TSA RELATED CONVICTIONS BY FISCAL YEAR AS OF APRIL 30, 2012

	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010	Fiscal Year 2011	Fiscal Year 2012 Year To Date	Total
CBP	33	51	58	38	33	213
ICE	20	21	27	29	14	111
TSA	12	10	15	21	8	66
TOTAL	65	82	100	88	55	390

Even with the case transfer to ICE discussed above, it remains the OIG Office of Investigations' policy to open all allegations of corruption of DHS employees or compromise of systems related to the security of our borders and transportation networks. The OIG continues to work the majority of allegations of the most serious criminal misconduct and corruption within DHS. For example, OIG developed information that a CBP Officer was using his position at a large urban airport to support an international drug trafficking organization. OIG initiated a multiagency Organized Crime Drug Enforcement Task Force investigation that ultimately led to the dismantling of the entire drug trafficking organization and the arrest of multiple offenders, including the CBP Officer.

DHS OIG's investigation revealed that on at least 19 separate occasions, the CBP Officer bypassed airport security using his own airport security badge in order to smuggle money and weapons for the organization. In December 2010, he was convicted and sentenced to serve 8 years' incarceration for money laundering, bulk cash smuggling, entering an aircraft area in violation of security procedures, carrying a weapon on an aircraft, fraud and related activity in connection with computers, and conspiracy to commit marriage fraud.

The CBP Officer had been employed at CBP since 2003. Suspicions of corruption first surfaced in 2008. He did not provide any cooperation during the investigation and throughout the sentencing other than his admission of guilt.

In another case, OIG conducted an investigation into allegations of theft involving a Transportation Security Officer (TSO) at the Orlando International Airport. The investigation revealed that, over a 3-year period from 2008 through 2011, the TSO had stolen more than 80 laptop computers, cell phones, and iPods, estimated at \$80,000, from passenger luggage while ostensibly performing his duties at the airport. The TSO admitted to fencing the items to a middleman in Osceola County, FL. TSA terminated his employment in March 2011. In August 2011, the TSO pleaded guilty to Federal charges of embezzlement and theft in connection with the investigation and in January 2012 was sentenced to 24 months probation. This case was initiated based on a tip from a coworker reported to the Orlando Police Department and was worked jointly with that Department.

On May 1, 2012, the former Acting Director of Intelligence for ICE pled guilty to defrauding the Government of more than \$180,000 in a 3-year-long scheme involving fraudulent travel vouchers and time and attendance claims. Sentencing is scheduled for July 2012. He faces a likely sentence of 18 to 27 months in prison and a potential fine. Additionally, as part of his plea agreement, he will forfeit the money that he wrongfully obtained. Three other ICE employees and a contractor employee previously pled guilty to charges related to the scheme. The actions of the individuals cost ICE more than \$600,000 in total.

The former Acting Director of Intelligence personally submitted fraudulent travel vouchers and time and attendance claims. However, in addition, he took a share in

kickbacks of fraudulent proceeds obtained by his subordinates who also submitted fraudulent travel vouchers. The case was investigated jointly by DHS OIG, ICE OPR, and the Federal Bureau of Investigation.

CONCLUSION

The above cases are examples of egregious behavior on the part of a very small number of DHS employees. These criminal acts represent a threat to our Nation's security and undermine the vast majority of honest and hard-working employees who strive to maintain the integrity of the Department. DHS employees are held to the highest standards of professional conduct. DHS OIG will aggressively pursue those who choose to ignore the standards.

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

Mr. MCCAUL. Thank you, Mr. Edwards.

The Chairman now recognizes Mr. Winkowski for his testimony.

STATEMENT OF THOMAS S. WINKOWSKI, ACTING DEPUTY COMMISSIONER, CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY

Mr. WINKOWSKI. Mr. Chairman, Ranking Member Keating, and distinguished Members of the subcommittee, it is a privilege to appear before you today to discuss U.S. Customs and Border Protection's ethical standards in our effort to combat corruption and misconduct within our workforce. I would like to begin by recognizing the dedication, bravery, and honor demonstrated by the overwhelming majority of CBP agents and officers who put their lives on the line each day to protect our Nation.

As the largest uniformed law enforcement agency in the country, CBP deploys over 60,000 agents, officers, and mission support personnel in support of our critical mission of securing America's borders against threats while facilitating legitimate trade and travel. As we continue to see success in our efforts to secure our Nation's borders, CBP employees will continue to be targeted by criminal organizations and individuals that grow more desperate in their attempts to smuggle people and illegal contraband into this country.

I am here today to discuss the vulnerability and the proactive steps we have taken to mitigate this threat. As you mentioned, Mr. Chairman, we recognize that public services is our—is a public trust. At the center of the CBP's core values, is integrity. It is of the utmost importance to all of our employees—that all of our employees are guided by the highest ethical and moral principles.

I am proud that the overwhelming majority of the men and women in the CPB workforce serve with honor and integrity. While only a small fraction of the workforce have engaged in the illegal or unethical behavior since the inception of CBP, any such behavior disgraces the agency and betrays the trust of the American public. One instance of corruption within our workforce is one too many. Our commitment to integrity begins as soon as an employee applies for employment and continues throughout a CBP employee's career.

We utilize multiple tools including improved applicant screening and exhaustive background investigations to ensure a thorough vetting of the men and women seeking employment with CBP. Since 2008, CBP has conducted pre-employment polygraph examinations on law enforcement applications, a critical important tool used to screen applicants before placing them on the front line.

CBP is building the capacity to polygraph 100 percent of all law enforcement applications in compliance with the mandates of the Anti-Border Corruption Act of 2010 and is on track to achieve this goal well in advance of the January 2013 deadline.

In addition to pre-employment prevention efforts, CBP has also strengthened its capacities and capabilities to detect and investigate corruption within our existing workforce. With approximately 200 experienced investigators Nation-wide, CBP internal affairs uses behavioral science, analytical research methods to flag indicators of potential workforce corruption and provide an intelligence-driven response.

In conjunction with these efforts, we have developed the Analytical Management Systems Control officer—Office—called AMSCO, which analyzes data in the ports of entry environment to identify anomalies that may indicate potential misconduct. CBP's Office of Field Operations and Office of Border Patrol have also established integrity and ethics committees which provide strategic recommendations to combat and—to combat corruption and promote integrity in the agencies distinct operational environments. These efforts feed into CBP's Integrated Planning and Coordination Cell, or the IPCC. The IPCC, which includes representatives from our law enforcement partners, examines best practices and seeks to coordinate integrity-related initiatives within the agency.

