

U.S. Customs and Border Protection (CBP) Workforce Integrity Study Final Report

15 December 2011



HOMELAND SECURITY
STUDIES AND ANALYSIS INSTITUTE

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*Prepared for the
Department of Homeland Security
U.S. Customs and Border Protection*

HOMELAND SECURITY STUDIES AND ANALYSIS INSTITUTE

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The Institute’s research is undertaken by mutual consent with DHS and is organized as a set of discrete tasks. This report presents the results of research and analysis conducted under

Task 11-17

U.S. Customs and Border Protection (CBP) Workforce Integrity Study

The purpose of the task was to evaluate existing integrity and counter-corruption programs within CBP, provide feedback on their effectiveness, identify areas of vulnerability, and recommend best practices and strategies for improving or replacing existing programs.

The results presented in this report do not necessarily reflect official DHS opinion or policy.



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U.S. CUSTOMS AND BORDER PROTECTION (CBP) WORKFORCE INTEGRITY STUDY

Final Report

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Prepared for
**Department of Homeland Security,
U.S. Customs and Border Protection**

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The study team expresses a special thanks to the CBP leadership for the opportunity to study and offer its perspectives on ways to promote integrity and counter corruption in the CBP workforce.

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EXECUTIVE SUMMARY

The deployment of Department of Homeland Security (DHS) technology, physical infrastructure, and manpower along the border has made it more difficult now for drug trafficking and other transnational criminal organizations to conduct their illicit activities. This has led these organizations to infiltrate CBP through conspired hiring operations and compromise of the agency's existing officers and agents. Isolated acts of corruption have occurred.

The overwhelming majority of CBP officers and agents demonstrate the highest levels of integrity and perform their duties with honor and distinction every day. The wide range and number of CBP programs and initiatives on workforce integrity and counter-corruption also testify to the concern and attention that the agency places on these matters. But since October 1, 2004, 134 CBP agents and officers have been arrested, charged with, and convicted of mission critical corruption charges, including bribery, alien and/or narcotics smuggling, conspiracy, and fraud. This is a small minority of the workforce, but it represents a threat to our national security.

To address this threat, the Office of the Commissioner, U.S. Customs and Border Protection (CBP), Department of Homeland Security asked the Homeland Security Studies and Analysis Institute (the Institute) to evaluate existing integrity and counter-corruption programs within CBP, provide feedback on their effectiveness, identify areas of vulnerability, and recommend best practices and strategies for improving or replacing existing programs.

The Institute's study team, which included the law enforcement expertise of Hillard Heintze, approached this study according to five focal areas given by CBP: the operational and organizational structure, the employee recruitment and vetting process, the integrity training process and programs, the metrics and information sharing process, and the prevention, detection, monitoring, and investigation process. Through interviews and research of materials, the study team spent six months (the sponsor-directed length of this task) evaluating CBP's efforts, gathering findings on what works, what does not work, and what needs improvement—to help CBP deal better with corruption by better instilling integrity in its workforce.

The following highlights some of the key findings and recommendations of the study team.

- There is no comprehensive guidance for integrity programs and initiatives across the CBP organization. CBP therefore should implement an agency-wide workforce integrity strategy—one that establishes and articulates core concepts, approaches, control mechanisms, roles and responsibilities.
- The CBP's disciplinary system has so many processes that it does not foster timely discipline or exoneration. The agency therefore should rethink its disciplinary system toward more efficiency.

- The number of open cases and the protracted periods until many of them are closed (if ever) attest to the inefficiencies of the present DHS Office of Inspector General (OIG) – CBP organizational structure. The Commissioner should approach DHS leadership to change that structure for more efficient reporting, assignment, investigation and disposition of CBP workforce investigations.
- The FBI-led border corruption task forces (BCTFs) are effective in countering public corruption on the borders, including the corruption of CBP employees. The continued inclusion of CBP Office of Internal Affairs special agents in the national and regional BCTFs will foster effective criminal investigations and introduce efficiencies in combined counter-corruption efforts.
- Follow-on refresher ethics, integrity and counter-corruption training offered in the field take on a variety of forms. CBP should designate one authority on ethics and integrity training to coordinate courseware content and messaging throughout the agency.
- Emphasis in exactly what things CBP wants its employees to be doing in regards to the day-to-day application of ethics appears to be missing from the training materials/lesson plans. CBP should emphasize the practical application of ethics concepts within the day-to-day work of both first-line employees and supervisors, and better inform CBP staff of any organization-wide training.
- There is no comprehensive picture of workforce misconduct and corruption. CBP should consider implementing a central, unified tracking system for all the important disciplinary data that could be used to prevent, detect and deter misconduct and corruption.
- The organization of disciplinary data is lacking in several significant ways (e.g., some types of discipline appear to be missing from the data). CBP Labor and Employee Relations Division (LER) should consider the collection, breakdown and analysis of the disciplinary data sets discussed in this paper, and conduct further study to determine other data requirements.
- The Analytical Management Systems Control Office (AMSCO) has, for the three years since its inception, identified and corrected operational vulnerabilities that would have allowed potential opportunities for employee corruption. CBP should continue to pursue the AMSCO program's full potential.
- The Integrated Policy Coordination Cell for Integrity (Integrity IPCC) has yet to adopt and implement a charter governing its activities—without which there is no clear articulation of the cell's vision, purpose, goals, objectives, structure and methodologies. The Integrity IPCC should develop and implement a charter, including consideration of its activities since inception to broaden the scope of its initial intent.

INTRODUCTION

Since its inception, CBP has been dealing with corrupt individuals within its workforce, despite having an array of programs, initiatives, and other efforts aimed at instilling integrity and stemming corruption. In response to this persistent problem, the Office of the Commissioner, U.S. Customs and Border Protection, Department of Homeland Security asked the Homeland Security Studies and Analysis Institute to examine the nature of the corruption problem within this CBP workforce and existing vulnerabilities. Specifically, CBP asked the Institute to evaluate existing integrity and counter-corruption programs within CBP, provide feedback on their effectiveness, identify areas of vulnerability, and recommend best practices and strategies for improving or replacing existing programs.

The focus of this study is the law enforcement CBP workforce—CBP officers and Border Patrol agents—primarily at and between land ports of entry along the U.S. Southwest border.

Background

CBP is the largest uniformed federal law enforcement agency in the country, with about 59,000 employees. Law enforcement elements comprise the vast majority of this workforce, broken down as follows:

- 20,500 Border Patrol agents between the ports of entry (POEs)
- 20,600 CBP officers at air, land, and sea ports of entry
- 2,300 agricultural specialists
- 1,200 Air and Marine officers¹

As a component of DHS, CBP is specifically charged with border and port security and administration and enforcement of customs and immigration laws and regulations. CBP employees routinely and frequently are in contact with both U.S. citizens and foreign nationals. In fiscal year (FY) 2009 alone, CBP officers and agents

- processed more than 352 million travelers at POEs;
- apprehended 463,000 illegal aliens at the border;
- arrested more than 84,000 fugitives wanted for crimes including murder, rape, and child molestation;
- seized more than 1.7 million prohibited agricultural materials and by-products; and

¹ U.S. Customs and Border Protection, “U.S. Customs and Border Protection: Fiscal Year 2010 Accomplishments” (briefing, released March 2011).

- intercepted more than \$147 million in currency.²

The deployment of DHS technology, physical infrastructure, and manpower to counter smuggling along the border has made it more difficult for drug trafficking and other transnational criminal organizations to conduct their illicit activities. This had led these organizations to infiltrate CBP through conspired hiring operations and compromise of the agency's existing officers and agents. The overwhelming majority of CBP officers and agents demonstrate the highest levels of integrity and perform their duties with honor and distinction every day, but isolated acts of corruption do occur. Since October 1, 2004, 134 CBP agents and officers have been arrested, charged with, and convicted of mission-critical corruption charges, including bribery, alien and/or narcotics smuggling, conspiracy, and fraud.³ This is a small minority of the workforce, but it represents a threat to our national security—hence CBP's move to ask the Institute to study this corruption problem.

Scope

This study focuses on workforce integrity and, more specifically, law enforcement workforce integrity. For the purposes of this study, integrity is regarded as:

A series of concepts and beliefs that, combined, provide structure to an agency's operation and officers' professional and personal ethics. These concepts and beliefs include, but are not limited to, honesty, honor, morality, allegiance, principled behavior, and dedication to mission.⁴

Given the relatively short six-month duration of the project and resources made available for the work, the study team conducted a high-level analysis across the agency, rather than in-depth case-study analyses on how CBP is handling its workforce corruption problem. Due to these limitations, anecdotal information corroborated by multiple sources was applied to some findings.

Methodology

The study team characterized workforce ethics, integrity, and corruption through research of relevant open source studies, authoritative documentation, and other materials.⁵ Interviews with key CBP officials and their interagency partners involved in workforce integrity and corruption issues provided background and context for the work. Those discussions also offered informed perspectives on coordination, interactions, and constraints in dealing with workforce corruption and integrity matters, as well as issues for further exploration. (A list of standard questions used in the initial CBP interviews

² Ibid.

³ CBP Office of Internal Affairs, reported as of November 11, 2011.

⁴ Stephen J. Gaffigan and Phyllis P. McDonald, Ed.D., "Police Integrity: Public Service with Honor," National Institute of Justice, U.S. Department of Justice, NJC 163811 (January 1997), www.ncjrs.gov/pdffiles/163811.pdf.

⁵ Much of this research was completed under the Institute's Workforce Integrity and Ethics Analysis core task.

appears in appendix A. A listing of CBP offices and activities, and federal interagency counterparts consulted over the course of the study appears in appendix B.⁶⁾

Based on the initial findings derived from the opening interviews, the team studied and assessed CBP workforce integrity and counter-corruption programs and initiatives to identify vulnerabilities and possible solutions. The team then augmented its preliminary research and findings with further targeted study and consultations with subject matter experts. The aim was to identify relevant best practices and make recommendations regarding how to optimize CBP's programs, processes and technologies for countering corruption and heightening workforce integrity. This final report is a comprehensive summary of the work performed, findings, and recommendations.

The sponsor tasked the study team to direct the aforementioned efforts in the following five focal areas.

1. CBP Operational and Organizational Structure. The initial intra-agency and interagency consultations provided background necessary to examine the existing internal and external CBP organizational structures for maintaining workforce integrity, and investigating and dealing with allegations of misconduct against CBP employees.
2. Employee Recruitment and Vetting Process. The study team explored the process to identify potential vulnerabilities in existing employee recruitment and vetting procedures, including the process, frequency, and types of data collected during background investigations and re-investigations.
3. Integrity Training Process and Programs. The team reviewed existing training programs to determine the content and extent to which ethical behavior, workforce integrity, and counter-corruption themes are integrated into Border Patrol and Field Operations curricula and courseware at entry and supervisory levels. This sub-task also considered continuing professional education as well as messaging programs to reinforce integrity and counter-corruption themes within the CBP workforce.⁷
4. Metrics and Information Sharing Process. The study team evaluated CBP's existing metrics for identifying and determining the level of corruption and measures of discipline in the workforce.
5. Prevention, Detection, Monitoring, and Investigation Process. This broad sub-task considered over forty programs and initiatives across the agency in

⁶ The CBP employee labor unions—the National Border Patrol Council and the National Treasury Employees Union—did not reply to the study team's request for interviews in time for this report.

⁷ The study team was unable to visit training facilities and witness classroom instruction due to constraints on time and travel.

determining their effectiveness. A listing of those programs and initiatives appears at appendix C.⁸

In order to meet these requirements and attain the desired outcomes, the Institute assembled a team of seasoned analysts, some of whom have law enforcement and vulnerability assessment experience and have worked with CBP officials on related projects. We collaborated with Hillard Heintze, a highly experienced firm of law enforcement (LE) and organizational security professionals uniquely well-suited to partner with the Institute on the study. The Hillard Heintze Senior Leadership Council (SLC) is an independent council of retired federal, state and major city police chiefs and law enforcement executives dedicated to advancing excellence in policing and public safety. SLC subject matter experts focus on law enforcement and security issues ranging from ethics, integrity and public trust to law enforcement technologies, workforce management systems and best practices. In addition to the data collected, we relied heavily on the judgment of Hillard Heintze and its SLC in particular on whether or not a CBP activity constituted a best practice. Appendix D profiles Hillard Heintze and its contributors to this project.

Report Structure

As noted above, the report progresses through the five sponsor-directed focal areas, first offering a brief statement of the team's findings and recommendations in each area. A discussion of each of those findings—how the team arrived at each recommendation (analyzing current practices, efficiencies, etc.)—follows. That discussion of each finding then concludes with a full explanation of each recommendation—actions, strategies, and/or best practices—that CBP should focus on to optimize the agency's workforce integrity and counter-corruption programs, processes, and technologies.

The conclusion of this report summarizes the key findings and recommendations, and suggests areas for further study that were beyond the scope of this project. Appendices E through H offer further detailed listings and ancillary treatments of topics (e.g., the CBP Disciplinary Flow Chart) not accommodated in the body of the report.

⁸ Appendix C is an adaptation of a June 2011 "Current CBP Corruption and Integrity Initiatives" matrix developed by the Office of Human Resource Management Labor and Employee Relations Division.

SECTION I. CBP OPERATIONAL AND ORGANIZATIONAL STRUCTURE

We examined the existing internal and external CBP organizational structures⁹ for maintaining workforce integrity, and for investigating and dealing with allegations of misconduct against CBP employees. That led the study team throughout the CBP organization and across the federal interagency to broadly survey existing approaches to workforce integrity and counter-corruption measures, and perspectives on efficiencies (and inefficiencies) in various processes. Further research and analysis, plus consultations with subject matter experts, complemented the initial discussions.

Overview of Findings and Recommendations

- There is no comprehensive guidance for integrity programs and initiatives across the CBP organization. CBP therefore should implement an agency-wide workforce integrity strategy—one that establishes and articulates core concepts, approaches, control mechanisms, roles and responsibilities.
- The CBP's disciplinary system has so many processes that it does not foster timely discipline or exoneration. The agency therefore should rethink its disciplinary system toward more efficiency.
- The number of open cases and the protracted periods until many of them are closed (if ever) attest to the inefficiencies of the present DHS Office of Inspector General (OIG) – CBP organizational structure. The Commissioner should approach DHS leadership to change that structure for more efficient reporting, assignment, investigation and disposition of CBP workforce investigations.
- The FBI-led border corruption task forces (BCTFs) are effective in countering public corruption on the borders, including the corruption of CBP employees. The continued inclusion of CBP Office of Internal Affairs (IA) special agents in the national and regional BCTFs will foster effective criminal investigations and introduce efficiencies in combined counter-corruption efforts.

The following is a discussion, in order, of those findings and recommendations.

CBP Workforce Integrity Strategy

Discussion of Findings

In discussing the workforce integrity/counter-corruption enterprise with personnel across the agency, the study team looked for comprehensive guidance on the subject and found none. We learned of many programs and initiatives to address these matters, but saw that

⁹ Internal organizational structures reside within the agency; external structures extend beyond the agency.

these ongoing actions were largely distinct and independent of one another. We asked interviewees, “Where is the nexus of the workforce integrity/counter-corruption enterprise within CBP?” and did not get a ready articulation of the answer.

Even the word “integrity” is unclear among CBP personnel. While “integrity” is often mentioned, including in the CBP core values, we did not find an agency-wide definition of this fundamental principle.¹⁰ Our research confirmed that the proverbial “code of silence”—an unwritten rule not to report another colleague’s errors, misconducts or crimes—is common within the law enforcement profession.¹¹ Multiple agency interviewees indicated anecdotally that it exists within CBP. Our review of many CBP papers, pamphlets, and quick-reference cards that address workforce integrity did not address this “code.” The “code” presents an insidious challenge to workforce integrity, and requires explicit, targeted and sustained attention.

CBP’s sustained attention to workforce integrity activities is itself a challenge. There are over forty workforce integrity and counter-corruption programs and initiatives across the agency.¹² There is no central coordination of these related and dynamic activities. While much communication and information sharing occurs across the organization, many of these exchanges are informal and personality based, and assurances that the right information is getting to the right parties are lacking.

What coordination of the many programs and initiatives does exist is splintered. Formal workforce integrity and counter-corruption training, for example, is administered by no less than five different entities, yet there is no mechanism to ensure that the training themes are consistent across all training efforts.¹³ Lines of responsibility are not always clearly defined, which presents the potential for redundancies and unintended interference. For example, it is not clear when the Office of Field Operations (OFO) Analytical Management Control System Office (AMSCO) analysis of a workplace data anomaly ends and the OIA investigation of potential employee malfeasance begins. An articulation of roles, responsibilities, and lines of communication across the workforce integrity – counter-corruption enterprise is necessary.

Discussion of Recommendation

CBP should implement an agency-wide workforce integrity strategy—one that establishes and articulates core concepts, approaches, control mechanisms, roles and responsibilities. The insidious “code of silence,” for one, requires explicit, targeted and

¹⁰ A flashcard distributed within the agency listing fifty qualities with definitions that describe an ideal agent or officer does not list or define “integrity.”

¹¹ Neal Trautman, “Police Code of Silence Facts Revealed,” Paper for the Annual Conference of the International Association of Police Chiefs, The National Institute of Ethics, 2000, <http://www.aele.org/loscode2000.html>.

¹² Appendix C contains lists and briefly describes these programs.

¹³ Formal integrity and counter-corruption training is developed and provided to the workforce by the following: the Office of Training and Development, OIA Integrity Programs Division; Field Operations (FO) and Border Patrol academies; OIA special agents; DHS OIG special agents; and CBP supervisors and FO integrity officers at shift musters.

sustained attention—the kind of attention that a strategy like this would give the agency’s workforce integrity/counter-corruption efforts. The study team recommends that the CBP commissioner consider chartering a cross-agency working group to develop and maintain this strategy.¹⁴ We believe the Commissioner Bersin’s March 2011 “Statement of Policy and Intent: Integrity” provides an excellent prologue to such a strategy and, furthermore, establishes that office as the much-needed nexus of the workforce integrity/counter-corruption enterprise. Figure 1 outlines what that strategy might include.

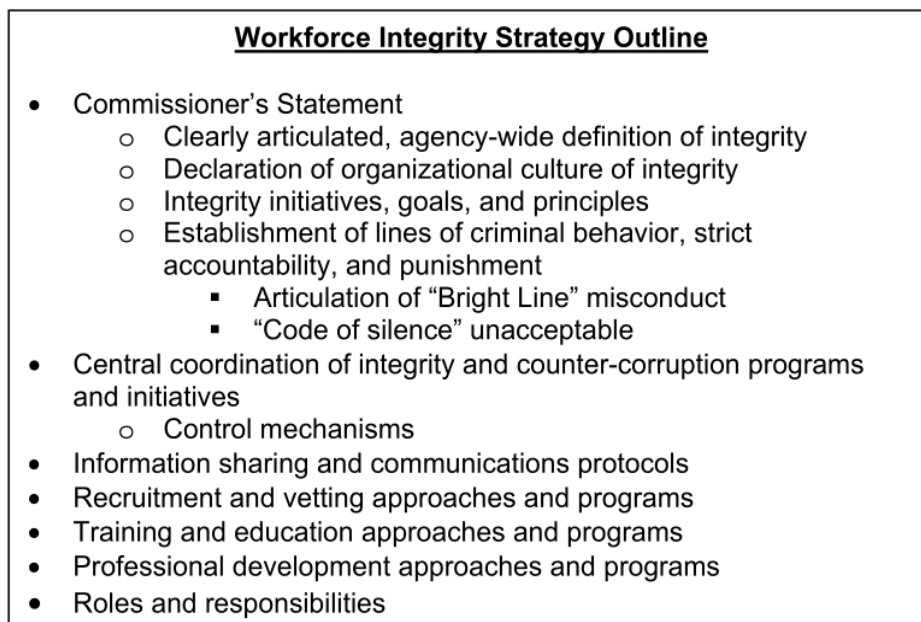


Figure 1. Workforce Integrity Strategy Outline

The cross-agency working group we suggest for developing the strategy might be internal to the CBP Integrity Integrated Policy Coordination Committee (Integrity IPCC), with a dedicated support element.

