

**STATEMENT OF
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BEFORE THE

SENATE

ON INTERNATIONAL NARCOTICS CONTROL

CONCERNING

**DRUG-RELATED: FEDERAL EMPLOYEE CORRUPTION
ON THE SOUTHWEST BORDER**

WEDNESDAY, APRIL 21, 1999

261 HART SENATE OFFICE BUILDING

2:00 PM

INTRODUCTION

The Immigration and Naturalization Service (INS) believes that its employees must be held to the highest standards of professional and personal integrity, and takes very seriously its responsibility to ensure that employee support systems and an objective, thorough and fair internal investigation process, are in place. My commitment to a strong internal integrity program has been clearly communicated to employees of all levels.

Corrupt behavior, by its very nature, is secretive and hidden, When it is uncovered, the agency is inevitably in the position of having to react, which the INS does by taking every step to ensure that a matter is immediately and fully investigated, and that appropriate judicial and administrative actions are taken. During 1996 through 1998, an average of 17 INS employees were arrested or indicted on federal corruption charges related to their official duties. A single such instance cannot be and is not tolerated.

Rather than simply being in the position of reacting when an employee faces corruption charges, however, the INS is committed to utilizing proactive measures to prevent its employees from becoming involved in corrupt behavior, People are human, and the temptations, particularly the willingness of drug dealers to pay large sums of money to federal employees to facilitate smuggling, are great. Realizing that the primary responsibility for combating and preventing corruption remains with the agency itself, our goal over the past several years has been to strengthen and enhance our processes for 1) recruiting and screening potential and existing employees, 2) training, and 3) internal affairs and audits. Our efforts on these fronts have been with the ultimate goal of establishing a value system within the agency, which clearly communicates the parameters of acceptable and non-acceptable behavior.

RECRUITMENT AND SCREENING OF OFFICERS

Over the past several years, the Border Patrol has undergone unprecedented nationwide growth. We have increased the number of agents from 3,965 in 1993 to 7,982 by the end of Fiscal Year 1998, and have received funding for 1,000 additional Border Patrol Agents in Fiscal Year 1999. Once fully staffed, this will represent a 126 percent increase in Border Patrol Agents since the end of Fiscal Year 1993.

Likewise, our Immigration Inspector Officer corps has increased from 3,297 inspectors in Fiscal Year 1993 to 4,853 inspectors in Fiscal Year 1999, an increase of 32 percent.

Border Patrol Agents and Immigration Inspectors often represent the "first line" in this country's drug interdiction efforts. Our Border Patrol Agents make over 1.5 million apprehensions per year. In 1998, Border Patrol Agents made 6,665 drug seizures along the northern and southern U.S. borders. They seized a total of 871,417 pounds of marijuana, 22,575 pounds of cocaine, and 501 ounces of heroin.

Our Immigration Inspectors at our Ports-of-Entry (POEs) conduct almost 500 million inspections per year. In excess of 400 million of these inspections are conducted along land borders with Mexico and Canada. In 1998, Immigration Inspectors were responsible for almost 2,300 drug seizures and over 2,000 drug-related arrests. Close to 160,000 pounds of controlled substances, including marijuana, cocaine and heroin and valued at more than \$240 million were interdicted by our officers.

In light of their duties, our officers are at risk of outside attempts to compensate them to "look the other way." As part of our commitment to integrity, we have continually improved the recruitment, selection and training of the expanded Border Patrol Agent and Immigration Inspector officer corps. We seek out professionals and strive to best equip them to perform their duties with pride.

Recruitment and Screening

To begin with, the INS utilizes a systematic recruitment and selection process to identify and to preclude the hiring of persons susceptible to misusing their position for personal gain, or who may be receptive to approaches from those seeking to evade or break the law. Recruitment and selection for an INS officer position is a very extensive and lengthy process. Applicants must undergo a myriad of screening tests before they are offered a position.

Applicants begin the process by calling a Telephone Application Processing System (TAPS) and apply for either a Border Patrol Agent or an Immigration Inspector position. They are asked a series of questions from a 16-page script and based upon their answers, we determine whether the applicant qualifies to be scheduled for entrance testing. Border Patrol applicants may also apply through the Veterans' Readjustment Act or the Outstanding Scholar Program, which waives the written test requirement.