CBP recognizes that collaboration and information sharing is a critical factor in maintaining border integrity and effectively addressing allegations of corruption lodged against CBP employees. We have established MOUs with the OIG and ICE authorizing the co-location of agents in order to assist in investigations of CBP employees. We are also active participants in the 22 FBI lead border-crossing task forces Nation-wide. Mr. Chairman, Members of the subcommittee, integrity is essential to CBP's identity and effectiveness as guardians of the Nation's borders.

I thank you and the Members of the subcommittee for the opportunity to appear today and make clear our core values and strategic approach. I look forward to answering any questions you may have.

[The statement of Mr. Winkowski follows:]

PREPARED STATEMENT OF THOMAS S. WINKOWSKI

MAY 17, 2012

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

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

message that honor comes first and all employees must maintain their personal and professional integrity as public servants.

BACKGROUND

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

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

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

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

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

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

The standards cited above form the basis of CBP policy with regard to integrity and are in complete alignment with the mandates of Public Law 111-376, the Anti-Border Corruption Act of 2010. This law requires that by January 2013, all CBP law enforcement applicants must receive a polygraph examination before being hired. The law further requires that CBP initiate all periodic personnel reinvestigations that were overdue for initiation and that Congress receive bi-annual reports on CBP's progress toward meeting these requirements for a period of 2 years. These requirements—background and periodic investigations as well as polygraph examinations—are consistent with, and form the basis of, a comprehensive workforce integrity plan.

CBP's comprehensive integrity strategy includes improved initial screening of applicants, pre-employment polygraph examinations of law enforcement candidates, and an exhaustive background investigation that commences upon the initial selec-

tion 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 5 years throughout an on-board employee's career and may identify emerging integrity and conduct concerns that have the potential to impact execution of the CBP mission.

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

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

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

TRAINING

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

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

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

ADDITIONAL INTEGRITY PROGRAMS

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

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

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

In 2011, CBP convened the Integrity Integrated Planning and Coordination Committee (IPCC). This committee is a collaborative effort amongst internal CBP compo-

nents and its external law enforcement partners. The Integrity IPCC allows each participating entity to openly discuss integrity-related issues and ideas and to share best practices among the members.

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

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

The OFO also established the OFO Integrity Committee, composed of members from Headquarters Office of Field Operations, the Directors of Field Operations, Port Management, CBP IA, OBP, and Human Resources Management Labor and Employee Relations. The objectives of the OFO Integrity Committee include reviewing various types of misconduct and corruption cases regarding OFO employees that have resulted in arrests; analyzing misconduct and corruption trends to determine what actions OFO can take to eradicate those types of behavior; and assessing current OFO integrity initiatives. OFO has also established Integrity Officers within each of its 20 Field Offices. These officers act as liaisons to field personnel on integrity issues and are a conduit to headquarters for potential integrity concerns. Integrity Officers participate in local task forces, committees, and working groups, and collaborate with various Federal law enforcement agencies to provide assistance in operational inquiries, research, and analysis to assist in the detection and deterrence of corruption and misconduct.

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

CORRUPTION INVESTIGATIONS

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

These efforts were enhanced in December 2010, when CBP and ICE executed a Memorandum of Understanding (MOU) that established protocols for IA agents and ICE OPR to collaborate in CBP employee-related misconduct and corruption investigations. The collaboration of CBP IA and ICE OPR agents in these CBP employee-related investigations provides a level of insight and dialogue not previously available to the CBP leadership team and has increased CBP's and ICE's combined ability to ensure the integrity of the border.

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

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

CONCLUSION

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

Mr. McCAUL. Thank you, Mr. Winkowski.

The Chairman now recognizes Mr. Duncan for his testimony.

STATEMENT OF JAMES G. DUNCAN, ASSISTANT ADMINISTRATOR, OFFICE OF PROFESSIONAL RESPONSIBILITY, TRANSPORTATION SECURITY ADMINISTRATION, DEPARTMENT OF HOMELAND SECURITY

Mr. DUNCAN. Good morning, Chairman McCaul, Ranking Member Keating, and distinguished Members of the subcommittee. It is a privilege and an honor to appear before you today. Every day nearly 57,000 full-time TSA employees work to ensure the security of our Nation's vast transportation networks. TSA employs risk-based, intelligence-driven operations to prevent terrorist attacks and reduce the vulnerability of our transportation network to terrorism.

Our goal is to maximize security while protecting privacy and facilitating the flow of legitimate travel and commerce through a multi-layered system of transportation security. TSA's workforce accomplishes its security mission by screening passengers and baggage at more than 450 airports in the United States. Every week, we vet 14 million passenger reservations and 13 million transportation workers against the terrorist watch list.

Our efforts facilitate the secure air travel for 1.8 million persons each day. Success of our mission depends upon the dedication and integrity of our workforce. Therefore, everything we do at TSA, from hiring, promotion, and training to inspections, investigations, and adjudications, is driven by our commitment to the highest ethical standards. Administrator Pistole has made clear that integrity, professionalism, and hard work are the bedrock principles for the entire TSA workforce.

When a TSA employee fails to live up to our high standards, he or she violates the public trust, tarnishes the excellent work of the rest of our workforce, and damages TSA's reputation with the American people. For that reason, we hold all of our employees to

the same high professional and ethical standards and we have zero tolerance for any kind of criminal activity in the workplace. TSA's Office of Human Capital publishes the policies that govern employee conduct. All employees are required to know our standards and to re-review them on an annual basis.

To further assist, TSA's on-line training center provides training to all new or first-time TSA supervisors to give them the tools to identify, report, and prevent misconduct. When allegations or incidents of misconduct arise, they are investigated by TSA's Office of Inspection, an independent investigative arm of the agency that reports directly to the TSA administrator and deputy administrator. The Office of Inspection reviews allegations and reports them to the DHS Office of the Inspector General and conducts investigations if the OIG elects not to handle them themselves.

The Office of Inspection also proactively conducts independent oversight inspections of operational programs, procedures, and policies, both in the field and at TSA headquarters. The inspections check on compliance and equally important, they provide employees an opportunity to raise allegations of misconduct in a confidential setting. To promote consistency, timeliness, and accountability in the disciplinary process, TSA has created an Office of Professional Responsibility, OPR. OPR adjudicates all allegations of misconduct involving senior-level officials and law enforcement personnel.

