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**BEFORE THE**

**SUBCOMMITTEE ON GOVERNMENT ORGANIZATION,  
EFFICIENCY AND FINANCIAL MANAGEMENT**

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM**

**U.S. HOUSE OF REPRESENTATIVES**

**August 1, 2012**



Good morning Chairman Platts, Ranking Member Towns, and distinguished members of the subcommittee. I am Charles K. Edwards, Acting Inspector General of the Department of Homeland Security (DHS). Thank you for inviting me to testify today about the critical work of the DHS Office of Inspector General's (OIG's) Office of Investigations (INV).

### **Scope of Border Corruption Issue**

The smuggling of people and goods across the Nation's borders is a large scale business dominated by organized criminal enterprises. The Mexican drug cartels today are more sophisticated and dangerous than any other organized criminal groups in our law enforcement experience. They use torture and brutality to control their members and intimidate or eliminate those who may be witnesses or informants to their activities.

As the United States (U.S.) enhances border security with successful technologies and increased staffing to disrupt smuggling routes and networks, drug trafficking organizations (DTOs) have become not only more violent and dangerous, but more clever as well. The DTOs have turned to recruiting and corrupting DHS employees. According to government reports, DTOs are becoming increasingly involved in systematic corruption of DHS employees to further alien and drug smuggling, including the smuggling of aliens from designated special interest countries likely to export terrorism. The obvious targets of corruption are front line Border Patrol agents and Customs and Border Protection (CBP) officers; less obvious are those employees who can provide access to sensitive law enforcement and intelligence information, allowing the cartels to track investigative activity or vet their members against law enforcement databases.

As demonstrated by investigations led by OIG, border corruption may take the form of cash bribes, sexual favors, and other gratuities in return for allowing contraband or undocumented aliens through primary inspection lanes or even protecting and escorting border crossings; leaking sensitive law enforcement information to persons under investigation and selling law enforcement intelligence to smugglers; and providing needed documents such as immigration papers.

Border corruption impacts national security. Corrupt employees most often are paid not to inspect, as opposed to allowing prohibited items, such as narcotics, to pass into the U.S. A corrupt DHS employee may accept a bribe for allowing what appear to be simply undocumented aliens into the U.S. while unwittingly helping terrorists enter the country. Likewise, what seems to be drug contraband could be weapons of mass destruction, such as chemical or biological weapons or bomb-making materials.

Smuggling of drugs and people into the U.S. has generated tens of billions of dollars for the smugglers. As efforts to secure the border meet with increasing success demonstrated by decreases in apprehensions of those crossing the border illegally and increases in seizures of cash, drugs, and weapons, the smugglers have been forced to become more creative and clever in their illicit activities. They have turned to tempting DHS employees to assist in smuggling efforts for private gain. While those who turn away

from their sworn duties are few, even one corrupt agent or officer who allows harmful goods or people to enter the country puts the Nation at risk.

OIG has made investigation of employee corruption a top priority, as we work to help secure the integrity of our immigration system, borders, ports of entry, and transportation systems. However, our investigations are complicated by the brutality the cartels use to control their organizations and coerce witnesses, and the sophistication and advanced technologies available to criminal organizations with unlimited money. DTOs use their monetary resources to purchase and deploy sophisticated and military grade equipment and weapons to carry out their crimes, avoid detection, and evade law enforcement. These criminals use the same sovereign borders they are attempting to breach as a barrier to law enforcement efforts to conduct surveillance and collect evidence.

### **Roles and Responsibilities within DHS for Employee Border Corruption**

Through the *Inspector General Act of 1978* (IG Act), Congress established statutory Inspectors General, in part, in response to questions about integrity and accountability and failures of government oversight. The IG Act charged Inspectors General, among other tasks, with preventing and detecting fraud, waste, and abuse in agency programs and activities; conducting investigations; and recommending policies to promote efficiency, economy, and effectiveness. The position of Inspector General was strengthened by provisions in the IG Act creating independence from the officials responsible for the programs and activities overseen, providing powers of investigation and subpoena, and mandating reporting not just to the agency head but also to Congress.

