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“Department of Homeland Security: An Examination of Ethical Standards”

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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 appear to be simply undocumented aliens into the U.S. while unwittingly helping terrorists enter the country. Likewise, what seems to be drug contraband could be weapons of mass destruction, such as chemical or biological weapons or bomb making 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 Auxiliaries, 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 noncriminal 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 U.S. HSI investigates human smuggling and smuggling of narcotics, weapons, and other contraband that typically form the predicate, or underlying, offense for most border corruption cases. Consequently, 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 FY 2010, double its size from 2004. With the increasing DHS workforce, by FY 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

	FY08	FY09	FY10	FY11	FY12 YTD	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

	FY08	FY09	FY10	FY11	FY12 YTD	TOTAL
CBP	44	63	92	77	66	342
ICE	46	22	32	40	28	168
TSA	19	12	14	25	14	84
TOTAL	109	97	138	142	108	594

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

	FY08	FY09	FY10	FY11	FY12 YTD	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 three 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.