OPR officials also review each reported investigation involving a TSA employee where the investigation is conducted by the Office of Inspector General. Working with TSA's Office of Human Capital, OPR is developing a unified database that will allow us to track all disciplinary matters throughout the agency. This is going to help us promote consistency and accountability. OPR has also created greater consistency and transparency in the entire TSA disciplinary system by creating a table of offenses and penalties. The table, which is available to all TSA employees, provides ranges of penalties for each type of offense and guides the decisions of officials both at OPR and in the field.

As we strive to continue strengthening transportation security and improving the overall travel experience for all Americans, we always bear in mind that the success of our mission depends on the integrity of our workforce. The freedom to travel is a—*is* fundamental to our American way of life and TSA is fully committed to ensuring that everyone can do so securely. Thank you for the opportunity to appear before you today. I will be pleased to address any questions you may have.

[The statement of Mr. Duncan follows:]

PREPARED STATEMENT OF JAMES G. DUNCAN

MAY 17, 2012

Good morning Chairman McCaul, Ranking Member Keating, and distinguished Members of the subcommittee. Thank you for the opportunity to testify today about the importance of ethical standards and professional standards of conduct in workforce issues related to the Transportation Security Administration (TSA).

SECURITY DEMANDS DILIGENCE AND ACCOUNTABILITY

Both in the field and at headquarters, the nearly 57,000 full-time employees who comprise the TSA workforce are tasked daily with ensuring the security of people

and commerce that flow through our Nation's vast transportation networks. TSA employs risk-based, intelligence-driven operations to prevent terrorist attacks and to reduce the vulnerability of the Nation's transportation system to terrorism. Our goal at all times is to maximize transportation security to stay ahead of evolving terrorist threats while protecting privacy and facilitating the flow of legitimate travel and commerce. TSA's security measures create a multi-layered system of transportation security that mitigates risk.

The TSA workforce occupies the front line in executing the agency's transportation security responsibilities in support of the Nation's counterterrorism efforts. These responsibilities include security screening of passengers and baggage at 450 airports in the United States that facilitate air travel for 1.8 million people per day; vetting more than 14 million passenger reservations and over 13 million transportation workers against the terrorist watch list each week; and conducting security regulation compliance inspections and enforcement activities at airports, for domestic and foreign air carriers, and for air cargo screening operations throughout the United States and at last point-of-departure locations internationally.

The success of TSA's mission is ultimately dependent upon the dedication and professionalism of our workforce. While technology and instruction manuals support our efforts, it is our people that protect travelers. Public service is a public trust and demands adherence to the highest ethical and personal conduct standards. As public servants charged with protecting the Nation's vital transportation systems, we owe the American people nothing less. All aspects of our workforce regimen—hiring, promotion, retention, training, proactive compliance inspections, investigations, and adjudications—are driven by adherence to the highest ethical standards. TSA Administrator Pistole has made clear that integrity, professionalism, and hard work are bedrock principles and expectations that he has for the entire TSA workforce.

Whenever a TSA employee fails to live up to TSA's high standards of conduct and violates that public trust, the security standards that all of our employees work so hard to establish and maintain are tarnished. In addition to diminishing the hard work of colleagues, the misconduct of any employee can damage TSA's reputation with the American people. TSA holds all of its employees to the highest professional and ethical standards and has a zero tolerance for criminal activity in the workplace. Accountability is an important aspect of our work, and TSA takes prompt and appropriate action with any employee who does not follow our procedures and engages in misconduct.

A DEDICATED WORKFORCE ADHERING TO PROFESSIONAL STANDARDS OF CONDUCT

TSA is fortunate to employ a diverse workforce. Approximately 23 percent of our employees have served our Nation honorably in uniform through prior military experience. Our commitment to recruiting and hiring veterans continues, and TSA continues to work collaboratively with the Department of Defense, veterans groups, and other outside agencies towards that end. We are also proud of the dedication our workforce has to the mission. Overall attrition including full-time and part-time employees was 7.2 percent in fiscal year 2011. This is a significant decrease from 18 percent in fiscal year 2004. As TSA marks its 10th anniversary, the average Transportation Security Officer (TSO) has been with the agency nearly 6 years and more than half have spent more than 5 years on the job.

With many members of the TSA workforce dealing directly with the public at airport checkpoints and in other transportation venues, and with a large number of employees occupying sensitive security positions, their conduct is held to the strictest standards. TSA's Office of Human Capital (OHC) provides the workforce with policies governing employee conduct, which state that conduct directly affects the accomplishment of employee duties and emphasizes the importance of public trust in the success of TSA's mission.

TSA has outlined employee responsibilities and conduct in policy documents that address a broad range of employee matters, including behavior towards the public, use of alcohol and illegal drugs on- or off-duty, reporting requirements for arrests and criminal activities, and other fitness for duty requirements. The Employee Responsibilities and Conduct policy is communicated to all employees during employee orientation and all employees are required to read and certify that they have read and understand this policy. This policy requires all employees to seek advice and guidance as needed concerning their responsibilities through their supervisory chain, local Human Resources Specialist or ethics counselor. To further assist employees, TSA's Online Learning Center provides required training on ethics in the Federal Government for all new, first-time TSA supervisors to enable them to iden-

tify and report situations that may result in waste, fraud, or abuse, or the appearance of trying to influence a person or situation for personal or private gain.

ACTING AFFIRMATIVELY TO ALLEGATIONS OF MISCONDUCT

The overwhelming majority of TSA employees meet and exceed the highest ethical and professional standards of conduct. While allegations and incidents of misconduct arise from time to time, such cases are investigated by TSA's Office of Inspection (OOI), which reports directly to the TSA Administrator and Deputy Administrator. OOI reviews allegations and complaints made against TSA employees, reports all allegations to the DHS Office of the Inspector General (OIG), and conducts investigations when necessary. OOI conducts investigations in accordance with the standards published by the Council of the Inspectors General on Integrity and Efficiency, and consults with appropriate law enforcement or other Government officials regarding specific allegations or complaints. The Office prepares and issues a comprehensive report of investigation of criminal and/or administrative matters to appropriate TSA management officials. OOI also proactively conducts independent oversight inspections of operational programs, procedures, and policies at TSA headquarters and at our Nation's airports to check on compliance and afford employees an opportunity to discuss allegations of misconduct in a confidential setting.