Inspectors General play a critical role in assuring transparent, honest, effective, and accountable government. Both the personal and organizational independence of OIG investigators, free to carry out their work without interference from agency officials, is essential to maintaining the public trust in not only the work of the OIG, but also in the DHS workforce as a whole. The American public must have a fundamental trust that government employees are held accountable for their crimes or serious misconduct by an independent fact finder.

The *Homeland Security Act of 2002*, as amended, modified the IG Act to establish the DHS OIG as an independent organizational element within DHS tasked with, among other things, coordinating, conducting, and supervising investigations relating to DHS programs and operations. These acts vest the OIG with the authority and responsibility within DHS for investigating allegations of criminal misconduct of DHS employees.

The DHS Management Directive (MD) 0810.1, *The Office of Inspector General*, implements the authorities of the IG Act within DHS. MD 0810.1 plainly establishes OIG's right of first refusal to conduct investigations of criminal conduct by DHS employees, and the right to supervise any such investigations that are conducted by DHS internal affairs components. The MD requires that all allegations of criminal misconduct by DHS employees and certain other allegations received by the components be referred to the OIG immediately upon receipt of the allegations.

The MD mirrors language at page 12 of House Report 108-169 related to the DHS appropriations bill for Fiscal Year 2004:

It is the Committee's intent that the IG serve as the primary entity within the Department for investigating, as to employees, contractors, and grantees, all criminal allegations of waste, fraud, abuse and mismanagement; allegations of misconduct against all political appointees, personnel at the level of GS-15 and above; and any allegations that indicate systemic problems in the Department or otherwise affect public health or safety. The IG's statutory independence, and its dual reporting responsibilities to the Department and to the Congress, make it ideally situated to address such matters. All employees must have immediate, direct, and unfettered access to the IG to report allegations without fear of retribution.

The Department's numerous internal affairs offices can play a useful adjunct role to the IG. By handling less serious investigative matters of an administrative nature, these internal affairs offices can enable the IG to leverage its resources, provided these offices cooperate fully with the IG and regularly report their activities to the IG.

The Inspector General Act and the Homeland Security Act establish a clear line of authority for investigating allegations of criminal misconduct by DHS employees. The statutes vest investigative authority in the DHS OIG, with the Immigration and Customs Enforcement (ICE) Office of Professional Responsibility (OPR) having authority to investigate those allegations involving employees of ICE and CBP referred to it by OIG. The CBP Office of Internal Affairs (IA) investigates noncriminal allegations against CBP employees referred to it by ICE OPR.

CBP IA plays a crucial complementary role to OIG's criminal investigative function and the investigative function of ICE OPR. CBP IA focuses on preventive measures to ensure the integrity of the CBP workforce through pre-employment screening of applicants, including polygraph examinations; background investigations of employees; and integrity and security briefings that help employees recognize corruption signs and dangers. These preventive measures are critically important in fighting corruption and work hand in hand with OIG's criminal investigative activities.

Congress recognized the importance of these complementary activities in enacting the Anti-Border Corruption Act of 2010. This Act requires CBP IA, by the end of calendar year 2012, to subject all applicants for employment in law enforcement positions to polygraph examinations prior to hiring. The Act also requires CBP to timely initiate periodic background reinvestigations of CBP personnel. The legislative history points out that CBP finds 60 percent of applicants subjected to a polygraph exam ineligible for employment because of prior drug use or criminal histories.

As discussed above, Congress has identified the OIG as the focal point for criminal investigations of employee misconduct. Within DHS, MD 0810.1 requires referral of all

criminal allegations against DHS employees to OIG and prohibits any investigation, absent exigent circumstances, unless the OIG declines the case. DHS OIG operates a hotline for complaints which may be accessed through paper correspondence, telephone, facsimile, or electronically. In March 2004, ICE and CBP established the Joint Intake Center (JIC) responsible for receiving, documenting, and appropriately routing allegations of misconduct involving ICE and CBP employees. The JIC is staffed jointly by ICE OPR and CBP IA. Both the OIG hotline and the JIC provide DHS OIG and CBP and ICE executive management with insight into the nature and volume of allegations made against CBP and ICE employees as well as the results of investigations.