Several of the questions asked focus on suitability for employment as an officer. Applicants are asked if they have ever been convicted of a misdemeanor crime of domestic violence. If they answer "yes" they are advised that the INS cannot hire them. This question has been asked since November 1996. For Fiscal Year 1998, 1,534 applicants have been disqualified as a result of a "yes" answer. Other misdemeanor crimes of violence are also disqualifying unless they have been expunged, set aside, or for which civil rights have been restored. Since January 1996, applicants are also asked if they have ever been convicted of or have forfeited collateral as a result of a felony violation. Again, if the applicant answers in the affirmative, they are advised they cannot be hired. For Fiscal Year 1998, this question screened out 336 applicants.

Once an applicant makes it to the testing phase, the INS uses state-of-the-science written

instruments to screen out applicants who are likely to exhibit questionable behavior once on the job. Applicants for Immigration Inspector positions must take a Test of Reasoning Skills and Verbal Ability and an Applicant Assessment Test, which assesses the extent to which individuals are prone to such counterproductive behaviors as the misuse of their official position or use of excessive force.

Applicants who take the Border Patrol Agent exam undergo a four-and-one-half hour assessment battery that is divided into three parts: 1) Test of Reasoning Skills and Verbal Ability; 2) either the Spanish-Language Proficiency Test if they can speak Spanish, or the Artificial Language Test if they cannot speak Spanish; and 3) an Applicant Assessment Test. Applicants are ranked on their scores in the Test of Reasoning and Verbal Ability. The other two assessments are administered on a pass/fail basis.

Applicants who score 70 points or above are then referred to a Border Patrol Oral Board panel. The oral boards are formally structured interviews administered by a panel composed of three senior Border Patrol Agents. The oral boards assess the following competencies: judgement and decision making, emotional maturity, interpersonal cooperation skills, and sensitivity to the needs of others. Border Patrol applicants who pass the oral boards receive a tentative offer of employment subject to their passing the remaining pre-employment review processes.

Both Border Patrol Agents and Immigration Inspectors must pass a pre-employment medical exam, as well as a drug screening before being hired. A background investigation is conducted at the time of entry on duty and is updated every five years. Border Patrol Agents and Immigration Inspectors serve a one-year probationary period after being hired.

Background Investigations and Reinvestigations

For current employees, the INS complies with Office of Personnel Management (OPM) and

Department of Justice (DOJ) policies requiring employment reinvestigations to be completed every five years. Prior to Fiscal Year 1992, INS had a backlog of overdue background reinvestigations. Realizing that one of the best internal corruption prevention mechanisms we can employ is to periodically re-check the backgrounds of our existing employees, we began a concerted effort to address this backlog. At the end of Fiscal Year 1997, we had requested background reinvestigations on all INS employees who were due or overdue for a reinvestigation. The INS became current on investigation requests during Fiscal Year 1998 and expects to remain current in Fiscal Year 1999.

The five-year reinvestigations or Periodic Reinvestigation (SSBI-PR), are conducted on all Border Patrol Agents, Immigration Inspectors and other employees with security clearances. The SSBI-PR is the most comprehensive reinvestigation offered by OPM, and exceeds the DOJ investigative scope requirements.

For new hires, the INS requires that all applicants for Border Patrol Agent and Immigration Inspector Officer Corps positions undergo a 35-day Single Scope Background Investigation (SSBI) processed by the OPM at the time of selection. The OPM utilizes the United States Investigative Service (USIS), a private contractor, to conduct these investigations. The SSBI is the most comprehensive in-depth investigation OPM conducts and well exceeds DOJ requirements for these Critical-Sensitive level positions.

In order to expedite the entry on duty of applicants, an initial screening called a Preliminary Background Investigation (PBI) is conducted as part of the SSBI. In most cases, however, the full Background Investigation is completed prior to the employee's entry on duty. The PBI screening process includes a review of the applicant's completed security questionnaire, a subject interview, national agency checks including criminal history checks, credit checks, Bureau of Vital Statistics checks, and prior employment checks. The applicant is allowed to enter on duty only if no actionable suitability issues

surface in the initial screening process.