ADJUDICATING INSTANCES OF EMPLOYEE MISCONDUCT

TSA has a streamlined disciplinary process in comparison to most other Federal agencies. Leveraging the flexible personnel authority that Congress provided under the Aviation and Transportation Security Act, TSA requires only a 7-day advance written notice period for disciplinary actions as compared with the 30 days advance written notice required under Title 5. More significantly, TSA's policy includes a one-step removal action, which allows TSA to remove immediately TSOs whose misconduct involves theft, illegal drug and on-duty alcohol usage, and intentional serious security breaches. TSA's streamlined disciplinary process enables TSA to act quickly to ensure that employees are held accountable for any misconduct.

To promote consistency, timeliness, and accountability in the disciplinary process, TSA created the Office of Professional Responsibility (OPR), which performs its responsibilities through a combination of direct adjudication and oversight. First, OPR adjudicates all allegations and misconduct involving employees and law enforcement personnel, reviews evidence, and determines whether to charge the employee with misconduct. Additionally, the OPR Appellate Board, a unit within OPR, adjudicates the appeals of adverse actions—removals and suspensions of 15 days or more—taken against the uniformed workforce. Finally, OPR has visibility into all misconduct cases adjudicated in the field by officials outside of OPR. Working with TSA's OHC, OPR is helping to develop a database that will afford OPR and OHC insight into all disciplinary actions throughout the agency to drive consistency and fairness throughout the agency.

OPR has promoted greater consistency and transparency in the entire TSA disciplinary system by creating and implementing a Table of Offenses and Penalties. The Table, which is available to all TSA employees, provides ranges of penalties for each type of offense and guides the decisions of officials both at OPR and in the field. OPR has also worked to promote greater efficiency and timeliness for disciplinary actions by introducing specific time lines for investigating and for adjudicating allegations of misconduct. These steps have resulted in integrity and efficiency built into the disciplinary system.

CONCLUSION

As we strive to continue strengthening transportation security and improving the overall travel experience for all Americans, we must always remember that our success is defined, in large part, by the conduct of our people. Whether it is for business or for pleasure, the freedom to travel from place to place is fundamental to our way of life, and to do so securely is a goal to which everyone at TSA is fully committed. Thank you for the opportunity to appear before you today. I am pleased to address any questions you may have.

Mr. MCCAUL. Thank you, Mr. Duncan.

Let me just say that while we certainly appreciate your presence here today, we did request a witness at a higher policy level, either Administrator Pistole or his deputy. I think it is important to have someone at the policy level to discuss these important issues and yet TSA failed to produce that witness.

Next, the Chairman now recognizes Mr. Moynihan for his testimony.

STATEMENT OF TIMOTHY M. MOYNIHAN, ASSISTANT DIRECTOR, OFFICE OF PROFESSIONAL RESPONSIBILITY, IMMIGRATION AND CUSTOMS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY

Mr. MOYNIHAN. Good morning.

Chairman McCaul, Ranking Member Keating, on behalf of Secretary Napolitano and Director Morton, thank you for the opportunity to discuss the ways in which ICE upholds DHS standards for integrity and professionalism.

The overwhelming majority of ICE employees demonstrate the highest levels of integrity and perform their duties with honor every day. However, as in any large organization, isolated acts of employee misconduct do occur from time to time.

My testimony today focuses on the mechanisms that are in place to ensure robust process for investigating allegations of employee misconduct and ensuring the integrity of the ICE mission.

Since the creation of DHS, the ICE Office of Professional Responsibility has been delegated the authority to investigate allegations of criminal and administrative misconduct committed by ICE and CBP employees.

Although we refer allegations of misconduct to the DHS Office of the Inspector General for review and potential acceptance, many are referred back to ICE OPR for appropriate investigative action.

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 existing employees.

OPR is comprised of three operational divisions that play a major role in maintaining the highest level of ethical standards. The investigations division conducts criminal and administrative misconduct investigations through personnel maintained in 26 field offices Nation-wide and in Puerto Rico.

OPR field offices are responsible for investigating allegations of criminal and serious administrative misconduct, reporting investigative results to the principle offices, conducting field-delivered integrity training to ICE employees, and providing integrity guidance to all offices within their areas of responsibility.

The Inspections Division reviews ICE offices, programs, and detention facilities to ensure compliance with agency regulations, policies, and applicable detention standards 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.

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

Screening employees on the front end is an important step we take toward ensuring the integrity of our mission.

ICE's vigorous screening process includes pre-employment security checks followed by full background investigations and periodic background investigations every 5 or 10 years.

In addition, once employees are on board, we apply proactive training measures and oversight and management of employees at every level to ensure the integrity of the ICE workforce.

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 the conduct and the Federal conflict of interest statutes.

Collaboration among Federal agencies is critical to the mission of enhancing employee integrity.

In 2010, ICE and CBP entered into a Memorandum of Understanding whereby CBP internal affairs investigators are assigned to OPR field offices to participate in all investigations of CBP employee criminal misconduct; thus enabling CBP management to make informed decisions when considering alternative administrative remedies.

This collaboration has solidified ICE's commitment to providing CBP with complete and timely awareness of involvement and criminal investigations of CBP employees.

Recently DHS OIG transferred approximately 370 cases to OPR regarding criminal and administrative allegations involving ICE and CBP employees. The cases regarding CBP employees would work in conjunction with CBP internal affairs and OPR will provide monthly status updates to DHS OIG.

In summation, we have taken aggressive proactive steps toward ensuring that all allegations of misconduct within the agency are swiftly addressed. We do everything we can to uphold the agency's values.

I speak for Director Morton when I say that ICE's leadership is proud of the integrity and professionalism of our workforce.

Thank you again for the opportunity to appear before you today and for your continued support of ICE and its long—law enforcement mission.

[The statement of Mr. Moynihan follows:]

PREPARED STATEMENT OF TIMOTHY M. MOYNIHAN

MAY 17, 2012

INTRODUCTION

Chairman McCaul, Ranking Member Keating 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. The ethical and integrity issues faced daily by ICE and our employees are neither straightforward nor easy to resolve; however, ICE provides priority attention to these issues and is heavily invested and effective in ensuring that our employees uphold the public's trust and confidence.

ICE is the principal investigative agency with the largest team of criminal investigators in DHS. With more than 20,000 employees Nation-wide 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. My testimony today will focus on the mechanisms put in place to ensure a robust process for investigating allegations of employee misconduct and ensuring the integrity of the ICE mission.