CBP Disciplinary System

Discussion of Findings

Discipline implies the systematic conduct of an organization’s enterprise by its members adhering to essential rules and regulations. Employee behavior is the basis of discipline in an organization, entailing compliance with the organization’s code of conduct. Such discipline promotes productivity and efficiency, and encourages harmony and cooperation among the workforce. Key to the effectiveness of an organization’s

¹⁴ Incidental to our research, the study team learned that the *CBP Strategic Plan for 2009-2014* calls for “a comprehensive integrity strategy that integrates prevention, detection, and investigation.”

disciplinary system is timely action to correct a condition when a breach of the code of conduct has occurred.¹⁵

The CBP disciplinary system has many processes—each taking time; some less efficient than others—that, in total, do not foster timely discipline or exoneration. The net result is a compromised management tool with detrimental effects not only on workforce integrity but also on employee morale.¹⁶ The CBP Disciplinary Flow Diagram at appendix E depicts the many processes which a disciplinary case may go through. Misconduct incidents that are considered non-reportable under CBP OIA guidelines can be managed efficiently at the local, supervisory level. The nature of these non-reportable offenses warrants non-adverse disciplinary actions.¹⁷ Those instances of misconduct deemed reportable may be subject to a number of processes at the CBP Headquarters level and above.

The reporting of a misconduct incident to the CBP OIA - Immigration and Customs Enforcement Office of Professional Responsibility (ICE OPR) Joint Intake Center (JIC) initiates a number of reviews adding up to a lengthy process. Current guidance requires that all incidents reported to the JIC be referred to the DHS OIG within five days of receipt. Those referrals are forwarded through the ICE OPR Case Management Group (CMG), which screens cases for data integrity and proper classification. Upon receipt of the case file, the DHS OIG will, in turn, notify the JIC within five working days if it will retain the case for investigation or refer it to ICE OPR for disposition.¹⁸ Cases referred to ICE OPR (again through the CMG) are either retained for investigation of criminal allegations or referred to CBP OIA for lesser offenses.¹⁹

DHS OIG has demonstrated a practice of retaining a broad spectrum of cases of both criminal and non-criminal allegations. Currently, the DHS OIG maintains an inventory of well over 1,000 cases²⁰ involving CBP employees, some dating back to 2004.²¹ This backlog presents the most significant impediment to timely disposition of CBP disciplinary cases. ICE OPR is currently investigating about 140 cases involving criminal allegations against CBP employees in cooperation with CBP IA special agent detailees, and strives to close cases within established CBP OIA goals.²² CBP OIA's goal for

¹⁵ "Employee Discipline and Features of a Sound Disciplinary System," Management Study Guide, <http://www.managementstudyguide.com/employee-discipline.htm>, accessed on November 25, 2011.

¹⁶ The 2011 CBP Employee Viewpoint Survey rated among the most negative responses: "Steps are taken to deal with poor performers – 28%."

¹⁷ Non-adverse disciplinary actions include letters of reprimand up to a 14-day suspension.

¹⁸ See DHS Management Directive 0810.1, "The Office of the Inspector General," Appendix A, June 2011.

¹⁹ See DHS Delegation Number 7030.2, "Delegation of Authority to the Assistant Secretary for U.S. Immigration and Customs Enforcement," Article 2(E), November 13, 2004.

²⁰ Case inventory refers to currently open, active investigations.

²¹ Interview with ICE OPR – CBP OIA Joint Intake Center staff, October 6, 2011.

²² Ibid.

investigation of allegations against CBP employees is 90 to 120 days; it currently has 860 active cases of a broad range of malfeasance allegations.²³

All instances of misconduct reported to the JIC and the results of investigations of CBP employees are referred to the CBP Office of Human Resources Management Labor and Employee Relations Division (HRM LER) for disposition. LER remands cases that do not warrant proposed adverse action to the respective principal field officer/principal headquarters officer (PFO/PHO) for appropriate lesser action. LER prepares any case warranting adverse action for presentation to a Discipline Review Board (DRB).²⁴ (Figure 2 provides the time frame from the incident date to receipt in LER for review.) DRBs are three-person boards of GS-14, GS-15, and Senior Executive Service (SES) managers and supervisors who serve as a collateral duty under appointment by their PFO/PHO. Boards meet about every four weeks with an average of fifteen cases reviewed per session.²⁵ (Figure 3 profiles the timeliness of the DRB process.)

TIMELINESS PRIOR TO THE DISCIPLINE REVIEW BOARD SESSION

Of all cases presented to the DRB, the time frame from incident date to receipt in LER for review is as follows:

- **42% cases received within six months of the incident (52% in FY-09)**
- **28% cases received between six months and one year of the incident (29% in FY-09)**
- **17% cases received between one and two years of the incident (14% in FY-09)**
- **13% cases received after two years of the incident (5% in FY-09)**

Figure 2. Timeliness Prior to Discipline Review Board Session²⁶

²³ Ibid.

²⁴ Adverse action is defined as a removal, reduction in grade or pay, or a suspension of more than 14 days. For a detailed discussion of the DRB process see "U.S. Customs and Border Protection Discipline Review Board," Directive No. 51751-002A, June 21, 2004.

²⁵ Office of Human Resources Management Employee Relations Division, *U.S. Customs and Border Protection Discipline Report for Fiscal Year 2010*, slide 35. Due to study time and resource constraints, we could not independently verify the CBP statistics. A more detailed analysis should rely on primary data sources.

²⁶ Ibid, slide 31.

TIMELINESS OF THE DISCIPLINE REVIEW BOARD PROCESS			
Average Number of days for:	Fiscal Year 2009	Fiscal Year 2010	Change 2009 to 2010
DRB to Counsel	16.8 days	14.9 days	-1.9 days
Counsel Review	13.7 days	16.4 days	2.7 days
DRS to Issuance of Proposal	51.6 days	46.9 days	-4.7 days
DRB to Final Decision	152.1 days	151.6 days	-0.5 days
While there are significant decreases in the amount of time to process a case through the issuance of the proposal letter, there is only a small decrease in the length of time to process a case based on delays caused by union information requests, scheduling oral replies, Douglas Factor discussions, and changes of Deciding Officials.			

Figure 3. Timeliness of the Discipline Review Board Process²⁷

Figures 2 and 3 illustrate the protracted amount of time it takes from the date of an incident to the actual meting out of punishment—from months to years. These lengthy periods pose challenges to CBP management in maintaining the security mission, good order, and discipline—that is, this problem challenges workforce integrity, which stands to incite or facilitate corruption. The following explains:

- CBP employees suspected of corruption may remain in critical security positions until allegations are proven or disproven, or criminal investigations gain sufficient evidence or grounds for prosecution.
- CBP employees found innocent of allegations may have had their professional reputations tainted and advancement impeded by lengthy leave and administrative duties, suspension, and/or reassignment.
- Fellow CBP employees aware of a colleague under suspicion and observant of an apparent lack of action on the part of management and law enforcement may consider the enforcement system “broken” and disregard professional responsibilities to report malfeasance.
- Lengthy times may violate norms of speedy disposition of cases and lead to the subject “walking” without receiving final discipline appropriate for the misconduct.

²⁷ Ibid, slide 32.

Furthermore, the LER-DRB process itself is flawed. Initially established by the U.S. Customs Service in 1999 to service a population of 22,000 employees, the process now deals with a 59,000-member workforce, many of whom operate in a highly volatile border environment. LER staff is overburdened with caseloads. The 151 days in FY10 from “Discipline review Board to Final Decision” shown in Figure 3 reflect the inordinate amount of time it takes to get to the final decision—due to labor union requests, oral replies, Douglas Factor documentation,²⁸ deciding official penalty changes, and other administrative processes.

Discussion of Recommendation

The agency should rethink its disciplinary processes toward more efficiency. Process improvements should include realistic timelines to ensure that cases are tracked and receive due, timely attention. Reforms should give greater delegation of disciplinary authorities to PFOs/PHOs—to allow more administration of discipline at the local level and lessen headquarters requirements. A review of FY10 DRB sessions and proposals or related actions (see figure 4) suggests that penalties up to and including long suspensions could be administered at the PFO/PHO level to allow more timely discipline in those cases, and to ease the caseload of the LER staff. Cases in which the employee admits to having committed the offense and accepts the penalty offered by the PFO/PHO should be handled at the PFO/PHO level and not require a DRB review.

DISCIPLINE REVIEW BOARD SESSIONS AND PROPOSALS/ACTIONS
<ul style="list-style-type: none"> • 21 Boards convened (includes 5 special boards) • 273 Cases presented to Discipline Review Board <ul style="list-style-type: none"> ○ 167 Removals ○ 7 Demotions/demotions with suspensions ○ 37 Long suspensions ○ 34 Short suspensions ○ 8 Letters of reprimand ○ 9 Letters of counseling/letters of caution ○ 11 No action

Figure 4. Discipline Review Board Sessions and Proposals/Actions for FY10²⁹

These delegations would give the senior officials more authority to manage their workforces, and offer significant efficiencies to the process. The local LER and Office of

²⁸ “Douglas Factors” are criteria established by the Merit Systems Protection Board that supervisors or, in some instances, deciding officials must consider in determining an appropriate penalty to impose for an act of employee misconduct.

²⁹ Office of Human Resources Management Employee Relations Division, *U.S. Customs and Border Protection Discipline Report for Fiscal Year 2010*, slide 30.

Chief Counsel representatives would continue to advise the deciding official and review case penalties for consistency and propriety.

CBP should undertake a study to consider these and other revisions to the current CBP disciplinary system.

DHS OIG – CBP Organizational Structure

Discussion of Findings

In the initial organization of the Department of Homeland Security in 2003, the “Bureau of Customs and Border Protection” (CBP) brought together approximately 30,000 employees including 17,000 inspectors in the Agricultural Quarantine Inspection program, Immigration and Naturalization Service (INS) inspection services, Border Patrol, and Customs Service. This new bureau focused its operations on the movement of goods and people across U.S. borders, and the enforcement of applicable laws and regulations.³⁰ A “Bureau of Immigration and Customs Enforcement” (ICE) organized the enforcement and investigative arms of the Customs Service, and the investigative and enforcement functions of the Immigration and Naturalization Service and the Federal Protective Services (FPS). The reorganization involved approximately 14,000 employees to focus on the mission of enforcing the full range of immigration and customs laws within the interior of the United States in addition to protecting specified buildings. By unifying previously fragmented investigative functions, ICE would enhance information sharing with the FBI and develop stronger relationships with the U.S. Attorney’s Office.³¹

This early reorganization of DHS border-related functions left CBP—the nation’s largest law enforcement agency—without an internal investigative capability.³² DHS organizers thought, at that time, that CBP’s internal investigative needs would be met by other resources. DHS Management Directive 0810.1, dated June 2004, gave the department’s Office of Inspector General the authority to accept and retain a broad range of allegations of criminal and non-criminal misconduct of CBP employees for investigation.³³ The DHS Secretary’s Delegation Number 7030.2 gave the Assistant Secretary of ICE the authority to investigate allegations of misconduct against officers, agents, and employees of CBP.³⁴ In practice, ICE OPR investigates allegations of CBP employee misconduct referred by DHS OIG.

The reliance upon external organizations for CBP’s internal corruption investigations contravenes the conventional federal law enforcement model for internal affairs. That

³⁰ U.S. Department of Homeland Security, “Border Reorganization Fact Sheet,” January 30, 2003, http://www.xnews/releases/press_release_0073.shtm.

³¹ Ibid. ICE has ceded the practice of sharing DHS employee-related information with FBI to DHS OIG.

³² CBP retained a small staff of about eight persons to conduct internal inspections.

³³ DHS, “Office of Inspector General,” MD 0810.1, June 2004.

³⁴ Department of Homeland Security, “Delegation Number 7030.2: Delegation of Authority to the Assistant Secretary for U.S. Immigration and Customs Enforcement,” Article 2(E), November 13, 2004.

model calls for the placement of the internal investigative function within the agency which bears the strongest institutional interest in deterring and detecting corrupt behavior. The Secret Service, Transportation Security Administration, Coast Guard and ICE maintain internal criminal investigative capabilities within their respective organizations. CBP, which operates in a high threat and corruption prone border environment, requires these same capabilities.

In 2003, one of the reasons put forward by then-CBP Commissioner Robert C. Bonner for not splitting off INS and Customs special agents into a separate investigative agency was that such a move would seriously undermine CBP and the commissioner's ability to ensure workforce integrity.³⁵ This matter was even more vital given the national security implications of a corrupt CBP frontline officer in collusion with terrorists or other criminal elements. The foremost concern was that failure to implement a fully functional internal investigative capability within CBP would likely make it impossible for the commissioner to contain, control, deter, and eradicate corrupt frontline border officers.

The fact that 134 current or former CBP employees have been arrested or indicted on corruption-related charges since October 1, 2004 validates Commissioner Bonner's concerns.

To countermand these threats to U.S. national security and the CBP workforce, CBP's Office of Internal Affairs has, since 2006, hired over 200 special agents to constitute an intra-agency investigative capability. These agents on average possess more than 20 years of experience as investigators in a variety of federal law enforcement agencies. Investigative personnel are stationed at 22 field offices located across the nation.³⁶ CBP IA special agents work collaboratively with the FBI as part of the National Border Corruption Task Force (NBCTF), participating in 21 FBI-led border corruption task forces and/or public corruption task forces nationwide.³⁷

Over the years, CBP commissioners have requested the Department of Homeland Security's permission to delegate to this highly qualified force full investigative authorities, while at the same time complying with prerogatives provided to DHS OIG under the Inspector General Act of 1978, the Homeland Security Act of 2002, and DHS Management Directive 0810.1. In July 2008, then-Commissioner W. Ralph Basham requested permission to convert IA's GS-1801 general investigators to GS-1811 criminal investigators to give CBP those full investigative authorities. Then-Secretary of Homeland Security Michael Chertoff denied that request, reasoning that border-related criminal investigative functions had been vested in ICE, and expressing concerns about potential overlap in ICE and CBP missions.³⁸ The Secretary noted that "it is axiomatic

³⁵ U.S. Customs and Border Protection Office of Internal Affairs Study, November 2004.

³⁶ The CBP Statement of Objectives for this task contains these facts and figures.

³⁷ This cooperative arrangement is under review as a condition of the "Memorandum of Understanding between U.S. Department of Homeland Security Inspector General and U.S. Customs and Border Protection on Border Corruption Initiative," August 12, 2011.

³⁸ Department of Homeland Security Office of Inspector General, "CBP Corruption Investigations to the House Appropriations Committee staff" (briefing, 2011).

that border-related corruption will be tied to potential violations of core ICE smuggling and trafficking statutes.”³⁹ In the course of the research for this report, the Institute study team did not find any evidence substantiating that assumption. Such a predicament illustrates that, insofar as CBP IA investigative resources lack any authorities they need, the full potential of those resources remains unrealized.

The DHS OIG, meanwhile, remains the more fully vested authority in investigations concerning CBP workforce—and the case load represents a significant backlog. The intent of DHS Management Directive 0810.1 is for the OIG to serve as the primary entity within DHS for investigating all criminal allegations of waste, fraud, abuse and mismanagement, allegations of misconduct against all political appointees and personnel at the level of GS-15 and above, and any allegations that indicate systemic problems within the department or otherwise affect public health or safety.⁴⁰ As noted above, the Inspector General Act, Homeland Security Act, and Delegation Number 7030.2 further vest investigative authority in the DHS OIG, with the ICE OPR having authority to investigate those allegations involving CBP and ICE employees referred to it by OIG.⁴¹

In practice, DHS OIG accepts cases involving both criminal and non-criminal allegations against all grades of CBP employees. The study team could not correlate the OIG acceptance of these cases to any particular pattern or rationale. Of the remaining cases referred by OIG to ICE OPR, OPR retains the cases of criminal allegations and refers the non-criminal cases to CBP OIA for investigation. Table 1 illustrates DHS investigative resources, workforce populations serviced by those resources, and current CBP case inventories.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

Table 1. DHS Investigative Resources and Case Inventories⁴²

DHS Office	Workforce Population	Agents Assigned	Workforce – Agent Ratio	CBP Case Inventories	Notes
DHS OIG	225,000	213	1,056:1	1,330	Workforce population not inclusive of 200,000 DHS contractors
ICE OPR	79,000	230/256	343:1/309:1	140	Workforce population includes 59,000 CBP employees; assigned agents and ratios reflect without and with 28 CBP detailees
CBP OIA	59,000	210	281:1	860	Criminal and non-criminal cases

As Table 1 illustrates, the inventory of CBP cases that DHS OIG currently holds is exorbitant.⁴³ These backlogs represent months to years taken to close investigations,⁴⁴ presenting significant workforce management challenges for the CBP commissioner.

Some measures have been taken to alleviate CBP case backlogs. In December 2010, the ICE director and CBP commissioner signed a memorandum of understanding (MOU) that allowed for CBP IA agents to augment ICE OPR agents in the investigation of criminal allegations against CBP employees. Under the terms of that agreement, “CBP IA agents are authorized to exercise the full range of their authority as federal law enforcement officers under the direct supervision of the presiding OPR manager....”⁴⁵ Since the signing of that MOU, CBP disciplinary functionaries have noted more timely submissions of investigation reporting from ICE OPR.

⁴² As a point of reference, prior to the DHS reorganization, the Customs Office of Internal Affairs was staffed with approximately 162 criminal investigators who investigated allegations of corruption within a legacy workforce of 22,000 employees. This represented an approximate ratio of 1 investigator for every 136 employees.

⁴³ These statistics are derived from cases processed through the ICE OPR – CBP OIA Joint Intake Center (JIC). These statistics do not include allegations against CBP employees reported directly to DHS OIG for which neither the JIC nor CBP have any visibility or awareness.

⁴⁴ See the discussion of disciplinary process investigations on p. 16.

⁴⁵ ICE Director John Morton and CBP Commissioner Alan Bersin, “Memorandum of Understanding Between U.S. Immigration and Customs Enforcement and U.S. Customs and Border Protection,” December 2010.

Then, on August 12, 2011, the CBP commissioner and DHS Inspector General signed a memorandum of understanding under which CBP IA detailees to OIG field locations will similarly “assist and meaningfully participate in the investigation of each border-related criminal misconduct case in which a CBP employee or contractor is subject to a criminal investigation.... Such participation will be under the supervision and direction of OIG INV (Office of Investigations)....”⁴⁶ CBP OIA and DHS OIG are presently engaged in a small pilot program based on this MOU, prior to full implementation of the terms of the MOU. Nonetheless, case backlogs persist.

Both of these MOU arrangements represent patchwork attempts to address the unintended consequences of a DHS OIG – CBP organizational structure developed in 2003 that now, eight years later, has proven to be largely ineffective. The scrutiny applied in the ICE OPR and DHS OIG acceptance of CBP IA detailees bears testimony to their professional qualifications. However, in their “under direct supervision” and “assist and meaningfully participate” roles, IA detailees are constrained in applying their full capabilities and potential. The detailing of CBP IA investigators to other organizations in order to conduct criminal investigations on CBP employees defies the common logic of the federal investigative arena—where, as noted earlier, organizations like the Transportation Security Administration maintain internal criminal investigative capabilities within their respective organizations.