In addition to working closely with internal affairs elements within DHS, INV also works with ICE's Homeland Security Investigations (HSI) directorate. HSI investigates activities arising from the illegal movement of goods and people into, within, and out of the U.S. HSI investigates human smuggling and smuggling of narcotics, weapons, and other contraband that typically form the predicate, or underlying offense, for most border corruption cases. Consequently, INV works very closely with HSI and ICE OPR on many CBP employee corruption cases.

On May 30, 2012, the House of Representatives passed HR 915, *the Jaime Zapata Border Enforcement Security Task Force Act*. This bill would codify within ICE a Border Enforcement Security Task Force (BEST) program to enhance border security by facilitating collaboration and information sharing among federal, state, local, tribal, and foreign law enforcement agencies. ICE already operates over 20 BEST teams throughout the U.S. and Mexico to protect against transnational crime, including drug trafficking, arms smuggling, illegal alien trafficking and smuggling, and kidnapping along and across U.S. borders. As drafted, the OIG is not included in HR 915, even though a primary focus of our investigative activity is border corruption. Border corruption is essentially a DHS issue in that the predicate offense for most border corruption cases involves activities arising from the illegal movement of goods and people into, within, and out of the U.S., the exact focus of ICE's BEST teams.

OIG has consistently proposed a corporate DHS approach for working with external law enforcement on employee corruption based on statutory authority and responsibility. Inclusion of the DHS OIG in HR 915 with respect to DHS employees and contractors will bolster that corporate approach and reiterate that DHS OIG has the responsibility under law to investigate these cases and to supervise and coordinate the participation of the component internal affairs offices in employee corruption cases.

Beginning in January 2011, CBP IA detailed agents to work under ICE OPR to augment investigations of CBP employees. Under this arrangement, ICE OPR leverages the additional agents contributed by CBP and gains additional insight into CBP systems and processes. CBP agents participate in ICE OPR investigations of CBP employees and CBP management uses the information gained by its agents to take appropriate action against employees under investigation.

On August 12, 2011, the CBP Commissioner and I signed a similar cooperative working agreement to enhance joint efforts against border corruption within the ranks of the CBP workforce. The agreement resulted in the detail of 18 CBP IA investigators to participate in OIG criminal investigations of CBP employees. Cooperative efforts between OIG and CBP IA have provided OIG with additional assets to continue its policy of opening all allegations of employee corruption or compromise of systems related to border security. These additional assets are especially necessary to OIG as the CBP workforce continues to expand significantly, while OIG growth remains relatively flat. The agreement also established an integrated DHS approach to participation with other law enforcement agencies investigating border or public corruption, recognizing the OIG's obligation to work independently of DHS components as well as the need for collaboration and information sharing among law enforcement entities.

### **External Partners**

Since its beginning in 2003, DHS OIG has worked cooperatively with other law enforcement agencies on border corruption matters involving DHS employees. A key component of our investigative strategy is to leverage our limited resources and share intelligence with law enforcement at the Federal, State, and local levels. DHS OIG has agents participating in local Border Corruption Task Forces and Public Corruption Task Forces in many parts of the country. For example, OIG is currently working 142 cases jointly with the Federal Bureau of Investigation and another 18 are being worked together with Border Corruption Task Forces. These cooperative relationships serve to ensure that different law enforcement agencies are not pursuing the same targets which places law enforcement agents' safety at risk and is wastefully duplicative.

With respect to information sharing, the OIG and FBI have a mutual responsibility under the *Attorney General's Guidelines for Offices of Inspector General with Statutory Law Enforcement Authority* to promptly notify one another upon initiation of any criminal investigation, a responsibility the OIG meets in a timely way. We recognize the importance of strong cooperative relationships and work diligently to maintain and enhance these relationships, while at the same time ensuring our independence in a way that inspires the public's trust in the outcome of our investigations.