THE ICE OFFICE OF PROFESSIONAL RESPONSIBILITY

The ICE Office of Professional Responsibility (OPR) investigates allegations of criminal and administrative misconduct involving ICE and U.S. Customs and Border Protection (CBP) employees. OPR also 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. We accomplish this mission 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 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 misconduct to the DHS Office of the Inspector General (OIG) for review and potential acceptance for investigation, many are referred back to OPR for appropriate investigative action. OPR is staffed by a workforce of criminal investigators who have an expert knowledge of immigration and customs laws, regulations, and procedures.

In 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. ICE and CBP have established a program whereby CBP Office of Internal Affairs investigators are assigned to OPR field offices to participate in the investigations of CBP employee criminal misconduct, thus enabling CBP management to make informed decisions when considering alternative administrative remedies. This collaboration was not always available prior to the MOU, and has solidified ICE's commitment to providing CBP with complete and timely awareness and involvement in criminal investigations of CBP employees.

Recently, the DHS OIG transferred approximately 370 cases to OPR regarding criminal and administrative allegations involving ICE and CBP employees. The cases regarding CBP employees will be worked in conjunction with the CBP Office of Internal Affairs (IA). OPR will provide monthly status updates to the DHS OIG.

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 517 full-time equivalent employees, including 265 criminal investigators.

The Investigations Division conducts criminal and administrative employee misconduct investigations through personnel maintained in 26 field offices across the United States and Puerto Rico, including an investigative unit based at ICE headquarters in Washington, DC. OPR field offices 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 also evaluates and inspects ICE offices, programs, and detention facilities to ensure compliance with agency regulations and policies and applicable detention standards. This 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 counter-intelligence.

In fiscal year 2011, ICE and CBP's Joint Intake Center (JIC), which serves as the central clearinghouse for receiving, processing, and assigning allegations of misconduct involving ICE and CBP employees and contractors, received 10,374

unconfirmed allegations of misconduct and other reportable information. Most of the information reported to the JIC is less serious in nature and is best addressed by referring the matter to ICE and CBP management for review and appropriate action. As a result, OPR initiated over 1,030 investigations resulting in 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 impersonation of DHS officers or agents and attempted bribery of DHS personnel. These arrests reflect the commitment ICE personnel have in maintaining the highest levels of integrity, and can be attributed to continual integrity awareness education and training.

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 among Federal agencies 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 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 and State law enforcement partners, including ICE's Homeland Security Investigations; the DHS OIG; CBP IA; 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; 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 8 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's matter is pending sentencing.

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 5 or 10 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 periodic 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 also 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 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.

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.

As noted earlier, ICE has offices in 47 countries, in addition to our domestic offices. 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. MCCAUL. Thank you, Mr. Moynihan.

Let me also reiterate, we certainly appreciate you being here and your testimony. We requested that either Director Morton or someone at—or a deputy or a policy level to appear before this committee and unfortunately your agency failed to produce that witness.

With that, the Chairman now recognizes himself for 5 minutes for questioning.

You know, I worked in the public integrity section in the Department of Justice. I serve now on the ethics committee and so I have always believed that the public service is a public trust. While the vast majority of your employees are honest and hard-working, unfortunately the actions of a few bad apples taint the entire organization.

The purpose of this hearing is not to taint the overall organization at all, but rather it is to look at the specific abuses and determine how can we fix the problem.

I will go with each agency. I will start with you, Mr. Winkowski.

CBP, you know, the allegations of Border Patrol agents, CBP officers working with drug traffickers to facilitate their business is just unconscionable. You know the threat from a National security standpoint and you know that they are trying to infiltrate our organization.

I want to first start and ask you about your polygraphs that you do conduct with employees prior to employment. If you can elabo-

rate on what some of your findings have been in terms of these pre-employment screenings.

Mr. WINKOWSKI. Yes. Thank you very much, Mr. Chairman, for that question.

As I mentioned in my oral interview, we have begun—we began doing polygraphs in 2008 and we have done about 10,000 polygraphs, about 400 a month come January 2013 under the Anti-Border Corruption Act that we mandated to do all law enforcement officers. We will meet that mandate of 2013. As a matter of a fact, we will meet that mandate sometime this summer.

So this summer, we will have 100 percent of our law enforcement officers undergoing a polygraph prior to coming on board as a law enforcement officer.

So of those 10,000 polygraphs that we have done, we have discovered a whole host of individuals that apply to be the Border Patrol agents or Customs and Border Protection officers and the polygraph was able to identify individuals that had a very, very questionable past.

Let me just give you several examples, Mr. Chairman. We had a case where between 2002 and 2009 applicant smuggled several bundles of marijuana within the United States and was paid \$200.

On at least there occasions, the applicant personally unloaded duffle bags of drugs from vehicles and stored them at his—at this residence and the applicant also accepted \$1,000 in exchange for allowing vehicles loaded with marijuana to be stored at his home.

So the polygraph was able to identify that and obviously the employee was not hired for a law enforcement position.

In another example, in March 2009, the applicant and a friend became involved in transportation of cocaine and marijuana. The applicant's friend profited an unknown amount of the transportation of marijuana and he profited from \$3,500 for the transportation of the cocaine.

So we have these individuals that, in some cases I believe, their sole purpose of wanting to become a Customs and Border Protection officer or a Border Patrol officer is to infiltrate us. The way in which we have robust background process while we have AMSCO-type systems that I talked about in my oral reply and data mining and looking for anomalies, we really believe that the polygraph is going to be a real game changer for us.

So we are ready for that. We have been doing polygraphs, but come this summer will undergo one.

I think one of the things, also that both you and the Ranking Member has talked about is the National security positions. I view the CBPs and the Border Patrol agents as National security positions. As such, I think we need to take a different view of that position.

So for example, while we are starting the polygraph prior to their employment and weeding out those individuals that are deceptive, our data indicates that really a—an officer goes on the other side at about 8.8 years into service.

So the question becomes, while we have data mining and we are doing AMSCOs and doing—looking for anomalies and we have the periodic reinvestigations every 5 years, I think we need to be looking at polygraphs throughout the employee's career. I think that is

very, very important and we will work with the Office of Personnel Management towards that end.

But I couldn't agree more with what you said and Mr. Keating said about the National security positions.

Mr. MCCAUL. Well, let me say I agree with you that it really is a National security issue and I think the cases that you discussed in terms of pre-employment screening with polygraphs demonstrates that they are trying to infiltrate our law enforcement.

Mr. WINKOWSKI. Yes.