To effectively manage the CBP workforce, including monitoring and addressing integrity and counter-corruption concerns, the CBP commissioner and his management team require full situational awareness, which comes from the reporting of disciplinary incidents and criminal investigations through the JIC. However, as noted above, allegations of CBP employee misconduct may in fact be reported directly to DHS OIG. In such instances, the DHS OIG has not shared that information with the CBP commissioner—who therefore remains unaware of the existence of such cases and their disposition.

Discussion of Recommendation

The Commissioner should approach DHS leadership to change the existing DHS OIG – CBP organizational structure for the reporting, assignment, investigation and disposition of CBP workforce investigations. The number of open cases, for one, and the protracted periods until many of them are closed (if ever) attest to the inefficiencies of the present DHS OIG – CBP organizational structure. Further, the restrictions placed on a highly qualified cadre of CBP IA special investigators who have proven their professional qualifications and skills, cause suboptimal utilization of this valuable counter-corruption asset. Finally, the CBP commissioner, who is ultimately responsible for the workforce and its integrity, should be fully cognizant of the ongoing cases against his employees; to address the workforce corruption problem, he must know

⁴⁶ DHS Inspector General Charles K. Edwards and CBP Commissioner Alan D. Bersin, “Memorandum of Understanding Between U.S. Department of Homeland Security Inspector General and U.S. Customs and Border Protection on Border Corruption Initiative,” August 12, 2011.

the extent of the problem. The DHS OIG practice of withholding from the CBP commissioner information on CBP corruption cases is not in the best interests of the agency or the department. The DHS OIG – CBP MOU allows CBP IA detailees to report cases involving CBP employees to the commissioner. Its provisions also state, “OIG is committed to providing CBP with full awareness of border-related criminal misconduct cases for which OIG is the lead investigative agency.”⁴⁷ DHS OIG has yet to demonstrate that commitment.

The CBP commissioner should consider further developing these issues and additional reasoning. The commissioner could then bring forward to DHS leadership the rationale for implementing a fully functional CBP internal affairs office—to include the capability to conduct independent criminal investigations of CBP employees. The provisions of the Inspector General Act, Homeland Security Act, and Management Directive 0810.1 accommodate this proposal.

While previous commissioners at the agency have presented much of the same reasoning in making their cases for such changes to the organizational structure, circumstances have changed. Failing to provide the commissioner the necessary capabilities and situational awareness to eliminate corruption in a workforce that operates in a high-threat environment, the existing DHS OIG – CBP organizational structure has clearly demonstrated, over eight years, that it is ill-suited for present circumstances.

Border Corruption Task Force

Discussion of Findings

The FBI organized border corruption task forces (BCTFs) counter public corruption on the border—including the corruption of CBP employees. That fact alone warrants discussion of CBP IA special agents’ participation in the BCTFs to address the agency’s corruption problem.

Cooperation among law enforcement agencies at all levels represents an important component of a comprehensive response to terrorism, organized crime and public corruption. The FBI-led task force concept has proven effective in a number of applications, combining federal, state and local resources to leverage one another’s unique capabilities and adds synergies to criminal investigations. By combining the assets of multiple law enforcement agencies in a common pursuit, task forces serve as force multipliers.

The task force concept increases the effectiveness and productivity of limited personnel and logistical resources, avoids duplication of investigations and consequent wasteful expenditure of resources in matters of concurrent jurisdiction, and expands the cooperation and communication among federal, state and local law enforcement agencies. Federal elements of the task force allow the application of sophisticated investigative techniques normally associated with complex organized crime and racketeering

⁴⁷ Ibid.

investigations. Such techniques are frequently unavailable to other federal, state and local members of the task force.⁴⁸

Conversely, criminal investigations conducted independently of the task force and without full transparency between those agencies and the task force introduce a duplication of effort and lost efficiencies. Parallel, uncoordinated efforts risk exposing informants, compromising investigations and, in worst case situations, causing “blue-on-blue” encounters.⁴⁹

The Attorney General Guidelines read as follows about the FBI’s responsibilities regarding investigations—indicating the bureau’s prioritization of tackling corruption:

The Department of Justice has primary responsibility for enforcement of violations of federal laws by prosecution in the United States district courts. The Federal Bureau of Investigation is charged with investigating violations of federal laws. Offices of the Inspector General have primary responsibility for the prevention and detection of waste and abuse, and concurrent responsibility for the prevention and detection of fraud and other criminal activity within their agencies and their agencies programs.

As the primary investigative arm of the Department of Justice, the Federal Bureau of Investigation has jurisdiction in all matters involving fraud against the Federal Government, and shares jurisdiction with Offices of Inspector General in the investigation of fraud against the Office of Inspector General’s agency.⁵⁰

Charged with the primary responsibility for investigating fraud, the FBI places particular emphasis on public corruption as their top criminal investigative priority. Corrupt public officials undermine national security, jeopardize safety, erode public trust and confidence in the federal government, and waste billion of dollars.⁵¹

BCTFs combine CBP IA special agents, the resources of the FBI, Drug Enforcement Administration (DEA), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Transportation Security Administration (TSA) Office of Inspections, and state and local

⁴⁸ *Hearing on Combating Gang Violence in America: Examining Effective Federal, State and Local Law Enforcement Strategies before the Senate Judiciary Committee* [108th Congress] (2003) (statement of Grant D. Ashley, Assistant Director Criminal Investigative Division, Federal Bureau of Investigation), <http://www.fbi.gov/news/testimony/the-safe-streets-violent-crimes-initiative>.

⁴⁹ “Blue-on-blue” is a common term in law enforcement that describes the potential for a tragic act of violence that can potentially occur between law enforcement officers when they are not aware of each other’s presence during an investigation.

⁵⁰ John Ashcroft, “Attorney General Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority,” Office of the Attorney General, U.S. Department of Justice, Washington, D.C., December 8, 2003.

⁵¹ Federal Bureau of Investigation, “Public Corruption: Why It’s Our #1 Criminal Priority,” http://www.fbi.gov/news/stories/2010/march/corruption_032610, accessed on November 23, 2011.

agencies to investigate public corruption along the borders. Twenty-one BCTFs exist today, thirteen of which are on the Southwest Border alone. Of the 700 FBI agents assigned to public corruption nationwide, approximately 120 of them are located in the Southwest region. Through this regional cooperation, more than 400 public corruption cases were originated, and in FY09 more than 100 arrests and about 130 state and federal cases were prosecuted.⁵²

Assertions of the Secretary's "One Face at the Border" axiom applying to independent DHS investigations of criminal misconduct against DHS employees is totally out of context.⁵³ On September 2, 2003, then-DHS Secretary Tom Ridge announced the "One Face at the Border" initiative, directed toward travelers and commerce crossing U.S. borders. The intent was to eliminate the previous separation of immigration, customs, and agriculture functions at U.S. land, sea, and air ports of entry, and institute a unified border inspection process.⁵⁴ In fact, criminal investigations are conducted out of the public eye. When conducted efficiently, they require cooperation and coordination among numerous law enforcement organizations, including BCTF members, DHS, and its components. "One Face at the Border" is not a rationale for DHS and its components to conduct investigations into public corruption against its employees independent of the Federal Bureau of Investigation and other agencies with cross-jurisdiction.

Discussion of Recommendation

The continued inclusion of CBP IA special agents in the national and regional BCTFs will foster effective criminal investigations and introduce efficiencies in combined counter-corruption efforts. The BCTFs have been effective in countering public corruption on the borders, including the corruption of CBP employees. The DHS OIG – CBP MOU on Border Corruption Initiative recognizes CBP OIA's agreements with the FBI's NBCTF and local BCTFs. Under the terms of the agreement (and in the absence of a separate MOU between DHS and the Department of Justice), CBP and OIG will provide the Secretary of Homeland Security with recommendations regarding CBP's continued participation in those task forces. Based on those recommendations, "the Secretary of DHS or her designee will make a decision ... based on the Department's desire to ensure that all allegations of employee corruption are fully and promptly investigated."⁵⁵ The commissioner should recommend to the DHS leadership CBP's full participation in the national and regional BCTFs.

⁵² Federal Bureau of Investigation, "On the Southwest Border – Public Corruption: A Few Bad Apples," <http://www.fbi.gov/news/stories/2010/august/southwest-border2>, accessed on November 22, 2011.

⁵³ See Department of Homeland Security Office of Inspector General, "CBP Corruption Investigations to the House Appropriations Committee staff" (briefing, 2011), and DHS OIG – CBP MOU.

⁵⁴ Deborah Waller Meyers, "One Face at the Border: Behind the Slogan," Migration Policy Institute, Washington, D.C., June 2005, www.migrationpolicy.org/pubs/Meyers_Report.pdf.

⁵⁵ DHS OIG – CBP MOU.

SECTION II. EMPLOYEE RECRUITMENT AND VETTING PROCESS

We looked at the entire recruitment and vetting process to determine how integrity is incorporated into assessments of job candidates. We were interested in determining what, if any, vulnerabilities might exist that would allow corrupt individuals—or those with the potential for corruption—to enter the workforce. We also wanted to identify any limitations in the process, due to either internal or external factors. Finally, with the help of the Hillard Heintze Senior Leadership Council, we sought to determine if there were any best practices for vetting law enforcement personnel that could be useful to CBP in bolstering the candidate selection process.

Overview of Findings and Recommendations

- CBP should follow through with its intent to conduct entry level polygraph examinations prior to the more expensive and time-consuming background investigation. The sequential recruitment and vetting process as a whole appears to be practical, with the relatively less expensive assessment tools that result in the higher fallout rates being on the front end of the process.
- Some CBP officials we spoke with expressed concerns that Office of Personnel Management (OPM) suitability determination guidelines are rather permissive when considering placement of applicants in the agency's national security positions. CBP should open discussions with OPM to address those shortfalls.
- Surge hiring and corruption cases in recent years have led some to associate the two occurrences without certain evidence. CBP should consider conducting a conclusive analysis of the tenure of employees arrested or convicted for corruption—specifically, to consider the most likely career points for this malfeasance and the effects of surge hiring.
- Psychological examinations are not a standard part of the candidate vetting process. CBP should consider implementing pre-employment psychological (and additional) testing.
- There is strong data to support the use of polygraph examinations in vetting CBP law enforcement job candidates. CBP OIA Credibility Assessment Division should continue steadily accumulating a cadre of 85 polygraphers to meet the Anti-Border Corruption Act mandate of testing prior to January 1, 2013 all CBP officer and agent recruits before employment.

The following is a discussion, in order, of those findings and recommendations.

Recruitment and Vetting Process

Discussion of Findings

We found that the sequential process⁵⁶ for recruiting and vetting CBP officers and Border Patrol agents is extensive and involves multiple measures that seek to ensure the integrity of job candidates. From the initial application through the written test; the medical, fitness, and drug tests; the scenario-based interview; the polygraph examination; and the background investigation—attempts to assess integrity and ethical behavior are woven throughout the process, both directly and indirectly.

Based on our research and discussions with relevant personnel, we developed a schematic overview (figure 6) of the recruitment and vetting process. (A more detailed version is provided in appendix F.)

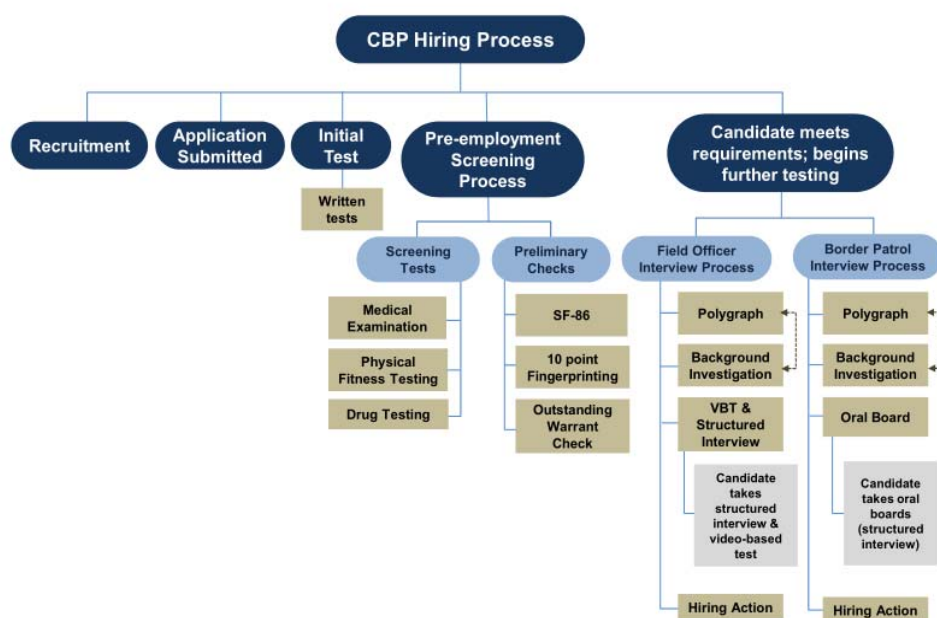


Figure 5. Recruitment and Vetting Process Overview

The recruitment and vetting process takes an average of six to nine months from start to finish, each step of the process having measures designed to identify individuals who may not be fit for duty. On average, it takes 52 applicants for the Border Patrol Agent position to get one candidate through the entire recruitment and vetting process and determined suitable for entry on duty (EOD). It takes 28 applicants for the CBP Officer

⁵⁶ The sequential process involves various steps of the process occurring one at a time. A concurrent process involves various steps occurring simultaneously. The trade-offs are time (sequential being longer) versus cost (concurrent being costlier).

position to get one candidate suitable for EOD.⁵⁷ Candidates fall out at various parts of the vetting process, as demonstrated by the recruitment attrition rates provided in table 2.

Table 2. CBP Recruitment Attrition Rates⁵⁸

Stage of Recruitment/Vetting Process	Attrition Rates		Cost per Recruit
	Field Operations Officers	Border Patrol Agents	
Written Test	50%	50%	\$80
Video-Based Test and Structured Interview	20%	---	Unknown
Oral Hiring Board	---	15%	Unknown
Medical Test	25%	25%	\$460
Fitness Test	20%	15%	\$270
Drug Test	<1%	<1%	\$77
Polygraph Examination*	75%	74%	\$800
Background Investigation**	45%	56%	\$3200-3600

* Includes no-show rate (i.e., non-pass rate).

** Includes drop-out rate (i.e., non-pass rate) of background investigations completed in FYs 08-10.

Some of the assessment tools used in the vetting process that are explicitly designed to address the candidate's integrity and ethical behavior include the following:

- At the onset of the application process, "Eight Questions" about personal judgment and conscientiousness are used to make an initial decision as to whether the candidate is eligible to proceed to the written test.⁵⁹
- Once candidates pass the written test (which examines the applicant's reasoning skills, writing skills, and experience record), they participate in scenario-based exercises or interviews designed to address integrity and ethical decision making.
- Candidates for Border Patrol agent positions are interviewed by the Oral Hiring Board, which is a panel of three trained agents who discuss scenarios that candidates are likely to encounter on the job. The board then assesses each candidate's response to how he or she might handle the situation.

⁵⁷ Interview with CBP Minneapolis Hiring Center staff, November 4, 2011.

⁵⁸ Minneapolis Hiring Center. "Unknown" denotes that the study team did not receive the information during the course of the discussions, and does not necessarily mean the information does not exist.

⁵⁹ The sensitive nature of the content of the initial "Eight Questions" and scenario-based interviews prevented the study team from evaluating (or even having access to) these tools.

- Candidates for CBP positions are required to take a video-based test (VBT), where they are asked to respond to job-related scenarios. Candidates who pass the VBT go on to participate in a face-to-face structured interview with a panel of two trained CBP officers. Both assessments measure competencies that are critical to job success, including integrity. Candidates receive a pass/fail grade for their performance. Those who pass go on to the next step of the vetting process.
- The polygraph examination involves the administration of the Law Enforcement Pre-Employment Test (LEPET). The exam includes questions designed to determine the suitability of the candidate, including whether they are fit to hold a national security position. The exam covers topics such as involvement in serious crimes, illegal drugs, terrorism, and espionage, as well as unauthorized disclosure of classified information or unreported/unauthorized foreign contacts.⁶⁰
- Subsequent to their submission of an SF-86 Questionnaire for National Security Positions, all candidates undergo a background investigation. That investigation covers such areas as finances, drug/alcohol abuse, arrest history, misconduct in prior employment, associations with persons involved in illegal activities (e.g., drug use, trafficking), and demonstrated lack of integrity or honesty in providing complete and comprehensive information about current or past behaviors which may be unfavorable.⁶¹

CBP is currently building up to a corps of 85 polygraphers to meet the Congressional Anti-Border Corruption Act mandate to conduct pre-employment testing of all candidates by January 1, 2013. While building up to that capacity, some candidates receive polygraphs subsequent to the initiation of the background investigation. It is CBP's intent, once the agency reaches sufficient polygraph capacity, to conduct the less expensive polygraphs before initiating the more costly and time-consuming background investigations.

Discussion of Recommendation

CBP should follow through with its intent to conduct polygraph examinations prior to the more expensive and time-consuming background investigation. The sequential recruitment and vetting process as a whole appears to be practical, with the relatively less expensive assessment tools that result in the higher fallout rates being on the front end of the process.

⁶⁰ CBP OIA Integrity Programs Division and Credibility Assessment Division, *Final Report: A+ Case File Study: An Exploration of the Statements Made Against Personal Interest in Law Enforcement Applicant Screening Polygraph Examinations*, (March 31, 2009), page 2.

⁶¹ Customs and Border Protection, "CBP Officer Frequently Asked Questions," http://www.cbp.gov/linkhandler/cgov/careers/customs_careers/officer/cass_faqs/cass_q_a.pdf, accessed on September 5, 2011.

Suitability Determinations

Discussion of Findings

CBP adjudicators apply prescribed OPM guidelines to determine the suitability of applicants for employment. Some CBP officials we spoke with expressed concerns that these guidelines are rather permissive. For example, background investigations and follow-up inquiries by CBP Office of Internal Affairs agents discovered some applicants with associations with known felons or suspicious persons. Nevertheless, the OPM guidelines listed below do not regard associations as unsuitable behavior. Per OPM guidelines (5 CFR 731.202), the only factors that can be considered as a basis for finding a person unsuitable are as follows:

- Misconduct or negligence in employment
- Criminal or dishonest conduct
- Material, intentional false statement, or deception or fraud in examination or appointment
- Refusal to furnish testimony as required by Section 5.4 of CFR 731.202
- Alcohol abuse, without evidence of substantial rehabilitation, of a nature and duration that suggests that the applicant or appointee would be prevented from performing the duties of the position in question, or would constitute a direct threat to the property or safety of the applicant or appointee or others
- Illegal use of narcotics, drugs, or other controlled substances without evidence of substantial rehabilitation
- Knowing and willful engagement in acts or activities designed to overthrow the U.S. Government by force
- Any statutory or regulatory bar which prevents the lawful employment of the person involved in the position in question⁶²

Additional suitability considerations, if pertinent to the case, include the nature of the position for which the person is applying or in which the person is employed; the nature and seriousness of the conduct; the circumstances surrounding the conduct; the recency of the conduct; the age of the person involved at the time of the conduct; contributing societal conditions; and the absence or presence of rehabilitation or efforts toward rehabilitation.⁶³

Another expressed concern is that there are no distinctions made in terms of suitability criteria for different types of job positions. The current qualification criteria are similar

⁶² Code of Federal Regulations, “Criteria for Making Suitability Determinations,” 5 CFR 731.202, <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi>.

⁶³ Ibid.

across all positions, so that an individual applying for an administrative assistant position would be subject to the same level of investigation as someone applying for a law enforcement or national security position.