The initial SSBI as well as the reinvestigations that are conducted for Border Patrol Agent and Immigration Inspector positions are extremely comprehensive and exceed the DOJ requirements. The resulting investigative products provide INS with an in-depth view of an applicant or a current employee's background. With these measures in place, INS is assured of a quality screening process that identifies and eliminates unsuitable candidates.

The reinvestigation process also pinpoints existing employees who may be living beyond their means, or who have exhibited changes in behavior such as involvement with local authorities or possible substance abuse undetected in the workplace. The INS Office of Security and the Office of Internal Audit have in place a system to ensure that issues raised in a background reinvestigation are referred for consideration of a criminal or administrative investigation as appropriate.

TRAINING

The INS has made significant progress over the past four years to ensure that our law enforcement of officers are trained to be professionals who are proud of their mission.

We require that INS officers meet basic qualification requirements in education and/or prior work experience, receive extensive technical training in their area specialty, and are thoroughly grounded in ethics and standards of conduct for enforcement officers. To remain in an officer position, an INS employee must demonstrate exceptional knowledge and skill in all of the technical aspects of the job, as well as practice the ethical requirements of the profession.

The Border Patrol and Immigration Officer Basic Training Programs are residential courses of study conducted by INS training officers at the Federal Law Enforcement Training Center in Brunswick,

Georgia and Charleston, South Carolina. The programs use a task-validated curriculum and emphasize personal discipline, integrity, professionalism, and employment of sound judgement and technical skills.

Throughout the basic training programs, emphasis is placed on courtesy and interpersonal skills. All classes emphasize proper conduct toward and respect for all persons with whom they come into contact, both on and off duty. A set of core issues has been established as the basis for ethics and integrity training. Specific courses address the issues of human and civil rights and give the trainee careful instruction in the manner which he or she is expected to carry out assigned duties. Training in technical subjects stresses sound judgement and judicious use of force and enforcement authority.

Post Academy Training for Officers

After successfully completing the Border Patrol Academy or Immigration Officers Basic Training course, trainee agents and inspectors return to their duty station to continue their training and to complete their probationary year. Training in the field is a combination of classroom instruction and on-the-job training wherein new agents and inspectors continue the learning process by working closely with experienced officers.

Examinations in law and Spanish are given to agents upon completion of six and one half and then 10 months of service. Those agents who successfully complete the post-Academy training are retained while those who fail either examination are terminated. After these examinations are successfully completed, a panel of high-level supervisors reviews each agent's progress and work performance. Supervisory assessment of the performance and judgement of new agents is another factor in the completion of the probationary year.

Supervisory Training

The unprecedented growth of the INS in the past several years has led to many promotion opportunities for our employees. Recognizing the swell in our management costs, in March 1996, the INS opened its Leadership Development Center (LDC) in Dallas, Texas, to address the needs of our first line supervisors and managers. It is imperative that we provide our supervisors and managers with the skills necessary to manage day-to-day operations, and to be proactive in identifying and addressing potentially problematic behavior.

The core curriculum of the LDC consists of six progressive courses in supervision, management, and leadership, which are available throughout the year. These courses are designed for attendees to explore together best management practices and emphasize teamwork, empowerment, recognition of diversity, preventing sexual harassment, communication and listening, and giving and receiving feedback. Each of these courses has a specific section dedicated to discussions of integrity, values, ethics, and the role of the supervisor or manager in communicating these expectations.

Since Fiscal year 1996, 4,297 INS managers and supervisors have attended training at the LDC.

The LDC has added to its available courses Employment Issues for Executives, which covers misconduct issues and the disciplinary process, and Dealing With Difficult Employees, which focuses on communication, negotiation and how to deal with people to achieve a positive outcome.

SUPPORT, SUPERVISION AND MONITORING OF OFFICERS

Assimilation

As greater numbers of new employees are assigned to their duty posts, the INS supports, supervises and monitors their activities to ensure effective performance and professional standards of conduct, as well as to identify and investigate problem behavior. We realize that employees who become vested in the mission of the agency and feel that they are supported in their career paths are those least likely to engage misconduct. They are also those most likely to remain loyal to the agency. Accordingly, we implemented an employee Sustainment Plan designed to support and retain employees.