Mr. MCCAUL. There are other law enforcement agencies that require post-employment polygraphs and you and I talked about this yesterday; can you tell me some of the hurdles because, you know, as a former public corruption prosecutor, usually the corruption occurs after employment—

Mr. WINKOWSKI. Yes.

Mr. MCCAUL [continuing]. After they have been down on the border or—

Mr. WINKOWSKI. Yes.

Mr. MCCAUL [continuing]. Points of entry where they are then corrupted by organizations with high dollar amounts to infiltrate the United States with drugs and human trafficking.

So can you elaborate on what would be the challenges and hurdles to require post-employment polygraph?

Mr. WINKOWSKI. One of the challenges we have is working through the hiring policies that we have in the Office of Personnel Management and I will make it very clear, we have not approached the Office of Personnel Management on this particular issue but we will do that.

I have asked my staff to begin the process of identifying what those hurdles are. So, you know, the Anti-Border Corruption Act clearly gives us the authority on the pre-employment. We need to work through internally, with our personnel offices as well as the Office of Personnel Management, to look at what it will take to do polygraphs from a standpoint of—at the time of the periodic re-investigations and in between those periods of time, whether it is looking for reasonable suspicion or looking at more like a drug screening type of process where randomly we do polygraphs.

I think we have a lot to learn from other agencies that employ polygraph on a more routine basis and we are going to undertake that endeavor.

Mr. MCCAUL. Well, let me just say, I would like to work with you and CBP and I hope the Ranking Member would like to join me in this in terms of changing that policy. Certainly if any legislation is required to—making that change, I think this is vitally important. I will try to keep my time limited, but Mr. Duncan, turning to TSA, allegations and indictments of TSA employees stealing personal belongings of passengers, improper luggage screening, which, you know, after we saw the latest attempt out of Yemen to potentially smuggle a explosive device onto an airplane, again a National security issue.

We can't afford to have corrupt TSA officers. So what is TSA doing to address that?

Mr. DUNCAN. Senator, there are three aspects to TSA's efforts to prevent and detect the kind of corruption that the committee is

justly concerned about. The first echoes what Mr. Winkowski has discussed in terms of background checks to make sure that we are not hiring people into TSA who are going to be problems. In the last 3 years, our background checks have actually disqualified more than 5,600 applications who were subjected to criminal history checks, financial checks, and other mechanisms to make sure that we are not bringing people in who have vulnerabilities.

The second aspect really has to do with prevention. We have undertaken various prevention initiatives in the wake of scenarios such as Honolulu where we did determine that there was a large number of bags not being screened or subject to security. Some of the working groups that we have created in the wake of Honolulu have focused on identifying tools the local leadership can use to prevent and detect violations of our security protocols.

I know there are some recommendations that they have come up with working in conjunction with our investigative office and those recommendations are focusing on metrics and on other kinds of reports that can be used by field leadership so that we can, you know, identify difficulties before they blossom into full-blown corruption.

Mr. MCCAUL. Yes, let me—because my time is limited. A 22-count indictment TSA employees took payments to provide drug couriers unfettered access through the Los Angeles International Airport so that drugs could be smuggled into the United States. That is outrageous and really unacceptable. I understand what you are trying to do pre-screening. As I understand it, you mentioned a system—a tracking system that you are implementing to—basically a systematic tracking system to look at these—this misconduct.

You have 400 different offices out there. Yet it is not integrated into one system. I understand you are trying to develop that. When do you anticipate that that will be completed?

Mr. DUNCAN. I don't have a specific time frame for you, sir. But I know as a result of the IG audit that has recently been released, that the TSA is working, not just on coming up with a workable single definition of security breaches, but to overhaul its reporting system so that security breaches are reported consistently. That they are validated and that the headquarters gets the information from all 450 airports so they can study it and come up with more comprehensive—

Mr. MCCAUL. Again when—what is the time frame when this would be completed?

Mr. DUNCAN. I will have to get back to you on that, sir.

[The information follows:]

The TSA integrated database is a case tracking system that currently supports the investigation and disciplinary action activities of the Office of Inspection (OOI), the Office of Professional Responsibility (OPR), and the Office of Human Capital, Employee Relations (ER). The integrated database is web-based, which permits authorized users to access the system TSA-wide. All disciplinary matters, whether handled by OPR at TSA Headquarters, or by ER users at more than 400 airports, are input into the system and are accessible to authorized users to promote consistency of adjudication.

In addition, when each case is input, it is coded to the relevant section of the TSA Table of Offenses and Penalties, which will enable all adjudications to be tracked for consistency. At present, the integrated database is "live" and all cases are uploaded into it. The contractor with whom TSA is working—Lockheed Martin—has

represented to TSA that it will incorporate the OOI Hotline into the system, and continue with system improvements and enhancements. Lockheed Martin should have the full functionality of an integrated reporting capability complete this fall.

Mr. MCCAUL. Okay, I would appreciate that. Moving onto—to ICE. You know, accepting thousands of dollars in bribes to provide documentation, you know ties to drug trafficking organizations. This is exactly the kind of thing that terrorists want to exploit, getting documentation to get into the United States and attack the American people. Again this is—it is just really unacceptable. What are you doing within ICE to remedy this?

Mr. MOYNIHAN. Mr. Chairman we have a vigorous pre-employment screening process and thorough background investigation to try to weed out those individuals, you know on the front end prior to employment. Subsequent to that, it was constant. All new employees go through ethics and integrity training. We have an annual requirement to take an integrity awareness program, which is a policy for all employees to kind of refresh our responsibilities and rules of conduct.

All new supervisors attend—get extensive integrity training at the ICE Academy, as well as all law enforcement officers, a much more extensive integrity training. We put out constant guidance regarding the guidelines in reporting employee misconduct. Oftentimes information is received from a co-worker or colleague that sees that something is not—doesn't seem right or they have actual information.

So we kind of—constantly going back and educating the workforce and making sure that they know what the standards of integrity, what the agency expects from them, and the proper ways to report that. I discussed briefly about—we have offices located Nation-wide. You know, upon receiving the allegation, we are required to refer it to the DHS OIG and either may be working the investigation collaboratively with them. But if they decide to not retain that for investigation, refer it back to our office and you know, we would address it as swiftly as possible.

Mr. MCCAUL. In conclusion, we need to move on. I did look to some of your manuals. There really—doesn't seem to be any overarching policy within ICE and there is no specific ethics policy for ICE employees. It is very generic. I would ask that you maybe go back and look at that in terms of specific ethics policies that you could direct towards your employees. A lot of this is just common-sense though. You know as I said, a public service is a public trust.