Suitability reciprocity is another issue that impacts the vetting process. DHS headquarters' policy accepts suitability determinations from all components, thus minimizing the administrative burdens and costs of separate background investigations and adjudications. However, DHS components perform different types of suitability checks dependent on their varying missions. Consequently, the components do not always recognize one another's suitability determinations. An example provided on multiple occasions was the lack of reciprocity between TSA and CBP, with CBP not honoring suitability determinations made by TSA. This lack of reciprocity forestalls an individual's full employment until a determination can be made by the new component.

The shortfalls continue, as other persons we spoke with who are involved in vetting job candidates suggested that even current DHS policies regarding suitability introduce potential vulnerabilities. They cited, for example, the department's current policy to recognize background investigations previously conducted under another agency for employment within CBP, which presents a loophole for possibly "corrupted" candidates. The following example was offered:

An individual is hired by DHS Agency X for a management analyst position. A background investigation (BI) is completed with a favorable determination on 1/1/10. The individual is arrested on 6/1/10 on a felony charge of driving under the influence causing bodily injury. Two months later, on 8/1/10, the individual is aware that Agency X may be about to terminate his employment during his probationary period so he applies and is selected for a lateral transfer to CBP. CBP is prohibited by DHS policy from requesting a new BI package. CBP requests the prior investigative file from Agency X. That file does not contain the record of the 6/1/10 arrest since the file was completed prior to the arrest. CBP may run new background checks, but if the felony case has not yet been brought to trial or resolution, it may not have been entered by the arresting police department into the national database. Based on the information contained in the 1/1/10 BI, the CBP adjudicator clears the individual for an appointment. The individual is later convicted of the offense, and CBP now has a convicted felon on its rolls.⁶⁴

Given that example, some interviewees expressed concerns that a follow-on policy requiring acceptance of other components' adjudications could further present potential vulnerabilities.

Recommendation

CBP should open discussions with OPM to address shortfalls in suitability guidelines when considering placement in the agency's national security positions.

⁶⁴Interview with OIA, Personnel Security Division (PSD) staff, November 22, 2011.

OPM guidelines for suitability determination may be overly permissive for the types of responsibilities inherent in CBP national security positions. Additionally, the Department of Homeland Security and its components may want to reconsider the current DHS policy of accepting potentially dated prior agency background investigations for intra-departmental transfers, especially for national security positions.

Surge Hiring

Discussion of Findings

The corruption problems that CBP faces today are often attributed, at least in the media, to the surge in hiring that occurred between 2006 and 2008, as the following example attests:

Critics, including the union representing agents, warned...the agency was moving too fast, shortcutting background checks, lowering hiring standards and truncating the training time at the Border Patrol Academy in New Mexico. They warned one unintended consequence could be more cases of misconduct and *corruption*.⁶⁵

Two compelling points arose in the study team's findings on this subject. First, persons we spoke with for this study disagreed as to whether corruption is actually attributable to the attempts in the 2006 – 2008 time frame to hire more law enforcement officers to meet congressional mandates. Several persons suggested that many of the 134 employees implicated on corruption charges were not hired during the surge, but rather were several years into their careers with the agency. The OIA Integrity Programs Division (IPD) Behavioral Research Branch has studied the tenures of the 134 and demonstrated that nine percent (twelve persons) were surge hires.⁶⁶ However, this analysis is inconclusive given the fact that CBP and its IPD analysts do not have any knowledge of cases currently under investigation by the DHS Office of Inspector General.

(There have also been reports in the media suggesting that personnel have been hired prior to the completion of their background investigations. However, persons we spoke with indicated that 100 percent of applicants' background investigations are completed prior to their appointment.)

The other compelling point in the study team's findings is that surge hires have yet to reach that point in their careers where individuals appear to be more likely to become corrupt. For example, further analysis may reveal that corrupt frontline CBP employees typically conduct these felonious acts in the 8-12 year points in their careers. Those surge hires appointed in the 2007-2009 time frame have yet to reach that point in their careers.

⁶⁵ G. Moran, "Hiring Practices Questioned after Border Agent's Arrest," *Sign On San Diego*, 1 April 2011, <http://www.signonsandiego.com/news/2011/apr/01/hiring-practices-questioned-after-border-agents-ar/>.

⁶⁶ Of the 134 cases, tenures ranged between one year to 33.5 years of CBP (and legacy agency) service at the time of the arrest/indictment, with the mean CBP tenure of 8.75 years and median 7.42 years.

Discussion of Recommendation

CBP should consider conducting a conclusive analysis of the tenure of employees arrested or convicted for corruption—specifically, to consider the most likely career points for this malfeasance and the effects of surge hiring. The agency may wish to defer this initiative until DHS OIG provides CBP with information of the cases it is currently holds. The compiled data may be able to confirm, deny, or otherwise support further development of the hypothesis of a link between surge hiring and workforce corruption. If it is found that a statistically significant portion of the sample was recruited during the hiring surge, additional research should be undertaken to determine if there were any aspects of the vetting process that may have led to some unsuitable candidates being hired.

Psychological Evaluations

Discussion of Findings

Law enforcement agencies commonly use psychological evaluations in vetting job candidates. These evaluations assess the candidate's "psychological suitability," which refers to both the absence of job-relevant risk factors as well as the presence of job-critical personal and interpersonal qualities.⁶⁷ A variety of tests seek to ensure law enforcement candidates are able to tolerate the stresses of their work environment, follow rules, use resources responsibly, behave in a trustworthy manner, use good judgment, and refrain from off-duty behavior that would reflect poorly on their department.⁶⁸

CBP candidates do not receive a formal psychological evaluation as part of the applicant screening process. According to the persons we spoke with, the medical examinations required of all recruits do ask some questions about the candidates' mental health. However, we were told that, in order for a psychological evaluation to occur, the candidate must have a history of depression or counseling that comes up as part of the medical examination.

When we asked why psychological evaluations are not a standard part of the candidate vetting process, we learned that the large volume of job candidates as well as resource constraints prevents CBP from administering such evaluations.

Discussion of Recommendation

CBP should consider implementing pre-employment psychological (and additional) testing. Most progressive local law enforcement agencies have been performing pre-screening psychological evaluations on their applicants for decades. The IPD Behavioral Research Branch (BRB) has looked into the use of psychological evaluations for CBP job

⁶⁷ Y.S. Ben-Porath et al., "Assessing the Psychological Suitability of Candidates for Law Enforcement Positions," *Police Chief Magazine*, no.78, August 2011, http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=print_display&article_id=2448&issue_id=82011.

⁶⁸ Ibid.

candidates and concluded “there is a demonstrated value in assessing the psychological suitability of law enforcement applicants and including it in a multi-layered approach to personnel screening.”⁶⁹

The Hillard Heintze Senior Leadership Council also indicated they are firm supporters and advocates for the use of psychological evaluations. The council suggests that the evaluation may be one of the most important phases of the hiring process, as the following explains:

- Many local law enforcement agencies also require internal candidates for some highly sensitive positions to undergo such examinations both going into and coming out of certain types of units, such as Special Weapons and Assault Teams (SWAT) and Child Exploitation Investigation Units.
- Many local law enforcement agencies also reserve management’s right to require certain employees to submit to psychological evaluations (sometimes called Fitness for Duty Examinations) under certain circumstances. Instances in which an employee has engaged either in some unusual behavior while at work or actual misconduct may warrant an exam to determine the employee’s psychological state.
- The nation’s litigious society has come to the point that failure to conduct such examinations on prospective employees, as well as failure to conduct such examinations for current employees under the other circumstances already noted, could open up an agency to “negligent retention” lawsuits.

Any efforts to incorporate psychological screening would benefit from the research already conducted by IPD, as well as from the International Association of Chiefs of Police (IACP) Police Psychological Services. The IACP has developed guidelines for conducting pre-employment psychological evaluations. These guidelines take into consideration various restrictions imposed by the Americans with Disabilities Act, to include the stipulation that psychological examinations can only be conducted after a conditional offer of employment has been made.⁷⁰ Other guidelines developed by IACP address the need for the psychologist to be familiar with the specific working conditions of the job and the usefulness of integrating findings from a candidate’s background investigation and polygraph examination into the interview process.⁷¹

Entry-Level Polygraphs

Discussion of Findings

⁶⁹ IPD Behavioral Research Branch, “Project Two of the Internal Affairs Best Practices Initiative: Pre-Employment Psychological Evaluations,” September 30, 2010, p. 5.

⁷⁰ IACP Police Psychological Services Section, “Guidelines for Police Psychological Service,” *Police Chief Magazine*, vol. 72, no. 9, September 2005.

⁷¹ *Ibid.*

The Anti-Border Corruption Act of 2010 established a policy calling for all CBP law enforcement position applicants to undergo a polygraph examination and a background investigation before being offered employment. As noted in the first finding and recommendation here—on doing polygraphs prior to background checks as a way to save time and resources in the vetting process—polygraphs are critical to recruitment for organizations like CBP. Yet, based on our interviews for this study, it was apparent there has been some organizational resistance to entry-level polygraphs. Several of the persons we spoke with at headquarters expressed some level of opposition to such polygraphs, while most of the persons we spoke with in the field expressed support for this assessment tool. There were no apparent correlations to these diverse opinions.

Whether or not the use of the polygraph examination is supported by staff, there is strong data to support its effectiveness in vetting job candidates. Polygraphs have been detecting matters that would not have been exposed through other vetting tools. The IPD BRB *A+ Case File Study* (figure 6) attests to this finding.

The A+ Case File Study: An Exploration of the Statements Made Against Personal Interest in Law Enforcement Screening Polygraph Examinations (2009)

Conducted by: The Office of Internal Affairs, Integrity Programs Division (IPD) Behavioral Research Branch and the Credibility Assessment Division (CAD)

This exploratory study reviewed 24 failed applicant polygraph examinations to describe the nature of information revealed during polygraph exams and identify any common elements.

Findings:

- Study appears to validate the notion that pre-employment polygraphs yielded adjudicative information in the 24 cases studied
- Polygraphs could provide real-time actionable information that could be used to prevent future misconduct
- Standard BI forms may unintentionally enable some degree of deception, particularly if the applicant has something to hide
- The illicit activities uncovered were not youthful indiscretions or one-time events, but rather a pattern of behaviors
- Many applicants appeared to place allegiance to family before duty to enforce the law

Figure 6. Findings from the 2009 IPD *A+ Case File Study* about polygraphs⁷²

We reviewed data and studies developed by IPD that indicated polygraphs have led to admissions in the following areas:

- organized crime (involvement with drug-trafficking organizations, human smuggling/trafficking, other criminal associations)
- citizenship issues (self or family)
- crimes against persons

⁷² *A+ Case Study*, p. 9.

- property crimes
- illegal drug activity
- counterintelligence issues (compromise of classified information)
- countermeasures (attempts to “game” the polygraph or cover up things they have done)⁷³

Furthermore, BRB found that, for many of the individuals who have admitted to participating in illicit activities such as those listed above, the activities “were not youthful indiscretions or one-time mistakes, but rather represented a pattern of behaviors.”⁷⁴

We also learned from CBP staff that polygraph examinations have identified at least fifteen individuals who were deliberately trying to infiltrate the organization for illicit purposes.

Discussion of Recommendation

The CBP OIA Credibility Assessment Division should continue steadily accumulating a cadre of 85 polygraphers to meet the congressional Anti-Border Corruption Act mandate of being able to, by January 1, 2013, test all CBP officer and agent recruits before employment.

The Test/No-Test Study (2010)

Conducted by: The Office of Internal Affairs, Integrity Programs Division (IPD) Behavioral Research Branch

Using a random sample, the Behavioral Research Branch compared the employment records of persons who did and did not take a pre-employment polygraph examination to identify negative conduct of the employees.

Findings: Analysis revealed the persons who did not take the polygraph were more than twice as likely to be on record with Internal Affairs for negative conduct as those who were did take the polygraph.

The types of negative conduct included drug and alcohol misconduct; misplaced, stolen, and/or damaged government-issued property; terminations based on misconduct; and traffic violations and accidents involving GOVs.

Figure 7. Findings from the 2010 IPD Test/No-Test Study about polygraphs⁷⁵

CBP should also consider periodic polygraphs for its law enforcement employees once the polygraphers’ cadre is at full capacity. This testing could be conducted on five-year

⁷³ Ibid., pp. 6-7.

⁷⁴ Ibid., p. 10.

⁷⁵ CBP OIA Integrity Programs Division Behavioral Research Branch, *Test vs. No-Test: Pre-Employment Polygraph Exams and Subsequent Record with Internal Affairs*, (September 16, 2010), page 2.

intervals in conjunction with the periodic background investigation (BI) to avert any deceptions in the BI process. If this method exceeds testing capacities, a more strategic approach may be required. An “early warning system” could prove valuable and perhaps more cost-effective by randomly subjecting to such tests those most likely to be experiencing problems.⁷⁶ CBP should also consider the testing of specific employee populations, e.g., national security positions, with random polygraph examinations, much like random drug testing.

⁷⁶ “Early warning systems” are data-based police management tools designed to identify officers whose behavior is problematic and provide a form of intervention to correct that performance. Samuel Walker, Geoffrey Alpert, and Dennis Kenney, “Early Warning Systems: Responding to the Problem Police Officer” Research in Brief, National Institute of Justice, U.S. Department of justice, NJC 188565 (July 2001), www.ncjrs.gov/pdffiles1/nij/188565.pdf.

SECTION III. INTEGRITY TRAINING PROCESS AND PROGRAMS

The study team assessed existing training programs designed to develop ethical behavior in both Border Patrol agents and CBP officers at the entry and supervisory levels, and the rest of the continuum of an agent/officer's career. We conducted this evaluation through discussions with Office of Training and Development (OTD) leadership, as well as representatives of the Field Operations Academy (FOA), Border Patrol Academy (BPA), and the Advanced Training Center (ATC) who directly oversee workforce integrity/counter-corruption-related academic programs and curricula. We also reviewed associated courseware provided to us by OTD. (See appendix G for a list of that courseware, and recommendations for a comprehensive review of CBP ethics and integrity training programs.) Finally, the team considered "messaging" (how topics are woven thematically into communicative materials) as a subset of continuing training and education by discussing training themes in the field and reviewing CBP intranet (CBPnet) content.

Overview of Findings and Recommendations

- Follow-on refresher ethics, integrity and counter-corruption training offered in the field take on a variety of forms. CBP should designate one authority on ethics and integrity training to coordinate courseware content and messaging throughout the agency.
- Emphasis in exactly what things CBP wants its employees to be doing in regards to the day-to-day application of ethics appears to be missing from the training materials/lesson plans. CBP should emphasize the practical application of ethics concepts within the day-to-day work of both first-line employees and supervisors, and better inform CBP staff of any organization-wide training.
- The CBPnet web content for integrity and counter-corruption is spread across several pages of the website. Integrity and counter-corruption messaging on the CBPnet would benefit by having a central site for all of this information.

The following is a discussion, in order, of those findings and recommendations.

Assessment

Ethics and Integrity Training Programs

Discussion of Findings

CBP provides training focused on ethics, integrity and ethical decision making throughout an employee's career, since—as with any organization—training is essential to establishing and reaffirming an organizations' values, ethos and code of conduct. Entry-level training ingrains in the recruits the fundamental precepts by which the organization conducts itself, and offers standards to which they should aspire.

Supervisory training prepares mid-level managers to lead and look after their personnel, and foster expected performance and behavior. Continuing education and training reinforces and reaffirms organizational goals and standards.

Covering these various levels of training for CBP are a handful of entities. As noted earlier, formal integrity and counter-corruption training is developed and provided to the workforce by OTD, OIA Integrity Programs Division, the Field Officer and Border Patrol Academies, CBP IA special agents, DHS OIG special agents, and supervisors and CBP integrity officers at shift musters. The Office of Chief Counsel also administers ethics training.

The variety of training entities presents a variety of training on ethics. The New Employee Orientation Program, for example, provides at least two hours of workforce integrity training for all CBP personnel. Newly hired CBP law enforcement officers receive expanded ethics and integrity instruction tailored to their workplaces, as part of their basic training curricula.

Beyond their initial entry on duty, CBP employees receive advanced and specialized training which includes integrity elements. CBP supervisory and leadership training programs include Supervisory Leadership Training, Incumbent Supervisory Training, the CBP Leadership Institute, the Command Leadership Academy, and the DHS Senior Executive Service Candidate Development Program. Those programs include seminars, classroom instruction, and practical exercises that prepare CBP leadership to direct the workforce in a manner that advances integrity and accountability through critical thinking and ethical decision making.⁷⁷

The training activities at the Field Operations Academy in Glynco, GA, Border Patrol Academy in Artesia, NM, and the Advanced Training Center in Harpers Ferry, WV, include ethics and integrity modules and themes explicitly and implicitly. In addition, themes such as CBP's core values of "Vigilance, Service and Integrity"; OTD's guiding principles of "MESH (Mission Focused, Esprit de Corps, Sustained Excellence and Honesty)"; and the Border Patrol motto "Honor First" receive prominent treatment. In some courses, Commissioner Alan Bersin's theme, "Corruption is the dagger pointing at the heart of Customs and Border Protection," receives emphasis.

Follow-on refresher ethics, integrity, and counter-corruption training offered in the field take on a variety of forms. Standardized training modules developed by OTD's Training Production and Standards Division (TPSD) and offered online and by local instructors appear to be of high quality and consistency. However, in our discussions in the field, we were told that the quality of the training varies with the organization offering the instruction and the individual instructors.

⁷⁷ *Hearing on Border Corruption: Assessing Customs and Border Protection and the Department of Homeland Security Inspector General's Office Collaboration in the Fight to Prevent Corruption*, Before the Senate Homeland Security and Governmental Affairs Committee, Ad Hoc Subcommittee on Disaster Recovery and Intergovernmental Affairs, 112th Congress (June 9, 2011) (statement of Alan D. Bersin, CBP Commissioner).

Discussion of Recommendation

CBP should designate one authority on ethics and integrity training to coordinate courseware content and messaging throughout the agency. Covering so many levels of training in any subject, in an organization this large, without a single authority overseeing it all presents the potential for inconsistencies. The consistency of the instruction and themes may suffer when multiple organizations with different interests lecture field-activity personnel.

*Ethics and Integrity Training Themes*⁷⁸

Discussion

While we note a variety of positive aspects of the training as outlined in the training materials provided, there were also a number of questions that arose during our review that suggest further analysis and consideration - answers to which could serve to enhance the overall effectiveness of CBP ethics training. A few of these concerns follow:

- Universal Definition of Ethics: While it was readily apparent that the CBP courses each dedicated a portion of their training to defining ethics and integrity and to highlighting the importance of ethics to their agencies' work, it was not apparent that there is a universal definition of ethics for the greater CBP organization that is emphasized in each and every CBP course. In other words, it is not clear if each basic academy and advanced training course speaks with one overall CBP voice in terms of an ethics definition and expectations.

Questions for consideration are:

- Is there a coordinated effort within each of the CBP's training delivery groups to ensure they are addressing the same ethics concepts, using the same definition, as the other CBP training groups, with a goal to set a CBP-wide standard for ethical expectations and behavior?
- Are CBP's organization-wide goals and objectives for addressing corruption identified, and if so are they to be found within each training course?
- Root Cause Analysis of Corruption and a Focus on Ethics Application: While a number of the courses did highlight discussions of some real-life cases in which corruption had been identified, the discussion did not seem to do much more than highlight how some corruption cases came to light and how they damaged the

⁷⁸ The following is the Hillard Heintze SLC training subject matter experts' (SMEs) initial assessment of how the various materials above interrelate and how they appear to address CBP's current concerns. These are only the initial impressions and opinions of the SMEs—including the recommendations they give at the end of this assessment. Given the gravity of the topic and the complexities of the material, additional review and analysis should be done to yield concrete recommendations regarding training methodologies and their effectiveness.

reputation of CBP. It was unclear if the discussion moved from simply discussing the outcomes of corruption to clearly emphasizing a CBP-wide strategy about how to prevent, detect, investigate and report corruption.