As part of the Sustainment Plan, the INS has implemented employee and family support systems not unlike those provided by the United States military and other federal agencies. In May 1997, I reported the initial activities and expectations of our INS CARES program. I am happy to report that the program has enjoyed considerable success in its initial trial implementation in three Districts and three Sectors along the Southwest border. We are at the threshold of expanding the program throughout the Service.

Assimilation is one of the major Sustainment Plan components. INS CARES incorporates a variety of supportive activities designed to help employees and their families adapt to new communities as well as to the working environment. A comprehensive orientation plan is being used in the six pilot field jurisdictions and at INS Headquarters. Informational videos and printed materials describing the INS, and what new employees can expect, are in daily use as part of the program.

INS CARES provides employees who move to a new location with a variety of informative welcoming communications, including orientation briefings for spouses and families. Extensive community-specific information related to local schools, services, and activities are provided to

employees in workshops and seminars. These activities provide employees with information from local and State Chambers of Commerce, other public and private sources, and the Internet.

INS is well aware that first-line supervisors are the keys to effective assimilation of new employees. Many of our supervisors are relatively new to the job. To this end, INS CARES, in conjunction with the Leadership Development Center is providing training for supervisors to sensitize them to the needs of new employees. INS CARES and the Training Division have developed, tested and deployed a multi-media course, "Assimilation Training for Supervisors," which builds on the concepts taught in the Supervision Course. This advanced course is designed to teach supervisors how to identify potential problems in adjusting to new locations or duties, and how to prevent major infractions. The unique aspect of this course is that it is a fields-administered course using interactive technology such as case studies contained on CD-ROM disks.

Initial Assignments and Supervision

Currently, we do not assign new Border Patrol Agents to locations where they grew up. Additionally, in their first year, new agents are teamed with journeymen level employees, and are closely supervised on any independent assignments.

At land POEs, the INS has set forth guidance establishing a uniform national integrity policy for primary land border inspections. Under this policy, each POE must utilize one or more selected options regarding vehicle and pedestrian lane scheduling, and implement it at a minimum of once per shift. The scheduling options are:

1. Agency "pushes," in which a Supervisory Immigration Inspector randomly instructs officers to shift lanes.

2. COMPEX/INTEX "hits" are random inspections performed by both Customs and INS. Customs selects an individual to undergo a thorough inspection prior to any primary inspection. INS selects an individual after primary inspection to ensure people are being properly processed. Any time there is a "hit," there is an automatic lane assignment shift.
3. Traffic managers' initiation of random lane flops for primary lane changes of both INS and Customs Service staff.
4. Computer-generated random lane assignments and shifts.

To enhance the integrity of the inspection process, the policy also requires that automatic lane push or flip-flop will occur when inspecting officers encounter a relative. Additionally, the POEs have been reminded to continue the standing requirement to inspect all law enforcement personnel.

Border Coordination Initiative

On August 12, 1998, the Commissioner of the United States Customs Service and I forwarded a memorandum to the Attorney General outlining our proposal for a Border Coordination Initiative (BCI). Since that original plan, we have identified eight core initiatives, with the goal of creating a seamless process at and between land border POEs by building a comprehensive, integrated border management system to effectively accomplish the mission of each agency.

Those initiatives are underway and include: implementation of a successful, proven Port Management Model at all major land POEs; expansion of intelligence sharing; making joint improvements in policies, procedures, and training; adoption of a unified investigative approach for contraband seizures; performance measurements; development and deployment of enhanced technology systems; promotion of a communications system to support INS, Customs, and the Border Patrol; and coordination of air and marine interdiction capability.

Our shared vision in the BCI is to enhance port leadership, community support, traffic management and enforcement efforts, and to ensure the duties of both Services are carried out with efficiency, professionalism, and integrity.

INTERNAL AFFAIRS AND AUDIT

From the historical perspective, I note that in 1989 more than 130 employees of the INS Office of Professional Responsibility, who were responsible for conducting both criminal and administrative investigations into allegations of employee misconduct, as well as field inspections, were transferred to the Office of Inspector General upon the creation of that office. In 1992, the Office of Internal Audit (OIA) was established within INS to manage both the internal investigation and internal review programs in the agency. Our efforts have established an effective internal affairs program, and begun to move us to the point of preventing fraud, waste, abuse, and mismanagement, rather than merely reacting to individual incidents.