When you see that violated in these egregious examples, it is just unacceptable and again they are—overall though, the majority of employees are honest and hardworking. Do a great job every day. With that I now recognize the Ranking Member.

Mr. KEATING. Thank you, Mr. Chairman. A couple of comments I want to make first. First of all, taxpayers are spending enormous amounts of money to try and make sure that safety is ensured in their travel. American citizens are going through enormous personal intrusions themselves. Going through the gate, getting screened, getting scanned, having their belongings gone through. This is a very serious matter and I would think given the fact that our security and what the public puts into this, that at this hearing

we would at least get the people that were requested from TSA and from ICE to show up.

That to me says something about how seriously they are taking this issue, or how not seriously they are taking this issue. Now I want to be clear about that in the beginning. Second, this is just an old saw that we have had. It is before my time here as well. The 9/11 Commission has made it clear that one of the primary problems that has to be addressed is the issue of jurisdiction. This patchwork quilt of jurisdictions conflicting with each other, still is with us.

It seems in every hearing we have, it is an underlying theme that we have and I think it is here again today. So it prompts a couple of questions I have. Mr. Edwards and Mr. Winkowski, last year in testimony before the Senate Committee on Homeland Security and Government Affairs Commissioner Bersin stated, and I quote, "That there is more than tension and friction between CBP, IA, and DHS IOG." So between Customs and Border and Department of Homeland Security, there was "outright confrontation and an unacceptable situation."

The fact that CBP and OIG, both part of one Department of Homeland Security, had to enter into a Memorandum of Understanding in the first place for OIG to perform a function that statutorily belongs to that office, raises some grave concerns. Has the inclusion of CBP IA employee as required by that memorandum, improved that cooperation at all? Even though we had to do that to get there, has that improved the situation?

Mr. EDWARDS. Thank you, Senator for the question. August 11 of last year I signed the MOU with Commissioner Bersin. I can assure you that we have taken every step to work closely. In a number of my offices I have CBP IA agents working closely jointly with us, some cases. There is absolutely no turf battle. OIG, CBP, and ICE, we are all working together because this is not just a DHS problem, this is a problem for the entire Nation. We want to make sure that we address each investigation effectively and in a timely manner.

Mr. WINKOWSKI. Just a couple of comments. I agree with Mr. Edwards that the MOU I believe has done a good job of really laying out the path forward. As Mr. Moynihan had indicated, cases are being transferred from the IG over to ICE, and CBP is part of that process. So I think we have come a long way since former Commissioner Bersin's testimony.

Mr. KEATING. Just a couple of questions too that came to mind. If it is possible to give us a generalization. The bulk of the people that have been involved in this corruption, unethical conduct, what is their salary range for—I know, you know I just want to get a generalization. How much are these people getting paid? Most of them that are committing these things?

Mr. WINKOWSKI. I would say in the average of a base salary when you look at a Border Patrol agent or a CBP officer at the GS-12 level, which I think is about \$75,000.00 a year. Then there is overtime associated with that. Especially when you look at the Southwest Border, they are some of the highest-paying individuals down there in some of those communities.

Mr. KEATING. A question for Mr. Edwards? Your office's primary authority over the investigation instances of public corruption and employee misconduct within the Department of Homeland Security. However, you have the right of first refusal there as well. Now recently there has—that right has been heavily exercised. Your office has transferred hundreds of cases to CBP and ICE to handle. What contributed to that?

Was it a result of a backlog that you did that? What contributed to that backlog if that is what led to this?

Mr. EDWARDS. Sure. Thank you, sir. We have 2,360 open cases. I have 219 agents. Clearly the workload for each agent is more than 12 cases per agent. I have been working actively with CBP to have their agents detailed to our office to work the cases jointly. There is 38 percent increase in Border Patrol allegation corruption in the last several years. Border Patrol agents have doubled in size. OIG has not had the resources that he had requested.

In short, I cannot keep piling up these cases. I need to act on it. This is a DHS problem that we have to address. So, under my supervision I have transferred 374 cases of named subjects to CBP—I mean ICE OPR, the CPB IA folks have detailed over there.

I am not transferring any CRCL cases. It is employee corruption, program fraud, and miscellaneous cases; 301 of those cases are CPB cases and 73 of those cases are ICE cases. Still, because ICE OPR has an average right now of about 4½ cases per agent. So, clearly I am taking their resources and you know in some of my FEMA fraud cases an agent is carrying 22 to 25 cases.

So, clearly we need to—you know I cannot keep taking these cases long time to close. I need to address them quickly and bring resolution to these cases quickly. So, for this one time on the named subjects we took that effort.

All of those 2,260 cases, 40 percent of them are unnamed subjects. We have an analysis group to vet those unnamed cases. But CBP also has those resources. So does ICE. So, our intention on this is to work jointly on those unnamed subjects and try to see if we can come up with some leads on that and then investigate.

So, I think you know talking to John Morton and David Adler this is a joint effort. This one time I am fairly confident with the systems we have put in place. With this initiative we are going to address this problem effectively and as soon as possible.

Mr. KEATING. It is partially resulting in your budget situation—

Mr. EDWARDS. Absolutely, sir.

Mr. KEATING [continuing]. And your—situation.

Mr. EDWARDS. Absolutely, sir.

Mr. KEATING. All right. I want to be clear on that.

With that, Mr. Chairman, I yield back.

Mr. MCCAUL. I thank the Ranking Member. The gentlelady from New York is recognized.

Ms. CLARKE. Thank you very much, Mr. Chairman. I thank all of our panelists for coming in to share their insights with us this morning. I want to follow up and pick up on Mr. Keating's last question, and ask that both Mr. Edwards and Mr. Moynihan respond to this.

From fiscal year 2010 to the present ICE OPR has received a total of 26,983 allegations of employee misconduct. Some involve corruption while others did not. In any event, this number is extremely high. In addition to investigating these matters I want to know, does ICE OPR work with ICE at large, and CBP, to incorporate lessons learned from these investigations into new standards and procedures?

Given what you just stated, Mr. Edwards, having to deal with the budgetary constraints, you know how does this actually work out when ICE seems to have a whole host of their own investigations to conduct? I mean, I think if you add up all of the allegations together I don't even know how personnel is able to manage. But that is for you to answer.

Mr. EDWARDS. Yes, ma'am. Thank you for your question.