For example, in the Second-Level Command Preparation course, it was apparent that a number of different situations involving ethical lapses were discussed (Abu Ghraib prison, the Rodney King incident, the Kitty Genovese incident, My Lai Massacre, Tailhook scandal, etc.). Yet these course materials did not seem to go much beyond such philosophical discussions. It did not appear that the major emphasis was on what actions CBP supervisors could or should take on a daily basis to prevent, detect, investigate and/or report corruption.

While this particular course's material does discuss paying attention to issues that should lead a supervisor to detect corruption (described at times as "red flag" issues), the material leaves readers with the sense that a relatively small portion of the overall training time focused on this very important component of being a supervisor.

Indeed, even the final essay that the Second-Level Command Preparation Course attendees are required to write—describing a real-life, work-related ethical dilemma each trainee had experienced—seemed to highlight discussion about what could be done to improve the response to the dilemma, rather than proactive measures that could be taken to prevent or detect it. Instead, the essay's emphasis included answering the following questions (taken from page 4-89):

- What is the nature of the ethical problem?
- Was the action taken appropriate?
- If the action taken was not appropriate, what should have happened?
- What lessons were learned?
- Would the information provided in this lesson have been applicable, and would it have resulted in a better/different outcome?

Missing from this course's material were such questions as the following, which emphasize proactive efforts on the part of supervisors to prevent such dilemmas in the first place:

- What actions might I as a supervisor have taken to prevent this ethical dilemma from occurring in the first place?
 - Did I share this dilemma with my own supervisor as soon as possible?
- "Bright Line" Behaviors: Because of the concerns that CBP has regarding workforce integrity and corruption within its organization, it would seem extremely important to place the greatest emphasis in its training courses on the specific behaviors it expects from its members. Hence, while there was a great deal of commendable philosophical discussion about the importance of values and ethics in the course overviews and

instructor's guide we reviewed, it was unclear whether CBP has drawn a "bright line" about what is acceptable (and what is not) in terms of ethical behavior. Bright line standards are a means of ensuring that all employees are very clear about some very specific types of misconduct that will result in very specific levels of discipline.

This seems especially important given the fact that there has been such a rapid increase in the number of CBP employees in recent years, and because it appears that so many newer employees are being promoted so much sooner within their careers to keep pace with the organizational growth. Hence, what appears to be missing from the training materials/lesson plans is emphasis in *exactly* what things CBP wants its employees to be doing in regards to the day-to-day *application* of ethics, as well as an emphasis on training supervisors on the nuts-and-bolts, day-to-day tasks that one would expect them to engage in to prevent, detect, investigate and report unethical behavior.

For instance, using the Second-Level Command Preparation Ethics course as just one example, the following might be a few samples of training components of great value that could be incorporated, for the supervisor trainees as well as for the organization itself:

- A description and review of IPD's Corruption Case Study, which discusses employment histories and performance, demographics, social contacts, misconduct and discipline, and other important data points. Simply having a better understanding of what the organization is actually doing to address corruption issues, as well as a discussion of how such efforts can be of use to CBP supervisors on their "home turf," can go a long way in helping the staff feel that there is an organization-wide plan to address corruption issues. It can also help boost morale and instill a sense that they, as supervisors, are part of the organization's solutions to corruption.
- A review of CBP's *Annual Report on Employee Delinquency* would be of value when highlighting what real-time problems are occurring within CBP, which would tend to highlight what supervisors specifically need to be addressing back in their part of the organization.
- An IA investigator's perspective on what they wish CBP supervisors in the field would be doing to address corruption issues on a day-to-day basis, with an emphasis on preventing corruption cases.
- A checklist of specific "red flags," or things to watch out for with employees that might tend to indicate ethical issues when reviewing their subordinates' work-related performance on a day-to-day basis. Small-group discussions could then be initiated in which scenarios could be presented that require the supervisors to determine what ethical problems might exist, what specific steps they would take to address it, and how to communicate the problem with their chain of command.

- A very candid discussion of what their specific roles and responsibilities are as supervisors, with emphasis on the accountability that CBP expects of them. Trainees should leave the course with a very clear understanding of what, specifically, are their roles and responsibilities and what is expected of them regarding CBP's anti-corruption efforts.

Discussion of Recommendation

CBP should emphasize the practical application of ethics concepts within the day-to-day work of both first-line employees and supervisors, and better inform CBP staff of any organization-wide training. This emphasis, in exactly what things CBP wants its employees to be *doing* in regards to the day-to-day *application* of ethics, appears to be missing from the training materials/lesson plans.

The study team further recommends a review more in-depth than the one accomplished here of training issues, to determine what additional steps could be taken to ensure that CBP's ethics/integrity training highlights the practical application of ethics as stated above. Such a review should also inform CBP of what organization-wide efforts can help bolster training efforts to meet the expectations set by CBP management (e.g., Commissioner Bersin's theme implying that CBP "stop the dagger"). Appendix G suggests an approach to this review.

CBPnet Content and Messaging

Discussion of Findings

The study team wanted to determine the extent to which less formal, non-training communications conveyed workforce integrity and counter-corruption themes. To do this they surveyed the agency-wide CBPnet for content and messaging, and noted that CBPnet features the following relevant sites:

- "Commissioner's Message: Assuring the Highest Standards of Integrity"

The text version of this message, housed on the commissioner's page, was easily accessible. There were also two linked videos related to the written statement: (1) Commissioner Bersin formally presenting the message from a podium at CBP headquarters; and (2) a subsequent video entitled "Integrity Town Hall Meeting".

- "Message from Chief Fisher: Wellton Station Border Patrol Agent Arrested"

Posted on U.S. Border Patrol Chief Fisher's webpage, the written message offers a basic description of the April 5, 2011 arrest. A linked audio recording from Chief Fisher included after the written message offers a more personal message condemning the agent's actions.

- "Trust Betrayed"

Located on the CBP Office of Internal Affairs website, the official title of this page is "Trust Betrayed: As Guardians of Our Nation's Borders, We Cannot Afford a Weak Link." The section offers "snapshots" of information related to

individual field officer or Border Patrol officers and agents who have been convicted of corruption-related offenses. It also includes instructions for reporting attempted bribes and other corruption-related behavior.

- “Vigilance, Service, Honor”

This theme is located in the Office of Public Affairs (OPA) portion of the CBP intranet website. The opening segment of this section states, “Every day, outstanding, CBP courageousness brings respect and honor to us all.” It goes on to offer profiles of field officer and Border Patrol officers and agents who have distinguished themselves by acts of heroism and high integrity. Interestingly, if considered as the counterpoint to “Trust Betrayed,” this site does not experience nearly as many “hits” as “Trust...”

- Anti-Corruption Training Videos

Three anti-corruption training videos produced by CBP’s Field Communications Branch appear on the Office of Border Patrol page. The first video focuses on on-duty malfeasance; the second deals with a Border Patrol agent using his badge and personal relationship with a bouncer to obtain access to a nightclub; the third addresses debt issues. The videos all offer good overviews of potential corruption pitfalls. They are well made and provide a good tool to bridge the gap between other types of ethics/integrity instruction.

- Video Message from former Border Patrol Chief Ron Colburn

Posted to the Office of Border Patrol in March of 2009, former Chief Colburn delivers a stern anti-corruption message with a forceful warning to Border Patrol agents that corruption is treason.

The CBPnet content is, overall, informative, interesting, and timely. However, the information is spread across several pages of the website.

Discussion of Recommendation

Integrity and counter-corruption messaging on the CBPnet would benefit by having a central site for all of this information. One way to centralize the content is to build an “integrity website” or webpage with links to the other related sites. This also stands to add uniformity and decrease duplication of effort.

SECTION IV. METRICS AND INFORMATION SHARING PROCESS

The study team, including Hillard Heintze SLC SMEs, considered CBP's existing metrics for identifying and determining the level of corruption in the workforce, focusing on whether they are sufficient to meet the information needs of CBP offices and partner agencies responsible for countering corruption and heightening integrity. We consulted with the CBP Office of Human Resources Management (HRM) and its Labor and Employee Relations Division (LER) as well as IPD. We placed particular emphasis on areas we believe could assist upper-level management and supervisors in collecting and reviewing specific data to help them be more proactive in preventing or discovering discipline violations. We also extensively reviewed the HRM LER "U.S. Customs and Border Protection Discipline Report for Fiscal Year 2010" briefing for content and statistics, as an example of disciplinary data being collected and reported.

Overview of Findings and Recommendations

- There is no comprehensive picture of workforce corruption. CBP should consider implementing a central, unified tracking system for all the important data that could be used to prevent, detect, and deter misconduct and corruption.
 - CBP should also emphasize to DHS OIG the need for transparency in cases involving CBP employees.
 - Finally, IPD Behavioral Research Branch should undertake a "Code of Silence" study.
- The organization of disciplinary data is lacking in several significant ways (e.g., some types of discipline appear to be missing from the data). CBP LER should consider the collection, breakdown, and analysis of the data sets discussed in this paper, and conduct further study to determine other data requirements.

The following is a discussion, in order, of those findings and recommendations.

Assessment

Data Collection and Reporting

Discussion of Findings

The study team found, in their research of this particular area, that there is no comprehensive picture of workforce corruption—that is, enough data to gauge the breadth and depth of this corruption problem in CBP. Without that full situational awareness,

- the extent of corruption cannot be determined, and

- the most efficient measures to address the problem cannot be determined (e.g., either prioritization of investigations, “breakpoints” for administrative adjudication, or criminal investigation and prosecution are undetermined).

CBP’s greatest impediment to gathering this information is, as noted earlier, the lack of visibility of all instances of malfeasance within the agency, due to DHS OIG’s withholding of allegations against CBP personnel that they have received directly. It is unclear whether an organization-wide process is in place to ensure that all cases of misconduct are being reported to the Joint Intake Center in accordance with prescribed criteria. A potential impediment to reporting misconduct is—as noted earlier, as well—the extent to which the “code of silence” exists among the workforce.

The OIA Integrity Programs Division tracks known cases of corruption as evidenced by arrests and indictments. OIA maintains a database of employee delinquency defined as all arrests, indictments, citations, and detainments for violations of law reported to the Joint Intake Center. Variables include employee demographics, organizational assignment, geographic location, and charges/offenses among many other fields. In cases of corruption and mission-compromising corruption,⁷⁹ OIA keeps a record of the investigative entity as well as any other agencies involved in the case, plus the investigative timeline from the date of the first report of investigation (ROI) to the date of arrest.

Based on these collected metrics, IPD generates the following reports:

- *Annual Report on Delinquency* – a yearly report addressing both corruption and mission-compromising corruption, distributed within OIA
- *Commissioner’s Snapshot* – a monthly report on the number of each level of employee delinquency, based on a year-to-date comparison to the same time in previous fiscal years, distributed to the CBP commissioner and OIA internally
- *Weekly Update on DHS OIG Cases* - prepared jointly by OIA’s IPD and Investigative Operations Division (IOD) on DHS OIG involvement in cases on CBP employees submitted to the commissioner. The report contains the total number and status (open/closed) of DHS OIG cases on CBP employees uploaded into the Joint Integrity Case Management System (JICMS), as well as the nature of DHS OIG involvement.
- *Ad Hoc Data Calls* – IPD responds to numerous questions posed by CBP constituents (e.g., commissioner and deputy commissioner offices, OIA

⁷⁹ Corruption is defined as a violation of law in which a CBP employee misuses or abuses the knowledge, access, or authority granted by virtue of official position for personal gain. Mission-compromising corruption is a violation of law in which a CBP employee misuses or abuses the knowledge, access, or authority granted by virtue of official position for personal gain, and the activity violates or facilitates the violation of laws that CBP enforces.

assistant commissioner [AC] and deputy AC) and external entities related to employee delinquency (e.g., DHS, Congress, and the media).

The HRM Labor and Employee Relations Division tracks the broad spectrum of disciplinary reports and actions, from removals to formal counseling to cases closed without action. This data is reported in the annual *HRM LER Discipline Report* provided to the commissioner and deputy commissioner.

Discussion of Recommendation

CBP should consider implementing a central, unified tracking system for all the important data that could be used to prevent, detect, and deter misconduct and corruption. CBP should emphasize to DHS OIG the need for transparency in cases involving CBP employees—to further add to such data to be tracked. Furthermore, the IPD Behavioral Research Branch should undertake a “Code of Silence” study.

In order to address workforce integrity issues and counter corruption, the extent of the problems must be determined. With the extent of the problems known, CBP management can identify specific measures and strategies to deal with the prevalent issues. A unified tracking system would combine OIA IPD’s tracking of employee delinquency. Optimally, this data would include information on cases held by DHS OIG currently withheld from the agency.

A comprehensive picture of workforce delinquency and discipline would inform CBP training units in their development of informed measures and strategies to promote workforce integrity. The “Code of Silence Study” would not only assess the extent of the code within the CBP workforce, but also help gauge workforce integrity. Such studies are common to state and local law enforcement agencies.⁸⁰

Data Analysis

Discussion of Findings

The OIA Integrity Programs Division conducts intelligence analysis of enforcement actions, data, and trends, and performs analysis in support of OIA investigations and pre-employment screening operations. Within IPD, the Behavioral Research Branch is a multidisciplinary unit that conducts behavioral research focused on the CBP workforce. Such research is intended to address operational issues and challenges, and to enhance the background investigation process. This nexus of the comprehensive ICE-CBP Joint Integrity Case Management System (JICMS) and other law enforcement databases, and targeted IPD analysis is an innovative best practice not seen in the vast majority of law enforcement agencies.

⁸⁰ Carl B. Klockars et al., “The Measurement of Police Integrity” Research in Brief, U.S. Department of Justice National Institute of Justice, NCJ 181465 (May 2000).

The HRM LER “U.S. Customs and Border Protection Discipline Report for Fiscal Year 2010” briefing provided content and statistics sufficient for an example here of disciplinary data being collected and reported. The results of that review are as follows:

- While the reporting data illustrates the types of violations and disciplinary outcomes, these two areas are not linked together in any significant way. For example, a “lack of candor” case does not indicate whether it resulted in a termination, nor does a “misuse of TECS⁸¹” case indicate whether it resulted in a short-term suspension. Furthermore, the gravity of cases is not made clear. Data indicates, for example, a high number of misconduct cases in San Diego, Rio Grande, Tucson and El Rio, but an area with fewer cases might have a greater percentage of the more serious ones.
- Some types of discipline appear to be missing from the data that are typically found in law enforcement agencies that do a good job of tracking their discipline cases. The most important missing item is what most agencies term a “Failure to Supervise.” We found no data indicating that CBP was initiating disciplinary cases against supervisors who fail to do their jobs. There does not even appear to be a separate classification for this level of misconduct. Instead, violations such as these are most likely categorized as policy and procedures violations.
- A specific misconduct violation commonly defined as Failure to Report Misconduct also appears to be missing from the CBP discipline process. While this might fall under the Failure to Follow Policies and Procedures section of misconduct that could result in disciplinary or adverse actions, most progressive state and local law enforcement agencies highlight this type of misconduct in their programs.
- Another type of misconduct missing from the reporting documents is Sexual Harassment.

Discussion of Recommendation

CBP LER should consider the collection, breakdown and analysis of data sets in a way that is helpful for analyzing workforce corruption, as discussed above. For example, data points should be broken down and reported for each type of violation and individual CBP office or geographic location, and the gravity of the different cases made clear.

3,058 cases of CBP personnel misconduct were closed in FY 2010 without action. Knowing the specific outcomes for each specific misconduct violation in each location would allow management the ability to evaluate consistency in how discipline is meted out. Collecting and reporting such data would also send a message to all CBP offices that upper-level management is paying attention to these concerns at each location.

CBP should also, if they do not already do so, initiate disciplinary cases against supervisors who fail to do their jobs, and create a separate classification for this level of

⁸¹ TECS is the Treasury Enforcement Communications System, a law enforcement database utilized by CBP and other federal agencies.

misconduct (i.e., “Failure to Supervise”). We believe that there is a general consensus among state and local police administrators that an agency’s first-line supervisors are the key to ensuring adherence to policies and procedures. Progressive agencies ensure that supervisors are trained well and then held accountable for their performance.

If CBP is initiating misconduct cases for “Failure to Supervise” in its “Failure to Follow Policy” sections, CBP should consider breaking this out and highlighting it as a separate misconduct violation so that its importance is emphasized to the organization. Moreover, by specifically defining this type of misconduct, any failure to supervise misconduct would require formal action by management.

Sexual Harassment should also be included in the reporting documents as a type of misconduct, as this ethical problem—like any ethical problem—stands to be traced to other ethical problems, like corruption. While it is unclear if these are being handled under the section dealing with Policy Violations, we believe CBP should highlight its proactive efforts in addressing concerns in this area. Given the number of CBP employees—over 59,000—there are presumably some sexual harassment violations.

It would also be helpful to have data indicating the number of discipline cases for personnel whose supervisors had also been disciplined. Correlating poor performance on the part of employees as a result of poor supervision could be helpful for a variety of management reasons, including training.

Although the number of misconduct cases for drug violations is identified, along with the results for random drug testing, we suggest breaking this data down even further. What drugs were involved? In which CBP offices and locations do these employees work—and has management in these offices been informed? Has CBP management taken any steps to determine whether the drugs employees were using in any given area were those most likely being transported illegally at the specific locations where the employees are working? For example, are CBP employees, stationed in certain offices along the Southwest Border, using cocaine in proportions greater than other types of drugs, and is cocaine the most predominant drug being smuggled in their assigned area? Data providing answers to these kinds of questions might provide red flags for management, indicating that some CBP employees might be acquiring their drugs through their CBP positions.

Identifying employees with a disciplinary record receiving further discipline is another extremely valuable piece of information warranting further analysis. For example, in FY 2010, among the general observations reported on the outcomes of the Discipline Review Boards, one indicated that 44 percent of the DRB cases involved employees with a prior disciplinary record. We recommend making this category a subject for further analysis with the following data provided:

- Types of misconduct involved, both in the present cases and in the prior cases
- Number of misconduct cases involving employees with either one, two, three or more prior cases
- Number of cases involving front-line employees and, separately, supervisors

- Average length of time between prior and current misconduct cases

The length of the DRB process itself also warrants scrutiny. The following data would reveal potential inefficiencies and reasons for protracted cases:

- The number of union requests for information and the types of cases involved
- Specific data on the time it took to schedule oral replies and the types of cases involved
- The number of Douglas Factors cases, and the types of cases involved
- The number of cases in which a case was delayed due to a change by a deciding official as well as the location and type of cases involved

If management is to be proactive in its efforts to address misconduct in a timely manner and track the effectiveness of its discipline process, this data is critical.

CBP should also conduct further study to determine other data requirements. There are data-related best practices currently being implemented within state and local law enforcement agencies that could provide CBP with the ability to do a much better job of informing it about the real-time state of its integrity assurance efforts.

Finally, HRM LER should consider a unit dedicated to analyzing data, with the goal of providing guidelines to upper-level management and supervisors on ways to deter, prevent, and mitigate misconduct. This analysis unit could also provide inputs to CBP training programs to assist in the development of training curricula and modules dealing with workforce integrity and counter-corruption subjects.