Internal Investigations

The OIA plays a pivotal role in the Department's processes for handling misconduct complaints against INS employees. It not only investigates a large number of complaints itself, but it also monitors the progress of investigations tasked to other entities. It ensures that substantiated cases, which, are not prosecuted, are complete for the purposes of initiating and sustaining disciplinary action when warranted. It also engages in a variety of innovative activities and programs aimed at preventing misconduct from occurring in the first place. The OIA continuously strives to instill within the agency a culture in which employees can predict that when they make a complaint, or when a complaint is made about them, there will be a swift, impartial resolution of the matter.

INS managers and supervisors play a fundamental role, in concert with the OIA, in preventing corruption. Most often, the arrest or indictment of an employee on corruption charges represents the end of a history of progressively serious misconduct. We are always striving to identify and deal immediately with all conduct problems, particularly lower-level misconduct. The OIA has established excellent communication with field managers to assist them in identifying possibly escalating behavior and to deal with it quickly, effectively and fairly.

Our own OIA has ultimate responsibility for resolving the vast majority of misconduct matters within the agency. In 1998, the OIA received 3,718 allegations of misconduct, and had primary responsibility for resolving 3,377, or 91 percent, of those allegations. In 1998, the OIG opened 323 investigations related to INS employees. The OIA opened 598 investigations that same year.

Potential criminal violations are reviewed by the OIA upon receipt and forwarded to the OIG or the Department of Justice's Civil Rights Division as appropriate, for investigative consideration, or are reviewed initially by investigators and prosecutors outside the INS. While investigations being conducted by outside entities are in progress, the OIA effectively tracks, monitors and follows up with the organization conducting the investigation.

When the OIA refers a matter to the OIG, the OIG may initiate an investigation, refer the matter back to OIA for investigation and require a report of findings, or refer it to the OIA for information.

When the OIA receives a matter, it either investigates itself or refers the case to the appropriate field manager for a management inquiry and report of findings. In cases referred for a management inquiry, the OIA oversees the process to ensure that the inquiries are thorough, unbiased and timely. The OIA has issued a Management Inquiry Handbook throughout the Service, which provides clear guidance

as to the process for resolving lower level allegations of misconduct. It also has implemented a highly regarded management inquiry training program, which to date has been presented to over 300 field managers. That program, in addition to providing guidance for conducting inquiries, also stresses proactive management via identification and resolution of lower level instances of potential misconduct.

If the OIA does not determine that an inquiry is warranted in a matter, it refers the case to local management for information. Even in those cases, the OIA provides local management the option of conducting a management inquiry under OIA oversight.

On receipt of a report of investigation or inquiry -- be it an investigative report by one of its own staff, a report of a management inquiry, or an OIG or FBI report of investigation-- the OIA conducts a review to ensure that the allegations at issue have been addressed, that the necessary evidence has been obtained and properly weighed; and that systemic problems have been identified and addressed. Where a report of inquiry or investigation is found to be insufficient for the purpose of allowing the appropriate official to make a determination regarding corrective action, the OIA directs or conducts additional investigation as appropriate. These procedures ensure that all cases of alleged misconduct by INS employees are fully and fairly examined, first as potential bases for criminal prosecution, then as potential bases of disciplinary action.

The OIA also recognizes that investigations, which do not identify specific misconduct, may identify systemic vulnerabilities or internal control weaknesses which facilitate or contribute to misconduct or fraud, waste and abuse. The OIA has in place a process for communicating systemic findings, and their policy or training implications, to the appropriate senior level managers, and recommending those issues be addresses to prevent future incidents.

The OIA has implemented and manages several proactive programs designed to reduce and

prevent misconduct and strengthen communication within the agency, The OIA is currently working with field managers and our bargaining units to design and establish an Early Intervention System for the entire workforce. The EIS will identify employees who may be experiencing stress or other influences that may cause them to be at risk for being named in misconduct complaints. The EIS will provide a non-punitive intervention strategy for employees to address and resolve concerns before behavior escalates into more serious misconduct. Such intervention measures have been proven at other law enforcement agencies nationwide to reduce actual number of complaints received, to improve morale, and to increase the professionalism of the organization.

