



U.S. Customs and Border Protection

STATEMENT

OF

**DAVID V. AGUILAR
ACTING COMMISSIONER**

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

BEFORE THE

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

Wednesday, August 1, 2012

Chairman Platts, Ranking Member Towns, and distinguished members of the Subcommittee, I am David Aguilar, Acting Commissioner, U.S. Customs and Border Protection (CBP). It is a privilege and an honor to appear before you today to discuss CBP's efforts to prevent and detect corruption and misconduct in our workforce. I have no higher priority than ensuring that the employees of CBP conduct themselves with the highest standard of integrity as they carry out the critical mission of protecting and securing America's borders.

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

Background

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

CBP is the largest law enforcement agency in the country. We deploy over 47,000 law enforcement personnel along the U.S. borders, at ports of entry and overseas on a continuous

basis in support of our critical border security mission. Not only do our officers and agents serve under difficult circumstances and in dangerous environments, they do so in an environment where transnational criminal organizations attempt to exploit our workforce for criminal gains.

After the creation of the Department of Homeland Security (DHS), CBP experienced a level of growth in personnel resources unprecedented in the history of U.S. law enforcement. For example, the U.S. Border Patrol more than doubled in size since March 2003 to a force today of more than 21,000 extraordinary men and women who serve our country with great distinction and integrity every day. During the same period of time, CBP integrated the Office of Field Operations from the workforces of CBP's legacy agencies and grew the capabilities of the Office of Air and Marine to its current level.

I want to emphasize that the overwhelming majority of the men and women who constitute the CBP workforce serve with honor and integrity, adhering to the high standards demanded of CBP personnel. Our high standards are reflected in the quality of the people we hire, as well as in how we train and evaluate our employees. Our commitment begins at the time of application for employment with CBP and continues throughout the careers of our officers, agents, and mission support personnel. It defines our relationship with one another and the nation we serve.

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

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

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

No act of corruption or misconduct within our agency can or will be tolerated. CBP's leaders, including myself, are committed to creating and maintaining an organization in which all employees have the strength of character and support to reject all opportunities for corruption and to reveal them when discovered.

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

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

throughout an onboard employee's career and may identify emerging integrity and conduct concerns that have the potential to impact execution of the CBP mission.

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

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

Integrity Initiatives

In 2006, as part of a comprehensive and persistent effort to enhance and promote a high level of ethics, integrity, and security CBP undertook numerous initiatives. Since then, IA has aggressively reconstituted and reinvigorated its internal investigative capability as part of a comprehensive strategy to counter the threat of workforce corruption. The IA staff now includes nearly 200 experienced investigators who investigate employees suspected of administrative and criminal misconduct, and who work collaboratively with DHS OIG and ICE OPR in support of investigations of corruption. IA is also engaged in a variety of proactive efforts including education, trend analysis, and behavioral research that are focused on the prevention and detection of employee misconduct, and the identification of individuals and organizations that may attempt to infiltrate and compromise the integrity of the CBP workforce.

CBP's comprehensive strategy integrates prevention, detection and investigation capabilities to deter, identify, and respond to corruption and serious misconduct in the CBP workforce. The strategy includes background investigations, as well as security clearances; employee

misconduct investigations; physical, informational, industrial, internal and operational security; and management inspections.

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

In 2011, CBP convened the Integrity Integrated Planning and Coordination Committee (IPCC). The IPCC, designed and implemented by a retired two star Marine General - Michael Lehnert, is a forum involving CBP components and our law enforcement partners that allows each participating entity to openly discuss integrity related issues and ideas and to share best practices among the members. Best practices, suggestions, and numerous initiatives have been derived and implemented from this group of experts.

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

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

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

Integrity Training

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

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

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

workforce in a manner that promotes personal integrity and accountability through critical thinking and integrity-based, ethical decision making.

Additional Integrity Programs

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

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

OFO also established the OFO Integrity Committee, composed of members from Headquarters Office of Field Operations, the Directors of Field Operations, Port Management, CBP IA, OBP, and Human Resources Management Labor and Employee Relations. The objectives of the OFO Integrity Committee include reviewing various types of misconduct and corruption cases regarding OFO employees that have resulted in arrests; analyzing misconduct and corruption trends to determine what actions OFO can take to eradicate those types of behavior; and

assessing current OFO integrity initiatives. OFO has established Integrity Officers within each of its 20 Field Offices. These officers act as liaisons to field personnel on integrity issues and are a conduit to headquarters for potential integrity concerns. Integrity Officers participate in local task forces, committees, and working groups, and collaborate with various federal law enforcement agencies to provide assistance in operational inquiries, research, and analysis to assist in the detection and deterrence of corruption and misconduct.