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SECTION V. PREVENTION, DETECTION, MONITORING, AND INVESTIGATIVE PROGRAMS AND INITIATIVES

In addition to the focal areas addressed thus far, U.S. Customs and Border Protection has a broad array of programs and initiatives designed to promote workforce integrity, and to prevent, detect, monitor and investigate corruption. The expanse of programs and initiatives across the agency is significant and testifies to the concern and attention that CBP leadership and management place on workforce integrity and counter-corruption measures. To help frame our survey of these activities, the CBP Office of Human Resource Management provided the study team with a matrix of programs and initiatives developed by the Labor and Employee Relations Division in June 2011. Expanding that list to over 40 agency-wide programs and initiatives, we sought to get a better understanding of these endeavors—as well as to identify any other related programmatic efforts—through interviews and further research. Our goal was to determine if there are any gaps in current integrity and counter-corruption programs and initiatives.

Rather than discuss all of the programs and initiatives (see appendix C for the list), we chose to highlight a few that we believe merit further attention, either because they represent a best practice or because they may offer opportunities for more improvement and examination.

Overview of Findings and Recommendations

- The Employee Assistance Program (EAP) demonstrates that CBP has taken seriously its responsibility to provide remediation, education, and work-life support to its employees—including the types of counseling that can help CBP prevent or mitigate misconduct and corruption. CBP should consider implementing two additional programs that would complement the CBP EAP's other work-life support initiatives: Peer Support Programs (PSPs) and Crisis Intervention Teams (CITs).
- The HRM Benefits, Medical and Worklife (BMWL) Division administers a random drug testing program that results in less than one percent positive results in FY 2010. Random drug testing should continue across the agency. Any changes in testing should contemplate a more strategic approach and ought to consider the inclusion of testing for commonly abused prescription drugs. The program may more appropriately belong in another part of the agency to avert any potential stigma of this detection program on BMWL employee assistance initiatives.
- The Analytical Management Systems Control Office (AMSCO) has, for the three years since its inception, identified and corrected operational vulnerabilities that would have allowed potential opportunities for employee corruption. CBP should continue to pursue the AMSCO program's full potential.

- The training currently provided to CBP integrity officers includes informal training at headquarters, largely on-the-job training within AMSCO. Integrity Officer Program managers should consider a more structured training syllabus, to include instruction in the broad range of workforce integrity and counter-corruption programs and initiatives that could assist and inform activities in the field.
- The operational environment that the U.S. Border Patrol's Integrity Advisory Committee monitors and addresses in their deliberations is dynamic. The committee and its chair should consider more frequent meetings.
- There are a number of noteworthy research initiatives within the two programs of the OIA Office of Integrity Programs that contribute to the CBP's efforts to prevent, detect, monitor, and investigate integrity and corruption issues. The proactive research, analysis, and reporting conducted by OIA IPD should be regarded as a best practice for consideration throughout the law enforcement community.
- The Integrated Policy Coordination Cell for Integrity (Integrity IPCC) has yet to adopt and implement a charter governing its activities—without which there is no clear articulation of the cell's vision, purpose, goals, objectives, structure and methodologies. The Integrity IPCC should develop and implement a charter, including consideration of its activities since inception to broaden the scope of its initial intent.

The following is a discussion, in order, of those findings and recommendations.

Assessment

Employee Assistance Program

Discussion of Findings

The CBP Employee Assistance Program administered by the BMWL Division offers employees and their family members counseling regarding issues that, if not dealt with, could foster corruption. The services are available 24/7 via an 800 number or on the dedicated EAP website. The voluntary confidential counseling services cover work-related problems, marital and family issues, life adjustments, medical situations, alcohol and drug abuse, and crisis intervention.⁸² The EAP website has a special section dedicated to helping supervisors recognize personal problems that their employees may be experiencing, providing online training as well as guidance for making referrals. There is also a section on the website dedicated to suicide prevention, which is an excellent resource to address the agency's troubling suicide rate.⁸³

⁸² U.S. Customs and Border Protection, "Employee Assistance Program" (brochure, n.d.).

⁸³ The CY 2010 suicide rate in CBP was 20.73 suicides per 100,000 people. CBP's rates exceed those of several comparison groups, most notably the general population (11.26), law

The program in its entirety demonstrates that CBP has taken seriously its responsibility to provide remediation, education, and work-life support to its employees. The EAP website appears to be a best practice, as it meets or exceeds the quality of similar websites widely recognized within local and state law enforcement as being models.⁸⁴

Discussion of Recommendation

CBP should consider implementing two additional programs that would complement the CBP EAP's other work-life support initiatives: Peer Support Programs (PSP) and Crisis Intervention Team (CIT) Programs. Progressive law enforcement agencies across the nation have implemented PSPs to provide training to rank and file employees, so they are able to support colleagues that are struggling to address various personal issues outlined in the EAP. Similarly, CIT programs provide specialized training to members of an organization who have gone through highly stressful experiences, either on- or off-duty, so they are able to offer assistance and mentoring to other employees going through similar experiences. We recommend CBP explore these programs and consider them for CBP due to the immense value they have provided to other law enforcement agencies. Peer support and CIT programs go a long way in signaling to all members of an organization that top management places a great value on the well being of each individual within the larger organization; such programs become even more important when managing an organization as large as CBP.

Random Drug Testing Program

Discussion of Findings

HRM BMWL administers the random drug testing program for the CBP workforce with ten percent of the population tested annually. The testing not only detects employees who use certain illicit substances, but also serves as a deterrent to those considering the use of drugs. In FY 2010, 5,083 random drug tests were conducted with 8 positive results (.16 percent; 7 actual positive results and 1 refusal to submit to the test).⁸⁵ While recognizing such yield is very small, it is critical for a law enforcement agency the size of CBP—which is involved in drug interdiction at so many levels—to continue to conduct such testing.

Supervisors may request authorization for employee drug testing by phone, but must follow up with a written request shortly thereafter.⁸⁶ Standard random drug testing includes a sampling of personnel at all levels of rank within the CBP organization. This is standard practice for most local law enforcement agencies—based on the premise that

enforcement (18.1), and the U.S. Army (20.6). Interview with CBP OIA IPD staff, November 22, 2011.

⁸⁴ Hillard Heintze subject matter experts, who specifically analyzed the EAP's offerings, suggested this about the EAP website.

⁸⁵ *U.S. Customs and Border Protection Discipline Report for Fiscal Year 2010*, slide 25.

⁸⁶ During their El Paso activities field visit, members of the study team spoke with CBP supervisors who were unaware of the availability of this testing.

leaders should be modeling the way their organization takes a stand against the use of illegal drugs.

Discussion of Recommendation

Random drug testing should continue across the agency. Any changes in testing should contemplate a more strategic approach and ought to consider the inclusion of testing for commonly abused prescription drugs. The program may more appropriately belong in another part of the agency to avert any potential stigma of this detection program on BMWL employee assistance initiatives. Each of these recommendations is discussed in order below.

First, we present the “more strategic approach.” Rather than increasing the number of random drug tests that are administered, we believe it would be wiser and more cost-effective to be more strategic in terms of determining who is tested. CBP management should determine which employees are most at risk for exposure to illegal drugs and test them. Some agencies make such drug testing a condition of entry into high-risk units (e.g., many local law enforcement agencies test those who go into narcotics enforcement or vice squads). Implementing such a policy may require interaction and potential negotiation with CBP employee labor representatives, but local law enforcement has laid the groundwork for such policies. We also suggest consideration be given to testing these high-profile individuals annually.

Additionally, because the abuse of legally prescribed drugs has become a major issue in law enforcement agencies across the country, CBP should consider including testing for such drugs and reporting such abuse. While various legal considerations would need to be addressed, it may be worthwhile to consider developing a policy requiring employees to self-report when they are taking legally prescribed drugs that may have an intoxicating effect on an employee while at work (such as muscle relaxers or other pain medications). That would work to support the testing for the commonly abused prescription drugs. Steroid abuse is another ongoing problem for law enforcement agencies, so CBP should consider testing for steroids as well.

Finally, we recommend that CBP consider relocating the random drug testing program to an office or another division more suitable to its mission. The program, a misconduct detection and deterrence effort, currently resides in the Benefits, Medical and Worklife Division. This dichotomy has the potential to present a stigma on the employee assistance initiatives.

Analytical Management Systems Control Office Program

Discussion of Findings

AMSCO uses CBP’s automated systems to analyze crossing, referral, and results data to identify anomalies that may be indicative of integrity issues. OFO works collaboratively with the local integrity officer and, if necessary, the Office of Internal Affairs to resolve any anomalies identified by AMSCO and to determine the nature of the aberration. By developing and leveraging programs such as the Enforcement Link Mobile Operations – Red Flag (ELMO-RF), ASMCO works with field integrity components to monitor

frontline activity through the use of integrity-based rule sets. ELMO-RF uses CBP data and systems capabilities to provide frontline supervisors immediate feedback on processing anomalies. This allows supervisors to have immediate interaction with front line staff to discuss transaction anomalies.

In the three years since its inception, AMSCO has identified and corrected operational vulnerabilities that would have allowed potential opportunities for employee corruption. Insights gained through AMSCO operations have also allowed the development of new methodologies and applications that bear the potential to identify performance deficiencies and to counter acts of corruption in the field, as well as to serve as a training and instructional tool. The Border Patrol has a pilot program underway to look into the applicability of AMSCO to its operations.

Discussion of Recommendation

CBP should continue to pursue the AMSCO program's full potential. AMSCO has proven to be a highly effective tool to identify field operations workplace vulnerabilities and counter workforce integrity issues. AMSCO is a best practice with the potential for adaptation to other high-volume, structured enterprises.

The effectiveness of AMSCO operations is dependent on teamwork between the OFO staff, integrity officers in the field, and IA special agents. For example, the study team has learned anecdotally there have been occasions when the point at which AMSCO data inquiry ends and the IA investigative work begins is not well understood by the parties. The AMSCO collaborators should develop guidelines to resolve these ambiguities.

Integrity Officer Program

Discussion of Findings

OFO has implemented an Integrity Officer Program that assigns experienced, supervisory level (GS13s) officers to each of the 18 field offices. Integrity officers focus explicitly on integrity-related matters. Working directly for the port of entry (POE) director of field operations (DFO), the integrity officer addresses the DFO's concerns and acts as a liaison to the workforce at the POEs and headquarters integrity counterparts. These officers provide training in classrooms and musters, support AMSCO headquarters inquiries, and provide law enforcement agencies with technical assistance on operational matters and investigations. Other duties include post-corruption case analysis and vulnerability assessments in the field.

In addition to having previous supervisory experience, integrity officers must have technical expertise with the CBP data collection systems, inspections, analysis, intelligence examinations and enforcement activities. Selectees for the program receive informal training at headquarters (where they are provided job aids), in addition to an on-the-job training period within the AMSCO office. That experience acquaints the trainees with AMSCO systems, databases, and techniques. Once in the field, the integrity officer corps is kept informed on program developments through regular correspondence and conference calls.

Discussion of Recommendation

Integrity Officer Program managers should consider a more structured training syllabus, to include instruction in the broad range of workforce integrity and counter-corruption programs and initiatives that could assist and inform activities in the field. The study team considers a dedicated integrity officer at each OFO field office as a best practice. However, we believe that training for such officers could be enhanced by drawing upon additional resources and knowledge existing throughout CBP, to include many of the programs and initiatives discussed within this section.

U.S. Border Patrol Integrity Advisory Committee

Discussion of Findings

The Integrity Advisory Committee's (IAC) mission is to "create strategic recommendations to combat corruption and promote integrity among all U.S. Border Patrol employees."⁸⁷ A review of the committee's charter indicates a well-structured organization and methodology, and defined goals and objectives. The committee provides strategic analysis of the Border Patrol's vulnerabilities as they relate to mission critical corruption: smuggling, bribery, conspiracy, and money laundering. The committee is responsible for developing options and recommendations to effectively combat corruption with the Border Patrol, addressing concerns related to agent and civilian employees. They also provide a variety of analyses (vulnerability analysis and post-corruption analysis), as well as develop recommendations regarding training and awareness programs. All Border Patrol workforce integrity and counter-corruption initiatives that are brought to the attention of the IAC as best practices are shared with the sectors. The Border Patrol chief receives any strategic recommendations that the committee makes.

Discussion of Recommendation

The committee and its chair should consider more frequent meetings. The IAC charter calls for quarterly meetings; however, in practice, meetings are held semiannually. Given the dynamic operational environment that the IAC monitors and addresses in their deliberations, it might be beneficial to convene more frequently.

Office of Internal Affairs, Integrity Programs Division (multiple programs and initiatives)

Discussion of Findings

The Office of Internal Affairs' Integrity Programs Division (IPD) conducts research and analysis and develops education programs aimed at preventing, deterring, and detecting employee misconduct and corruption. There are two programs within the OIA Office of Integrity Programs that are of special interest to the study team: the Proactive Research

⁸⁷ U.S. Customs and Border Protection, U.S. Border Patrol Integrity Advisory Committee briefing, May 2011.

and Analysis Operational Teams and the Behavioral Research Branch. Both of these programs leverage the division's existing research and resources in order to better understand and detect vulnerabilities in the CBP workforce.

Determining the effectiveness of these programs, as well as how their information is used, is not within the scope of the current task. However, there are a number of noteworthy research initiatives within the two programs that contribute to the CBP's efforts to prevent, detect, monitor, and investigate integrity and corruption issues. The following discusses some of them.

Proactive Research and Analysis Operational Teams

The Proactive Research and Analysis Operational (PROA) Teams were established to provide research aimed at detecting, deterring, and preventing corruption within the CBP workforce. The teams concentrate their efforts and expertise on a single operational area of vulnerability to determine where potential instances of misconduct or corruption may exist.⁸⁸ Research areas to date have included the following:

- Operation Side Door – evaluates the data and lead information from the Credibility and Assessment Division (CAD) polygraph examinations, where the applicants admitted to significant involvement with drugs or aliens. The data is examined to identify any nexus to existing CBP employees. PROA also looks for links between existing employees and any applicants who declined to take the polygraph.⁸⁹
- Operation Red Flag – evaluates data derived from AMSCO (described above) and a variety of other CBP systems to identify potential anomalies or areas of vulnerability within the workforce.⁹⁰
- Operation Hometown – evaluates the vulnerability of deployment of CBP and Border Patrol personnel to their respective “hometowns,” focusing on high-threat areas along the Southwest border.⁹¹
- Operation Southern Exposure – the PROA Team evaluates post-seizure data from internal and external sources to identify possible indicators of CBP employee misconduct.⁹²

⁸⁸ U.S. Customs and Border Protection, Office of Internal Affairs, Integrity Programs Division, “Proactive Research and Analysis Operational Teams,” IPD Standard Operating Procedure #7, n.d.

⁸⁹ U.S. Customs and Border Protection, Office of Internal Affairs, Integrity Programs Division, “Proactive Research and Analysis Operational Teams, Operation Side Door,” IPD Standard Operating Procedure #7a, n.d.

⁹⁰ U.S. Customs and Border Protection, Office of Internal Affairs, Integrity Programs Division, IPD Standard Operating Procedures, “Proactive Research and Analysis Operational Teams, Operation Red Flag,” IPD Standard Operating Procedure #7b, n.d.

⁹¹ U.S. Customs and Border Protection, Office of Internal Affairs, Integrity Programs Division, IPD Standard Operating Procedures, “Proactive Research and Analysis Operational Teams, Operation Hometown,” IPD Standard Operating Procedure #7d, n.d.

When applicable, the PROA teams use their research and analysis to generate IPD cases for further investigation by the DHS OIG, ICE OPR, and/or the OIA/IPD. The teams look at other areas as well, such as financial analysis, toll analysis, and asset forfeiture.

Behavioral Research Branch

The Behavioral Research Branch is a multidisciplinary research unit that studies internal threats (at the individual, cultural, and organizational levels) that may compromise the integrity of CBP. The branch is comprised of individuals with experience in forensic psychology, criminology, sociology, and psychology. Staff members conduct research and analysis, perform evaluation, mine data, and provide consultations and training. The branch responds to ad hoc requests for data from the Office of Internal Affairs, other CBP constituents (e.g., the commissioner's office), as well as Congress and DHS.

The BRB's research agenda addresses various aspects of prevention (e.g. studying ways to build a better background investigation), detection (e.g., examining data from polygraphs to detect misconduct), and investigation (e.g., providing real time situational awareness on the prevalence of employee delinquency reported to the JIC and identifying trends over time). The branch provides monthly snapshots on delinquency, weekly DHS OIG case inventories, and annual reports on delinquency in the agency. The BRB's Corruption Case Studies research provides operational analysis of all known cases in which a CBP employee misused or otherwise abused his or her official position for personal gain, providing useful information to IA personnel in their work to prevent, detect, and investigate corruption in the CBP workforce.⁹² The branch has also looked into a number of important issues surrounding integrity and corruption, to include studying code of silence issues and employee suicides, and identifying relevant best practices from other organizations.

Discussion of Recommendation

The proactive research, analysis and reporting conducted by OIA IPD should be regarded as a best practice for consideration throughout the law enforcement community. Their capabilities and products are a valuable resource both internally and externally, and should be promoted as such. The placement of IPD within OIA and co-located with complementary databases and functions—the Investigative Operations Division, the Joint Intake Center, the Personnel Security Division, and the Credibility Assessment Division—allows synergies uncommon in law enforcement. The OIA organization is a law enforcement best practice.

It is important to ensure that the information developed by the PROA teams and the BRB are shared with individuals who are responsible for promoting integrity and deterring corruption throughout the organization. Their analyses have direct implications for hiring,

⁹² U.S. Customs and Border Protection, Office of Internal Affairs, Integrity Programs Division, IPD Standard Operating Procedures, "Proactive Research and Analysis Operational Teams, Operation Southern Exposure," IPD Standard Operating Procedure #7c, n.d.

⁹³ U.S. Customs and Border Protection, Office of Internal Affairs, Integrity Programs Division, "Behavioral Research Branch" (PowerPoint presentation, n.d.).

training, detecting, and investigating corruption and misconduct and could help inform efforts to develop an agency-wide integrity strategy.

Integrated Policy Coordination Cell for Integrity

Discussion of Findings

On March 28, 2011 CBP Commissioner Alan Bersin issued a “CBP Statement of Policy and Intent: Integrity” that clarified the integrity initiatives and goals under his leadership and outlined the principles that serve as a basis for all operational, staffing, budget, and resource decisions across CBP. (See appendix H for the full statement.) In order to ensure the implementation of the provisions of that policy, the commissioner established the Integrity IPCC under his office shortly thereafter. The cell’s membership includes workforce integrity and counter-corruption functionaries from across CBP, and its departmental and interagency partners—including the DHS Office of Inspector General, Immigration and Customs Enforcement’s Office of Professional Responsibility, and the FBI’s Public Corruption Unit.

Since its inception, the Integrity IPCC has yet to adopt and implement a charter governing its activities. Without a charter, there is no clear articulation of the cell’s vision, purpose, goals, objectives, structure and methodologies.

Discussion of Recommendation

The Integrity IPCC should develop and implement a charter. The charter should include the commissioner’s “Statement of Policy and Intent: Integrity” initiatives, goals, and principles, and the methods to ensure their implementation. The charter should also consider the activities the cell has engaged in since inception to determine if it needs to broaden the scope beyond its initial intent. The IPCC should review its membership for inclusiveness to ensure that it is comprised of all the divisions that have roles in promoting integrity and addressing corruption. For example, the Integrity Programs Division—with its many integrity-related programs and initiatives—is not a standing member.

Given the members’ broad representation and common interests in workforce integrity and counter-corruption, the cell could act as the nexus (i.e., point of coordination) of all related programs and initiatives across the agency.

SECTION VI. CONCLUSIONS

The wide range and number of CBP programs and initiatives on workforce integrity and counter-corruption measures testify to the concern and attention that CBP leadership and management give to the critical attribute—and issue—that is *integrity*.