Even for OIG the complaints we have received in fiscal year 2012 so far has been 10,438. Nonetheless, I think even before these investigations this is—there needs to be—and all the components are doing is the proactive effort in terms of the prescreening, the pre-employment screening, background investigation, integrity briefing, and ethics briefing; we do a number of those as well. Also let the employees know what to look for when there is potentially fraud happening. Then when the allegation comes in you know we go to the vetting process just like ICE does the same vetting. When a criminal case is there then we work jointly not only with ICE OPR, with ICE HSI, with FBI, with any number of partners jointly because you know the more aggressively we try to do this is going to get to a resolution sooner. So, looking at our caseload and what ICE has presently I think this effort that we have taken on is going to address these problems quickly.

Mr. MOYNIHAN. Thank you, ma'am.

You know first I would like to—you know the Joint Intake Center is like the central clearinghouse for ICE and CBP for reporting allegations of misconduct as well as other reportable information. That is a collaborative effort. It actually sits in CBP's office space and it is staffed by both ICE and CBP Internal Affairs personnel. So, which is a great working relationship and a collaboration that has existed since the creation of DHS.

The number represented as far as allegations, those are actually items that were reported to the Joint Intake Center so—and they involve less degrees of misconduct or items such as lost, missed things, stolen property—things that are not necessarily allegation-based.

So, that number seems much larger then. It is things that we want to document and ensure there is a proper record of. But not all those 26,000 allegations are true allegations of misconduct and warrant investigation. I can get back to you as far as the specific number of what was.

From our case inventory perspective, we have about 600 cases in our inventory right now. Then in addition to the 374 that Mr. Edwards will be transferring here shortly. But we are working closely with CBP Internal Affairs, full participation, we—during this transfer.

Obviously it is a big lift. You know it is a large number of cases at one time. We set up teams together to triage, look at cases that

have, you know, viable leads and most egregious allegations that are showing us the greatest vulnerability. We will do that as collaboratively in an effort to address them as quickly as possible and the most serious—

Ms. CLARKE. My question is what happens with those employees who are—who have alleged to do something? Do they remain in their posts? You know, how was that handled? Because you know certainly we are concerned about the public and their interactions with these individuals who have alleged to have some sort of misconduct, whatever that may be, and also their colleagues. Sometimes one bad apple can spoil a bunch. So, how is that managed?

Mr. EDWARDS. Absolutely, ma'am. I also want to, before answering your question about the number of open cases, I just want to make it clear you know we have open cases and we have closed cases. But as you may know that a lot of cases that we have done all the investigations that we have done and then we are waiting for some judicial action. So, there is another category that really is not classified. We have within our systems working with our partners here we are going to classify another like a J-case. Many law enforcement agencies have the J type-of cases.

While we are carrying on with this criminal investigation we also get the—we want to get the administrative portion of it working as well because a lot of times there is the U.S. attorney is not going to accept the criminal—as a criminal case. We want to make sure that we have done enough work on their administrative front end so the components can take quick administrative action. So, it is a dual-front end that we have worked with the components.

Ms. CLARKE. Do you want to add anything to that, Mr. Moynihan?

Mr. MOYNIHAN. Ma'am, I was just going to say that you know every case stands on its own merits. You know just the receipt of an allegation, depending on egregiousness or as the case develops and evidence is developed; you know we work closely with whether it is ICE management or CBP management to make a decision of whether that vulnerability of leaving that person in that particular position, the vulnerability is too great.

We may need to put them onto administrative duties while the investigation continues or reassign them; or depending on the level of evidence and seriousness or the level or position of that individual, they may be put on administrative leave or things. But that would be—each case would be—would stand on its own and the facts and circumstances of that would be—would help us base that decision.

Ms. CLARKE. If you just indulge me for a moment, Mr. Chairman.

Mr. Winkowski, I think that you looked as though you may have had something to add.

Mr. WINKOWSKI. Yes. I would just like to add a couple of issues here, a couple thoughts. I think you know it is very, very important that these allegations be worked quickly. So, we have a responsibility to exonerate people as well. When someone writes a—and I think the panelists would agree with me on that. We have a responsibility to do that.

But we also have a responsibility if we have an individual that is under some kind of suspicion that we really need for that inves-

tigation to move quickly because that individual is still on the line, if you will, is still processing people. They are still processing cargo. Once we are notified by the investigation and the investigators that there is an issue, we will take that person off the line and put them in administrative duties as Mr. Moynihan said.

Once an indictment takes place and that individual is put on what we call indefinite suspension and then it is dealt with through the court systems. Right now we have about 11 people that are on indefinite suspension. To the other point of your question, ma'am, was—and I think it is a really good point here—what do we do after that? So, we have the investigation. There is an indictment. There is a conviction. You know what do we do next?

What we do in CBP is through our Office of Internal Affairs, we dissect that. We look at where the vulnerabilities are, what do we need to do from a standpoint of changing policies or changing processes so our management controls or internal controls so it doesn't happen again? So, it is a constant layer effect that we have implemented in CBP, which I think is very, very important from the standpoint of making inroads in this very, very important subject.

Mr. McCAUL. Let me just in closing associate myself with the Ranking Member's remarks. In terms of the seriousness of these charges and indictments and convictions, Federal law enforcement bribes taken by TSA to improperly screen luggage. You know first of all, stealing personal belongings as people go through these screeners all the time and scanners. Yet the idea that TSA officials are stealing personal property.

But beyond that as a National security implications, the idea that a TSA officer would take a bribe to allow thousands of pieces of luggage to go through improperly screened, or to allow drug trafficking organizations to have unfettered access. This is precisely what the terrorists are looking for; ICE providing, you know, fraudulent documentation. You know, all these cases that we look at are—they are trying to get things through airports, improper screening, improper documentation, that is exactly the way they are trying to exploit, you know and then of course CBP, you know, taking bribes from drug cartel organizations.

Given the seriousness of this, I do first want to say thank you to CBP for Mr. Winkowski, for you showing up at the policy level, but I do want to express my extreme disappointment that TSA and ICE, given these allegations—and not just allegations but proven fact—did not bring forth the policy-level witnesses that we requested. So it sends a signal to the Congress that either they are not taking it very seriously or these officials are just trying to hide from the American people.

So I am not very happy with that. I, again, associate myself with the Ranking Member, with his remarks.

With that, the committee stands adjourned.

[Whereupon, at 10:37 a.m., the subcommittee was adjourned.]