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

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

Corruption Investigations

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

Cross agency collaboration was tremendously enhanced in December 2010, when CBP and ICE executed a Memorandum of Understanding (MOU) that established protocols for CBP IA and ICE OPR agents to collaborate and partner in CBP employee-related misconduct and corruption investigations. The collaboration and teamwork of CBP IA and ICE OPR agents in these CBP employee-related investigations provides a level of insight and dialogue not previously available to the CBP leadership team and has increased CBP's and ICE's combined ability to ensure the integrity of the border. Currently, CBP IA and ICE OPR are jointly working over 300 cases, many of which are a result of a transfer of case inventory from DHS OIG in May 2012 over to ICE OPR; to date ICE OPR and CBP IA have closed out 59 of these cases.

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

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

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

Conclusion

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

David V. Aguilar, CBP Acting Commissioner



David V. Aguilar was named Acting Commissioner of U. S. Customs and Border Protection on December 30, 2011. As Acting Commissioner of the Department of Homeland Security's agency responsible for integrated border management, immigration control and trade and travel processing, Aguilar leads a workforce of 60,000, including 43,000 uniformed law enforcement officers.

Aguilar had been CBP Deputy Commissioner since April 11, 2010, where he served as chief operating officer, overseeing the daily operations of the agency. Aguilar's primary focus has been to ensure that CBP's mission of protecting U.S. borders from terrorists and terrorist weapons is carried out effectively in partnership with other federal, state, local and foreign partners. Aguilar also assured that all border-related responsibilities were met, including keeping out illegal drugs and illegal aliens, securing and facilitating legitimate global trade and travel, and protecting the U.S. food supply and agriculture industry from pests and disease.

On July 1, 2004, Aguilar was named Chief of the U.S. Border Patrol, assuming the position as the nation's highest ranking Border Patrol agent. With his knowledge of the job and expertise gained from more than 31 years of service with the Border Patrol, Chief Aguilar directed the enforcement efforts of more than 20,000 agents nationwide.

Prior to his position of national Chief of the Border Patrol, Aguilar was Chief Patrol Agent of the Tucson sector. As Tucson sector chief, he had more than 2,000 agents and 200 support personnel under his command. He had oversight of eight geographically dispersed Border Patrol stations along 261 miles of the Arizona/Mexico border.

In 2003, the Tucson sector earned the Commissioner's anti-terrorism award for achievements under Operation Desert Safeguard, an operation planned, designed and implemented in the high-risk areas of the Tucson sector. In March 2004, the Department of Homeland Security designated Aguilar as the Border and Transportation Security Integrator for the execution of the Arizona Border Control Initiative. In 2004, Chief Aguilar was also elected as the President of the Southern Arizona Federal Executive Association.

Before his Tucson Sector assignment, Aguilar served as Assistant Regional Director for the Border Patrol in the central region of the former Immigration and Naturalization Service. Director Aguilar was the principal assistant, advisor, and strategic planner to the regional director where he managed, directed and guided the regional program from August 1996 to November 1999.

Aguilar served as patrol agent in charge of three Border Patrol Stations in Texas from 1988 to August 1996: Dallas, Rio Grande Valley and Brownsville. Under his command, the Dallas and Brownsville Border Patrol Stations were both awarded the

Commissioner's Award for Group Achievement. At the time, the Brownsville was the largest Border Patrol station in the central region.

Aguilar entered on duty with the Border Patrol in June 1978 at Laredo, Texas, where he held positions of assistant patrol agent in charge and patrol agent in charge.

Aguilar holds an associate degree in accounting from Laredo Community College, and attended Laredo State University and University of Texas at Arlington. He is a Senior Executive Fellow of the John F. Kennedy School of Government at Harvard University. He is a recipient of the 2005 President's Meritorious Excellence Award, and in 2008, was a recipient of the Presidential Rank Award.

Acting Commissioner Aguilar and his wife of 37 years, Bea, have three children and four grandchildren.