Ethics and integrity training and continuing education at the entry, supervisory, and other leadership levels imbue and promote these principles in the workforce throughout their careers. Programs are in place to prevent and deter the occurrence of corruption in the workplace. Internal controls are set up to detect corruption or ill intent, and to monitor and administer the workforce for misconduct that indicates or could lead to corruption. Processes and resources focus on the investigation of both criminal and non-criminal allegations. CBP's aggressive approach to workforce integrity and counter-corruption measures has resulted in a number of law enforcement community best practices.

Nevertheless, corruption exists in CBP, as the arrest, charge, or conviction of over one hundred agents and officers in the past seven years testifies. Improvements and enhancements are possible, both internally and externally, in CBP's efforts to stem corruption. CBP's considerable number of programs and initiatives need comprehensive guidance in the form of a workforce integrity strategy. The agency should not only rethink its disciplinary system (including the way disciplinary data is handled), but also the organizational structure it shares with DHS OIG for the reporting, assignment, investigation, and disposition of CBP workforce investigations. Organizational matters external to CBP that bear on CBP need rethinking as well: OPM suitability guidelines for CBP national security positions, for example. Including CBP IA special agents in the national and regional BCTFs is an "organizational structure" that need no rethinking—it should continue, fostering further effective criminal investigations and efficiencies in combined counter-corruption efforts.

Perhaps the greatest enhancement can come from the individual CBP themselves, across the organization: CBP should emphasize in its ethics and integrity training exactly what the agency wants its employees to be doing daily in applying those principles.

CBP is neither alone nor unique in confronting issues with workforce integrity. State and local law enforcement agencies over the last several years have spent a great deal of time reviewing and improving their internal affairs and workforce management processes. CBP is poised to do the same.

Areas for Further Study

In the course of this project, the study team realized a number of areas that were beyond the scope of the task yet merit further study. The following subjects are recommended for CBP consideration.

Disciplinary Process

CBP should undertake a study to consider revisions to the current CBP disciplinary process. Initially established by the U.S. Customs Service in 1999 to service a population

of 22,000 employees, the process now deals with a 59,000-member workforce, many of whom operate in a highly volatile border environment. LER staff are overburdened with caseloads. The 151 days in FY10 from a Discipline Review Board to a final decision, noted earlier, is an inordinate amount of time. A study should consider measures introducing efficiencies while ensuring fairness.

Ethics and Integrity Training

The study team recommends that the Office of Training and Development consider a more in-depth review of training issues to help to determine what additional steps could be taken to enhance CBP's training in the areas of ethics and integrity. Such an effort should assist in highlighting the practical application of ethics concepts within the day-to-day work of both first-line employees and supervisors, as well as inform CBP of what organization-wide efforts may be taken to help bolster training efforts to meet the expectations set by CBP management.

"Code of Silence"

A proposed "Code of Silence Study" should be undertaken by the Integrity Programs Division Behavioral Research Branch in order to gauge workforce integrity and determine the extent the code exists within CBP ranks.

Surge Hiring

If DHS OIG provides CBP with information of the cases it currently holds, then the agency may wish to consider conducting analyses of the tenure of the persons who are currently under investigation, to assess when these individuals were hired. The compiled data may confirm or deny any links to the hiring surge and workforce corruption. If it is found that a statistically significant portion of the sample was recruited during the hiring surge, additional research should be undertaken to determine if there were any aspects of the vetting process that may have led to the hiring of unsuitable candidates.

Disciplinary Data Requirements

We recommend CBP consider a study to further determine the collection, breakdown, and analysis of the disciplinary data requirements toward more substantive analysis—to inform CBP leadership, management, supervisors, and the training establishment.

Early Warning Systems Implementation

One of the ways that state and local law enforcement agencies have improved their internal affairs and workforce management processes is in gathering, analyzing, and reporting their misconduct case statistics. These developments have led to the implementation of early warning systems (data-based police management tools designed to identify officers whose behavior is problematic, and to provide a measure for intervention to correct that performance). As existing employ behavior-related database systems are adapted and improved, CBP should consider the future implementation of an early warning system.

Future Threats and Vulnerabilities

CBP should consider a study to explore where future threats and vulnerabilities might lie. For example, if CBP considers the current corruption problem as an example of threat-shifting—we hardened our borders, making it more difficult for people to get in on their own, so they’re relying upon insiders to help them—then the agency should consider conducting an analysis to determine what other types of threat-shifting behaviors may occur in the future that CBP will need to be prepared to address. The key to success is to think ahead to prevention versus reactionary response.

APPENDIX A. INTERVIEW ISSUES AND QUESTIONS FOR CBP HEADQUARTERS OFFICIALS

General Issues and Questions

1. What is the role of your organization/office in the CBP workforce integrity/counter-corruption enterprise?
 - a. Are there particular aspects of the enterprise that you see as particularly effective or efficient?
2. What do you see as the key workforce integrity/counter-corruption issues facing CBP today? What are the highest-priority workforce integrity/counter-corruption issues facing your office?
 - a. What do you feel are the solutions to these issues?
 - b. Why?
3. What constraints or obstacles (if any) limit your office's ability to carry out its workforce integrity/counter-corruption role?
 - a. These may include legal constraints and regulations, CBP and interagency policies, access to or budget for particular technologies, etc.
 - b. Are you able to gather and/or access the information you need to support your efforts to counter corruption?
4. Are you aware of any external or internal influences that make you more or less concerned about corruption in the CBP workforce?
 - a. If so, what are these influences?
5. Regarding the CBP workforce integrity/counter-corruption enterprise:
 - a. Are there particular aspects that you see as in need of improvement, or areas in which you think CBP could benefit from understanding interagency best practices?
 - b. Of the policies and procedures your office has in place in implementing your role, which do you see as most effective? Does your office have a particular program or policy that you see as a best practice applicable to other CBP offices?
6. How does your office define corruption? Integrity? Ethics?
 - a. Does your definition(s) differ from the definitions used by others within CBP?
 - b. If so, how? Why do you use this definition versus those being used by others within CBP?
7. With which offices do you collaborate or exchange information as part of efforts to counter corruption?

- a. Include offices within CBP as well as interagency offices.
8. What workforce integrity/counter-corruption issues/lines of inquiry do you feel the Institute should pursue?
 - a. Why?
 - b. Whom should we talk to/where should we go to explore these issues?
9. Regarding the workforce integrity/counter-corruption enterprise, are there any best practices which you are aware of and would recommend for CBP implementation?
10. The Institute intends to conduct field studies as part of our research.
 - a. Would you recommend any particular activities which would best inform our work?
 - b. Why?
11. What other CBP organizations/offices do you recommend we confer with?
 - a. Why?
 - b. Is there any individual in particular whom you recommend?
12. Are there any interagency organizations/offices that you recommend we confer with?
 - a. Why?
 - b. Is there any individual in particular whom you recommend?

APPENDIX B. CBP OFFICES AND ACTIVITIES AND FEDERAL INTERAGENCY COUNTERPARTS INTERVIEWED

CBP Headquarters Offices and Divisions

Deputy Commissioner

Chief Counsel

- Associate Chief Counsel, Houston, TX

Assistant Commissioner (AC) Office of Field Operations

- Deputy Assistant Commissioner (DAC)
- Executive Director for Field Operations
- Analytic Management Systems Control Office (AMSCO)
- Incident Management Division

Deputy Chief Office of Border Patrol

- Strategic Planning, Policy and Analysis Division
- Integrity Advisory Committee

AC Office of Air and Marine

AC Office of Intelligence and Investigative Liaison (OIIL)

- Deputy Assistant Commissioner OIIL

AC Office of Human Resources Management

- Labor and Employee Relations Division
- Benefits, Medical and Worklife Division
- Personnel Research and Assessment Division
- Hiring Operations, Programs and Policy Division
 - Minneapolis Hiring Center

AC Office of Training and Development

- DAC Office of Training and Development
- Executive Director
 - Field Operations Academy
 - Border Patrol Academy
 - Advanced Training Center

AC Office of Internal Affairs

- DAC Office of Internal Affairs
 - Integrity Programs Division
 - Behavioral Research Branch
 - Investigative Operations Division
 - Joint Intake Center
 - Personnel Security Division
 - Credibility Assessment Division

AC Office of Congressional Affairs

Integrated Policy Coordination Cell for Integrity (Integrity IPCC)

CBP Field Activities – El Paso, Texas

Office of Field Operations Field Office

- Assistant Director
- Line supervisors
- Integrity Officer

U.S. Border Patrol Sector

- Chief
- Integrity representative
- Field supervisors

Office of Internal Affairs Field Office

- Special agent in charge (SAC)
- Deputy SAC
- Resident agents

El Paso Border Corruption Task Force

- FBI resident agent

Los Cruces, New Mexico Border Corruption Task Force

- FBI resident agent
- CBP Internal Affairs resident agent

DHS Office of Inspector General special agent

DHS and Federal Interagency

Department of Homeland Security

- Office of Inspector General – Assistant IG for Investigations
- Immigration and Customs Enforcement
 - Office of Professional Responsibility
- Transportation Security Administration
 - Office of Professional Responsibility
 - Inspections and Investigations Division

Department of Justice

- Office of Inspector General
- Federal Bureau of Investigation
 - Criminal Investigative Division
 - Public Corruption Unit
 - National Border Corruption Task Force
 - Inspections Section Internal Investigative Unit

Department of the Treasury

- Office of Inspector General

Department of Defense

- Office of Inspector General

Environmental Protection Agency

- Office of Inspector General – Assistant IG for Investigations

APPENDIX C. WORKFORCE INTEGRITY AND COUNTER-CORRUPTION PROGRAMS AND INITIATIVES

Focus Point	Program/Initiative	Lead Identity	Description
Prevention	Employee Assistance Program (EAP)	HRM/BMWL	The EAP provides all employees with 24/7 free, confidential counseling, information, and outside referrals for financial, stress, depression, parenting, substance abuse, and other personal and professional issues.
	WorkLife4You (Healthier CBP)	HRM/BMWL	WorkLife4You provides employees with 24/7 information, events, and activities that support work-life-balance and help employees become more resilient to day-to-day challenges in the job and at home.
	Integrity Officer Program	OFO	Integrity Officers are field operations officers who are specially selected and trained to promote integrity in the field offices. Special training includes four months working with AMSCO officers to learn the sophisticated IT tools that detect anomalies in the field operations. The Integrity Officers work directly for the DFO and act as SMEs for AMSCO.
	Integrity Committee	OFO	The purpose of the Integrity Committee is to ensure that the American public has absolute confidence in the integrity of CBP OFO employees. The committee reviews misconduct cases looking for vulnerabilities in order to prevent future corruption. The committee is comprised of CBP personnel from the entire agency include representatives from the Border Patrol the Employee Assistance Program.
Prevention	Integrity Advisory Council (IAC)	USBP	The IAC makes strategic recommendations Border Patrol Chief to combat corruption and promote integrity among all US Border Patrol employees. The council has broad representation from the USBP and has advisors and subject matter experts across CBP offices. The council is responsible for strategic analysis of four vulnerabilities: individual, operational, organizational, and leadership in the areas of smuggling, bribery, conspiracy, and money laundering.
	Mandatory Supervisor Rotation	OFO/USBP	The mandatory supervisor rotation policy was recommended by the USBP's Integrity Advisory Council. The policy requires 25 percent of the BP's field supervisors to rotate annually.
	Electronic Integrity Messaging	USBP	24/7 integrity messages delivered to USBP stations via the Information Display System (IDS). The messaging includes videos on integrity that are based on real-life scenarios.

Focus Point	Program/Initiative	Lead Identity	Description
	Pre-employment Screening	HRM/IA	Pre-employment screening is preliminary screening of all applicants to determine potential background investigation issues. Applicants self-admitting to an issue who are selected are given an alternate tentative select letter that states that due to the self-admitted issue, they may be unsuitable for employment. At that time they are given an opportunity to respond (explain) to the suitability issue or opt out of the process by declining to respond.
Prevention	Background Investigations	HRM/IPD	A comprehensive review of an employee's personal, employment, and criminal history to determine suitability for employment with CBP.
	Pre-employment Polygraphs	OIA/IPD	The Anti-border Corruption Act of 2010 requires that by January 1, 2013 all CBP law enforcement applicants receive a polygraph examination before being hired.
	Vulnerability Assessments	USBP	Vulnerability assessments analyzes USBP processes and programs to identify risk-based scenarios for corruption; the analysis helps to eliminate gaps through procedural changes, policy, oversight, and review (e.g., International Liaison Units ensure further vetting of personnel).
	Field Office Vulnerability Assessments	OFO	A vulnerability assessment of field operations helps to identify areas that may be a possible threat of corruption.
	LEO Integrity Musters	OFO/USBP	Integrity topics included during musters.
	Integrity Awareness Training for New Employees	OIA/IPD	The integrity briefing is incorporated into the New Employee Orientation Program (NEOP).
	Integrity Training for First Line Supervisors	OIA/IPD	First line supervisors attending Supervisory Leadership Training (SLT) (for new first line supervisors) undergo integrity training. The briefing is entitled "Leadership for Preventing Corruption."
	Integrity Training for Incumbent Second-Level Supervisors	OIA/IPD	The objectives of this training are to: (1) define ethics and ethical leadership; (2) recognize and avoid ethical traps in the workplace and elsewhere; and (3) follow a process for ethical decision making and apply it in future leadership decisions.
Prevention	Integrity Briefings for Foreign Posts	OIA/IPD	The topics of the briefing are threats and vulnerabilities in general overseas and at assignment locations with a focus on container security.
	Integrated Policy Coordination Cell on Integrity (Integrity IPCC)	Commissioner's Office	Commissioner Bersin established the Integrity IPCC to ensure the implementation of the "Principles of Policy" articulated in his March 2011 "CBP Statement of Policy and Intent: Integrity". Those propositions form the basis for all operational, staffing, budget and resource decisions across CBP.

Focus Point	Program/Initiative	Lead Identity	Description
Prevention	Trust Betrayed Website	OIA/IOD	The CBPnet Trust Betrayed webpage features employees who have been convicted and sentenced for criminal activity deemed mission critical corruption.
	Integrity Toolkit Training	OFO	Integrity Toolkit training is provided to all OFO employees at the two, five, and ten-year career marks.
	Just in Time Training	HRM/LER	Just in Time training is provided upon request by LER specialists to new supervisors and/or employees on addressing conduct and/or performance issues.
	Annual VLC Integrity Awareness Training	OIA/IPD	This online training fulfills the mandatory annual certification requirement for integrity issues that is delivered via the CBP Virtual Learning Center (VLC).
	“Think Before You Act” Off-duty Arrest Initiatives	HRM	The “Think Before You Act” initiative disseminates recurring integrity-related messages from the Assistant Commissioner, HRM. The messages are disseminated via email and local musters. These messages address the obligation to report corruption, arrests, and other related misconduct. Initial initiative began with information and resources related to alcohol and impaired driving including EAP guidance, red asphalt videos, and goggles which simulate driving under the influence of alcohol.
Detection	Disciplinary Penalties (Doesn’t go here)	HRM/LER	Disciplinary penalties – adverse actions and disciplinary actions – are imposed to correct behavior and teach the subject and others that certain actions are unacceptable for CBP employees. The Table of Offenses and Penalties serves as a guide in meting out discipline.
	Random Drug Testing	HRM/BMWL	Random drug testing is conducted on ten percent of the incumbent CBP workforce per year.
	Proactive Research and Analysis Operational Teams	OIA/IPD	IPD teams conduct research, evaluation and analysis on employees, enforcement actions, and other strategic factors, such as post-seizure data, AMSCO identified anomalies, polygraph data.
	Behavioral Research Branch	OIA/IPD	The Behavioral Research Branch is a multidisciplinary research unit that studies internal threats to the integrity of CBP at the individual, cultural, and organizational levels. The branch conducts research, evaluation, data mining, consultations, training, and information sharing. The disciplines represented within the branch are: forensic psychology, sociology, criminology, and psychology.

Focus Point	Program/Initiative	Lead Identity	Description
Monitoring	Operational Systems Analysis (AMSCO)	OFO/AMSCO (USBP Pilot Study)	AMSCO identifies vulnerabilities, anomalies, and potential integrity issues through analysis of OFO systems data using sophisticated IT tools. The systems track four behaviors: self-inquiry, override of 72 hour check point seizures, override of license plate readers, and TEXT record lookouts. Integrity issues are referred to OIA for further action.
	SOPs for Reporting Possible Corruption	USBP	The SOPs provide guidance for reporting suspicious activity or potential corruption.
	Amendments to CBP Standards of Conduct for Reporting Off-Duty Arrests	HRM/LER	The amendments provide increased specificity on reporting requirements.
	Periodic Reinvestigations	OIA/PSD	CBP employees are mandated to undergo periodic reinvestigations to certify the employee is suitable for continued employment with CBP. These investigations are initiated every five years.
	Misconduct Tracking and Analysis	OIA/IPD	OIA maintains a database on employee misconduct which enables identification of trends and patterns.
	OFO and USBP Post Corruption Analysis	USBP/Field Managers and OFO, IC/Field Managers	USBP and OFO post corruption analysis is a “Lessons Learned” field review of corruption cases following conviction.
Investigative	Management Inquiry Team	USBP	These USBP teams conduct post corruption on mission critical corruption at the sector-level. The teams look for “red flags” for detecting corruption after an agent has been identified as engaging in corrupt activities.
	(Insider) Corruption Case Study	OIA/IPD/ Behavioral Research Branch	The Corruption Case Study is an empirical analysis of all known cases of CBP employees who have misused/abused their position or authority for personal gain focused on identifying behavior that is indicative of corrupt activity.
	Employee Delinquency Study	OIA/IPD/ Behavioral Research Branch	The study tracks and analyzes incidents reported to the JIC in order to provide situational awareness on threats to the integrity of CBP employees. The study informs integrity messaging efforts and aids in the development of the awareness campaigns.

U.S. Customs and Border Protection (CBP) Workforce Integrity Study

Focus Point	Program/Initiative	Lead Identity	Description
	Operation Side Door	OIA/IPD/ Proactive Research and Analysis Operational Teams	This initiative evaluates data and lead information from the Credibility Assessment Division (CAD) polygraph examinations where the applicant has admitted to significant involvement with drugs or aliens. Operation Side Door also studies those individuals who decline polygraph examination.
	Operation Red Flag	OIA/IPD/ Proactive Research and Analysis Operational Teams	This analytic study evaluates data anomalies and lead information from AMSCO to determine if there is any misconduct.
	Operation Hometown	OIA/IPD/ Proactive Research and Analysis Operational Teams	This study evaluates the vulnerability of deploying CBO and Border Patrol personnel to their respective “hometowns.” Where applicable, team generates IPD cases for further investigation by DHS-OIG, ICE-OPR and/or CBP OIA Investigative Operations Division.
Investigative	Operation Southern Exposure	OIA/IPD/ Proactive Research and Analysis Operational Teams	This study evaluates the post-seizure data derived from the Office of Intelligence and Operations Coordination and state and local law enforcement.
	Misconduct and Corruption Investigations	DHS OIG, ICE OPR, OIA IOD	Investigations conducted to determine if an employee has engaged in criminal activity.
	Criminal Analysis and Investigative Support	OIA/IPD	Research and analysis conducted in support of pre-employment screening and CBP employees who are under investigation by DHS-OIG, ICE-OPR, and/or CBP-OIA.
	Investigative Polygraph Examination	OIA/CAD	Polygraph examinations conducted in support of misconduct and/or corruption investigation of CBP employees.