The OIA is also designing and providing training programs aimed at supporting effective, proactive management and communication. In addition to its management inquiry-training program, the OIA continues to present its eight-hour "Integrity and Ethical Decision Making" professional development seminars. Over 1,000 employees attended the seminars in 1998, bringing the total number of employees receiving this training to over 3,000. The target audience, initially supervisors, has been broadened to all employees. Seminar discussions focus on values important to the class, and factors that cause people to make decisions that have negative consequences. Methods for weighing alternatives for judging consequences before making decisions are provided as tools for everyday use. Attendees welcome the interactive nature of the course and the positive way in which the information is presented. Although the course has mainly been given at locations along the Southwest border, it will be provided in a wide variety of locations in 1999. The Director of the OIA and the Director of the INS Leadership Development Center are discussing inclusion in the Center's offerings of a two-day seminar on this topic.

The OIA also has a program in place for conducting follow-up reviews of circumstances leading to the arrest or indictment of employees on drug-related or corruption charges. The purpose of these reviews is to ascertain what, if any, warning signs or other indicators of personal problems were present prior to the judicial action. Co-workers, supervisors, and personal associates are interviewed to obtain

their observations. Where possible, the employees themselves are questioned to determine if they ever sought assistance for personal problems or if a supervisor or other employee demonstrated concerns about their behavior or work performance. The findings of these reviews are shared with senior agency managers with an eye to strengthening procedures, training, and level of communication.

INSpect

In June 1995, recognizing the need for an independent assessment of field operations, the Director of OIA, gained approval to reestablish the field inspections function. In September 1996, I approved full-scale implementation of the program: the INS Program for Excellence and Comprehensive Tracking (INSpect).

To date, the OIA has conducted 39 INSpect reviews. Of file 39 reviews, 16 included reviews of INS Border Patrol Sectors. Nine of the 16 are located in the Southwest region that encompasses 90 percent of the INS' total border Patrol force. By assessing management effectiveness, determining compliance with applicable laws, regulations, and procedures, and especially by focusing on areas in INS functions that are highly vulnerable to fraud, waste, abuse, or mismanagement. INSpect represents a very valuable anti-corruption tool. INSpect will review each INS field office every two to three years.

The OIA has also analyzed the findings and recommendations made in the INSpect reports, and has issued a publication known as INSpect Alert to INS Management. An INSpect Alert covers a particular function, and identifies patterns of weaknesses, strengths, and noteworthy program ideas that may have Service-wide application. It lets management know about the problems repeatedly found in INSpect reviews. The OIA has issued INSpect Alerts in 12 program areas.

Additionally, the OIA has employed a follow-up team to track corrective actions on

recommendations made in the INSpect reports. The OIA has completed 10 follow-up reviews, and will continue to follow up with the responsible parties to ensure management accountability and to verify the consistent implementation of required corrective actions.

CONCLUSION

In summary, INS' uniformed officer corps, the Border Patrol, and Inspections Division have experienced unprecedented growth in the last several years. This is due to Congressional support for the expansion of the officer corps with increased funding for recruitment and training as well as more supervisors, and the independent monitoring of Service personnel and activities. Over the past three years, we have hired more than 4,000 new Border Patrol Agents and Immigration Inspectors. At the same time, we have increased the effectiveness of our screening and training mechanisms. We realize that the men and women who do these jobs are faced with ever-present attempts to get them to look the other way by drug smugglers.

We remain committed to continuously reviewing and improving our efforts to reduce to a minimum the likelihood that individuals susceptible to corruption will be selected or kept within our officer corps. The combination of our screening process, along with Academy and post-Academy training, plus a strong internal affairs and review program, helps to keep our officers in a constant state of readiness to deal with enticements to become corrupt.

We expect that our efforts will continue to further reduce the potential for corruption, which remains as isolated instances within the Service.

We appreciate the attention of this caucus to the challenges we face and, again, thank the Congress for its support.

This concludes my written testimony. I will now answer any questions you may have.