APPENDIX D: HILLARD HEINTZE PROFILES

Hillard Heintze believes that immediate access to trusted counsel, critical insights, and the full scope of information vital to strategic decision making is absolutely essential. As a key component of the firm, the Hillard Heintze Senior Leadership Council is an independent panel of retired major city police chiefs and senior federal, state and local law enforcement leaders. Comprised of select senior law enforcement executives with outstanding career-long records of leadership and achievement, the council is dedicated to bringing national and international best practices to the pursuit of excellence in policing and public safety. It supports the ability of mayors, police chiefs, sheriffs, city managers, council members and regulators in government agencies, as well as their executive decision-making teams worldwide, to identify, evaluate, prioritize and implement opportunities to enhance and improve policing and public safety. Key focus areas include command, control and communications; recruitment and training; information sharing and intelligence; collaboration and public/private partnerships; use of technology; and ethics, workforce integrity and public trust.

Six members of the Hillard Heintze team, including the Senior Leadership Council, contributed directly to the analysis, assessment and research at the core of this study. These individuals are:

Robert Davis – As a 30-year veteran of the San Jose, California Police Department (SJPD), Davis rose from patrol officer to Chief of Police of the tenth-largest city in the nation (2004-2010) as a result of factors such as his progressive use of technology, sensitivity to the diversity of the citizens under his protection, and internationally lauded model of gang prevention, intervention and suppression. Davis oversaw what has historically been the lowest-staffed police department of any major city in the country – with only 1.2 sworn officers per 1,000 residents (the national average is approximately 2.6 officers per 1,000 residents). According to the FBI, San Jose is routinely ranked one of the safest “big cities” in America. This distinction is even more remarkable given that the Department received this accolade amid seven straight years of budget cuts while fighting crime in a city that adds 15,000 to 20,000 new residents every year. Davis has earned international recognition as an expert in addressing gangs and gang violence, having served as a consultant for the U.S. State Department on five separate occasions. Davis is a former President of the Major Cities Chiefs Association.

Thomas Streicher – As the former Chief of the Cincinnati Police Department, a position he held for over ten years, Streicher earned the Department both local and national recognition for his leadership and accomplishments. With Streicher at the helm, the Department has been awarded a number of distinctions, such as the ACLU Leadership Award (2000), the International Association of Chiefs of Police (IACP) Weber Seavey Award (2008) and the IACP West Award for Investigative Excellence (2009). During this period, Cincinnati was also recognized by the United States Department of Justice for successfully meeting the requirements of a Memorandum of Agreement designed to improve aspects of policing including, but not limited to use of force procedures, use of canines, procedures dictating citizen complaint processing, training, inspection and police-community relations. Additionally, the Cincinnati Police Department has been recognized for successfully completing the historic Collaborative Agreement, under the auspices of the United States Court for the Southern District of Ohio, in what former

United States Attorney General John Ashcroft termed a historic agreement, which has never before been attempted by any law enforcement agency in the United States.

Matthew W. Doherty – Widely recognized across the United States as among the most experienced senior experts in assessing an individual's potential for danger and preventing targeted violence against our nation's leaders and national critical infrastructure as well as major events and the corporate workplace, Doherty has managed training on threat assessment and targeted violence prevention for over 70,000 federal, state and local law enforcement personnel. He created the first information-sharing database (TAVISS) for the prevention of violence against protected officials, including the U.S. President, Vice-President, cabinet secretaries and governors. He developed and supervised numerous research projects on targeted violence including the Secret Service partnerships with Carnegie Mellon University for the Insider Threat Study (ITS) and with Harvard University and the Department Education for the Bystander Study. Frequently called on to testify as an expert before Congress, Doherty has also routinely briefed Justice Department officials and members of Congress on threat assessment methodologies. Featured in numerous magazines, newspapers and television news media for major articles on insider threats, assassinations and school shootings, Doherty also serves on two Advisory Boards: the U.S. Marshal Service Judicial Threats Center and the U.S. Capitol Police Threat Assessment Section.

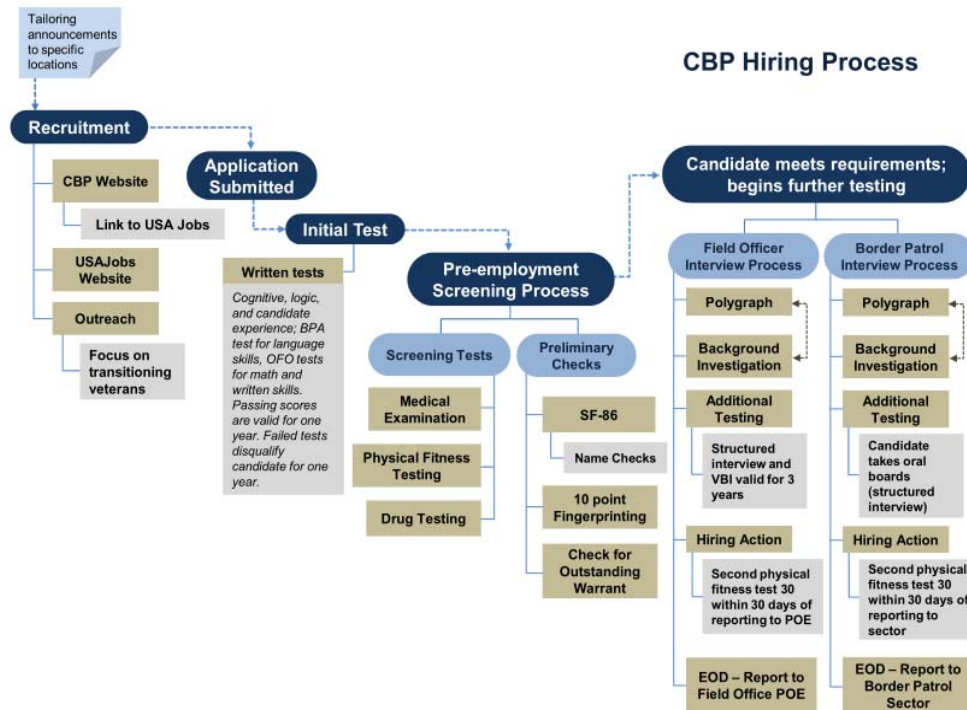
Kenneth A. Bouche – Over nearly two decades, Bouche has established a career as an executive leader and senior advisor at the forefront of applying best practices in technology, information sharing and intelligence to the highly specialized needs of law enforcement, homeland security, justice, emergency preparedness and crisis response. In addition to his executive responsibilities, Bouche leads the firm's focus in two areas: (1) helping government clients (justice and homeland security decision-makers) understand and embrace strategic information-sharing opportunities to advance their missions of understanding trends, preventing crime and terrorism, and catching criminals, and (2) helping the firm's commercial clients and partners align their value offerings and service delivery with the needs of specific public sector organizations. From 2001 to 2006, Bouche was the chairman of the Global Justice Information Sharing Initiative. In this capacity, he served as a national leader in improving America's information-sharing capacity and implementing post 9/11 intelligence reforms.

Terry G. Hillard – Until 2003, as Chicago Police Superintendent, Terry Hillard led 13,500 officers in protecting one of the country's largest metropolitan centers. Hillard is nationally regarded for his results-driven leadership as well as his intensely personal commitment to individuals. At the helm of the Chicago Police Department, he created one of the most collaborative cultures in the history of law enforcement. During his tenure as the head of the nation's second largest police department, he initiated innovative, community-sponsored crime-prevention programs to protect and serve the citizens of Chicago – programs that today still help define national standards in community-based policing. Hillard earned the CPD's highest rank and distinction the old-fashioned way: one step at a time – evolving first from a Patrol Officer to a Gang Crimes Specialist and member of the mayoral Executive Security Detail and later to Intelligence Division Sergeant, District Commander, Chief of Detectives, Coordinator of the Chicago Terrorist Task Force and Lieutenant in Gang Crimes and Narcotics Sections. In fact, the programs and initiatives of his administration transformed the CPD into a best practice-setting, 21st Century law enforcement agency – with changes that spanned

critical law enforcement domains such as technology, information exchange, community policing and police accountability.

Arnette F. Heintze – Based on nearly three decades of experience working at the highest levels of Federal, state and local law enforcement, Arnette Heintze has an exceptionally strategic perspective on security. As the U.S. Secret Service Special Agent in Charge in Chicago, Heintze planned, designed and implemented successful security strategies for U.S. presidents, world leaders, events of national significance and the nation's most critically sensitive assets. Earlier in his distinguished public service career, Heintze served with the Louisiana State Police, Louisiana Attorney General's Office, and the Baton Rouge City Police. In 1990, Heintze was part of the Presidential Protective Division, where he served for more than four years on the permanent detail protecting President and Mrs. Bush and President and Mrs. Clinton. In Washington D.C., Heintze also coordinated the 160 foreign embassies in the city and acted as the Secret Service spokesperson and agent in charge of the Public Affairs Office, where he led the crisis communications team during some of the nation's most trying times. In 1998, Heintze was accorded the honor of being chosen as the Treasury Department's representative to attend the National War College's elite program for select military officers and ranking federal civilians, where he earned a Master of Science degree in national security strategy. In 2000, Heintze's strategic leadership qualifications led to his appointment as a member of the Senior Executive Service and his selection as the Special Agent in Charge of the Chicago field office.

APPENDIX F. RECRUITING AND VETTING FLOW DIAGRAM



APPENDIX G. CBP TRAINING MATERIALS REVIEWED AND NEXT-STEP RECOMMENDATIONS

Training Materials Reviewed and Considered in the Study

As noted at the start of section III, OTD provided courseware on CBP's training on workforce integrity/ethics/code of conduct. The Hillard Heintze SLC training subject matter experts (SMEs) reviewed the material—specifically, the following:

1. Overview of the Border Patrol Academy's Integrity/Ethics/Code of Conduct Training, as prepared by Mark Brazill, Training Operations Specialist, dated April 27, 2011
2. Overview of the Advance Training Center's Integrity/Ethics/Code of Conduct Training, as prepared by Todd Fraser, Course Developer/Instructor, dated May 2, 2011
3. Overview of the Field Operations Academy's Integrity/Ethics/Code of Conduct Training, as prepared by Joseph E. Trevathan, Branch Chief, dated May 31, 2011
4. Overview of the Training Production and Standards Division's Integrity Plus IPCC, as prepared by Susan Farrell, Instructional Systems Specialist, dated May 31, 2011
5. Instructor's Guide for the Second-Level Command Preparation Course on Ethical Decision Making (Lesson Four: Ethical Decision Making), dated September 2011

The findings and recommendations from the review of these materials are in section III of the report.

Recommendations for Next Steps

While a more in-depth review of training issues would help determine what additional measures should be taken, the following are some of the steps that could be taken to assist in this effort:

- Conduct face-to-face interviews with CBP training instructors who actually deliver the ethics training at one or more of CBP's training academies or supervisors' courses. Of specific interest would be the trainers' take on how effective the training is, what constraints there are in presenting the course material, how much interaction and coordination exists between them and other CBP training groups in terms of training design and delivery, what kinds of question they field from trainees, and a review of the trainees' post-course evaluations on the effectiveness of the training. Such information would serve not only to inform the trainers about what could be improved in their sessions, but could also serve to inform CBP management about what steps they may need

to take to provide the training groups with specific CBP-wide expectations regarding “bright line” behavior expectations.

- Conduct interviews with members of the CBP Office of Internal Affairs and the DHS Office of the Inspector General’s to determine what they would like CBP-wide training to cover in their ethics courses. Focus particularly on determining exactly what proactive steps could be taken by first-line employees and their supervisors to address corruption.
- Conduct interviews with some field office and sector managers to determine what they see lacking in the performance of their supervisors that could be addressed through training that emphasizes the practical application of anti-corruption efforts.
- Conduct interviews with both senior and new supervisors to determine what they feel may be needed in terms of providing them with the training necessary to be part of a CBP-wide effort to address corruption. This learning-needs assessment could go a long way not only to enhance the quality of the training they receive, but also to boost their morale when they recognize that CBP management is very interested in including them in the organization-wide effort to combat corruption within their ranks.
- Attend a presentation of at least one of CBP’s courses on ethics to determine whether the training is in sync with the lesson plans, as well as to observe the effectiveness of the course material and delivery. Emphasis on such reviews should be placed upon the basic academy courses and the supervisors’ ethics training sessions, if possible, as these would seem to hold the most opportunity to provide a positive impact for CBP.
- Review some of the written evaluations that trainees may have completed at the end of a CBP course on ethics. Also get access to the student critiques of all ethics instruction courses to include the DHS OIG courses.
- Make written recommendations to CBP, based on the results of the reviews noted above, about what additional or alternative material or learning methodologies could be incorporated into CBP’s ethics training that addresses the current needs of CBP. Specifically, the focus should be on the proactive steps CBP is taking to address corruption issues.
- Consider conducting the same type of reviews as outlined above for the courses that address training CBP’s Internal Affairs and the Integrity Programs Division personnel on how to do their jobs more effectively. Review whether the training focuses on how they can perform their duties more effectively in an environment that requires a great deal of interaction, communication, and cooperation with other government agencies and a host of different field offices.
- Meet with some managers at an organizational level identified by CBP management and determine what characteristics and qualities the ideal supervisor possesses who successfully prevents or handles ethical dilemmas and corruption

issues in the field. Using this information, tailor specific checklists that emphasize these characteristics and qualities for consideration in incorporating them in the ethics training for CBP supervisors.

- Coordinate these reviews and recommendations with the efforts of others working the CBP Vulnerability Analysis. Determine what recommendations could be made to CBP management to enhance their ability to speak with one voice to all of their employees in the effort to combat corruption.

APPENDIX H. CBP STATEMENT OF POLICY AND INTENT: INTEGRITY

U.S. Department of Homeland Security
Washington, DC 20229



U.S. Customs and
Border Protection

Commissioner

[SPI-11-OA]

CBP Statement of Policy and Intent: Integrity

End State:

- Our **workforce** is strengthened when every member of the team can be counted on to perform according to the highest standards of integrity. From the most junior member of the organization to the Commissioner, there is only one standard for integrity: the CBP standard as set forth herein. It is absolute. We do not compromise our oath. We do not lie. We do not cheat. We do not steal. We are accountable to the nation and to one another.
- Each member of our **workforce** is accountable for his or her choices and actions. Employees who violate the public trust for personal gain or other personal motives in individual cases pose as much of a threat to the integrity of CBP as employees who choose to assist adversaries seeking to compromise the workforce in a systematic manner.
- Our **adversaries** must be deterred by the belief and absolute knowledge that our borders, ports of entry and overseas operations are secured by a workforce of the utmost integrity.
- Our **nation** must feel a profound sense of confidence and trust that its borders are protected by the finest and best-trained of its citizens who possess the utmost integrity. Their confidence and trust are sacred charges. We shall never betray that trust.

Foundation:

As U.S. Customs and Border Protection fulfills its potential and moves from a great agency to a greater agency, corruption of the CBP workforce is a dagger pointed at the heart of our organization. Absolute integrity is the keystone of our obligation to protect the United States and the American people.

As Federal civil servants, we take a solemn oath of office by which we swear to support and defend the Constitution of the United States of America, and to faithfully discharge our duties. The very first law passed by the very first Congress implemented Article VI of the Constitution by setting out this simple oath in law for members of Congress: "I ... do solemnly swear or affirm (as the case may be) that I will support the Constitution of the United States." 1 Stat. 23 (1789). This commitment continues to be reflected in statute, regulation and policy, including the basic obligation of ethical service set forth in federal regulations at 5 C.F.R. § 2365.101. Trust and integrity are at the very foundation of our government, and what sets our nation apart.

Integrity-CBP Statement of Policy and Intent

Page 2

Failure to continuously and proactively detect and eliminate corruption at the earliest possible opportunity and to our greatest ability poses a grave risk to homeland security by providing transnational and other criminal organizations with the ability to circumvent CBP enforcement efforts at and between ports of entry. Our adversaries will seek to exploit individual, operational, organizational, and leadership vulnerabilities as a tool to undermine the significant enhancements in personnel, technology and infrastructure effected by CBP in recent years and planned for the future. The corruption of any employee – including those in administrative, professional and technical positions – harms the organization and threatens the ability of CBP to fulfill its mission.

CBP's commitment to integrity, however, goes further than the need to address this threat. It is a way of life and commitment as an organization that begins at the time of application for employment with CBP and continues throughout an employee's career. It defines our relationship with our adversaries, one another and those we serve in this nation. It is essential to the morale and well-being of the workforce and to securing and retaining the trust of the American people. Integrity, as that principle is articulated in this intent statement, applies with equal force to all of our personnel. Corruption in all of its forms, including but not limited to theft, fraud, bribery and misuse of government systems, is antithetical to the CBP mission and the values of our organization.

CBP is transitioning from a period of historic growth in its workforce and the integration of multiple legacy components to a single, full operational capability. CBP's size, geographic, and mission diversity, non-stop border and port operations, and high-threat environment are unique in law enforcement. We are aware of the fact that we will continue to be targeted for corruption, and will be relentless in our efforts to combat this threat.

Reinforcing the culture of a highly ethical and incorruptible workforce and taking swift, unyielding action in response to acts of corruption are among our highest priorities. It is the predicate for all of our other initiatives. CBP's leaders, beginning with the Commissioner, are responsible for creating and maintaining an organization in which all employees have the strength of character and support to reject all attempts at corruption, in whatever form these may take. This mindset begins with entry into the CBP workforce and continues throughout the careers of our officers, agents and mission-support personnel.

The following propositions shall form the basis for all operational, staffing, budget and resource decisions across CBP:

Principles of Policy

1. The enforcement of CBP's integrity standards is core to our mission and shall be designed, prioritized and implemented as such. CBP is responsible for border security and the facilitation of trade, and we shall cooperate with our law enforcement partners to ensure the integrity of the CBP workforce to achieve this end.
2. Upon receipt of credible information indicating that an employee is engaged in corruption, appropriate and timely administrative action should be taken to neutralize any threat to CBP's mission. Appropriate action can include placement of the employee on limited administrative leave or administrative duties, indefinite

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suspension, reassignment, withdrawal of law enforcement duties and—in those cases when misconduct can be proven by a preponderance of the evidence—suspension or removal.

3. This default rule should apply unless a decision is made by CBP leadership in combination with CBP's law enforcement partners to allow a criminal investigation to proceed that is likely to result in a conviction and/or further indictments of co-conspirators, while continuing to take all necessary steps to maintain officer and public safety as well as border security. This default in favor of prompt administrative action will be implemented and deconflicted in a manner that does not compromise existing criminal investigations but shall be implemented aggressively and consistently. CBP will continue to make every effort to support information-sharing and joint task force law enforcement with investigative agencies within DHS and the federal government in support of this policy.
4. To the maximum extent possible, operational information and intelligence should support integrity efforts, and the results of integrity analysis, testing and operations should be used to support CBP operational efforts.
5. Integrity testing and training should commence during recruitment at our academies and continue throughout an employee's career.
 - a. CBP should utilize the maximum extent of its authority to require testing, including polygraph examination, of officer and agent applicants prior to entering on duty as law enforcement officers.
 - b. Polygraph testing, background investigations and other pre-employment screening should be sequenced in a manner that maximizes the efficiency of application and integrity assurance processes.
 - c. Adverse results of pre-employment screening should be shared to the maximum extent possible with investigative agencies in order to support the overall border law enforcement efforts of the United States government.
 - d. CBP should maintain an active program for assessing employee integrity throughout an employee's career, including through the effective use of workload monitoring programs and planned integrity testing.
6. CBP shall ensure that integrity programs complement employee wellness and support programs, and are understood as part of a continuum of employee well being.

By the authority vested in me as Commissioner of U.S. Customs and Border Protection, I direct the foregoing policy and intent regarding integrity be communicated to the workforce through the leadership of CBP and implemented forthwith.

Signature



Date





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