### **OIG Investigative Statistics**

INV's policy is to open all allegations of corruption of DHS employees or compromise of systems related to the security of our borders and transportation networks. INV has a total of 219 full time, permanent criminal investigators (GS-1811s) deployed at 33 offices around the country, with a concentration of resources in the Southwest. While INV has a primary focus on corruption allegations, it also has jurisdiction and responsibility for allegations involving DHS contractors, grantees, and other financial assistance beneficiaries, including disaster assistance recipients.

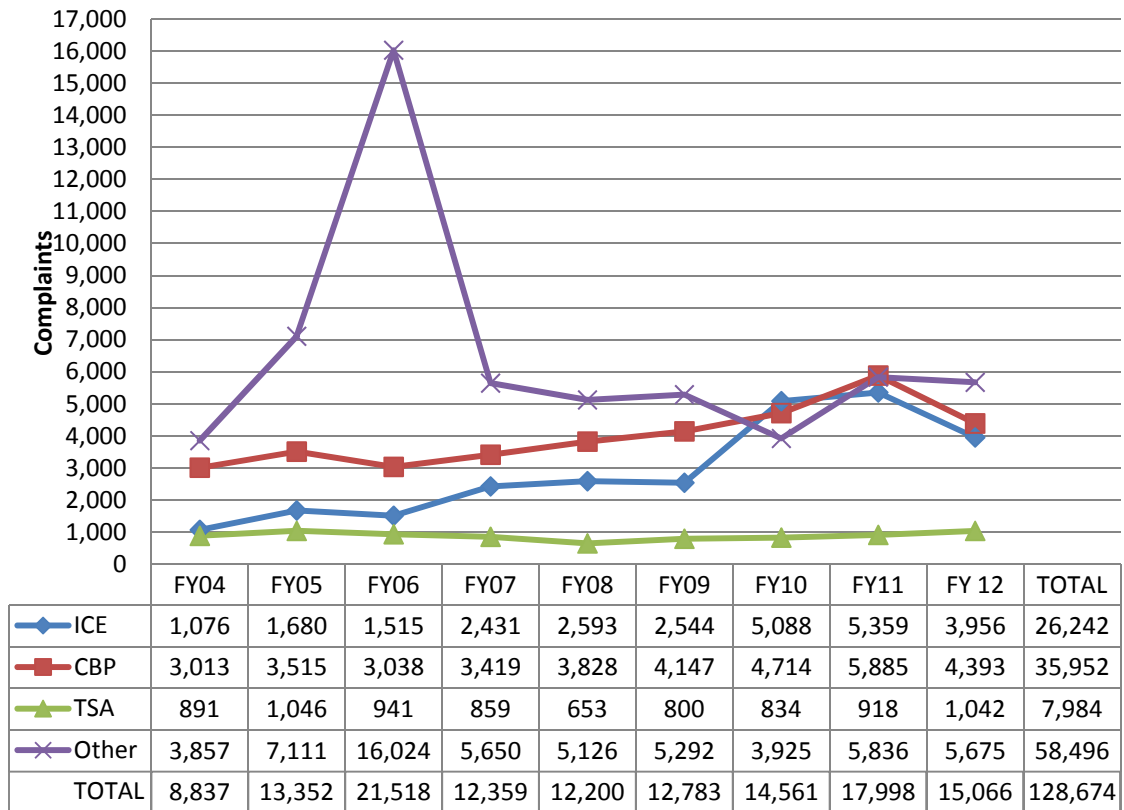
The growth of the OIG workforce necessary to investigate allegations of criminal misconduct by DHS employees has not kept pace with the growth of the DHS employee

population, now more than 225,000 strong. Component employee populations grew significantly from Fiscal Year 2006 through Fiscal Year 2009; for example, the CBP workforce grew 34 percent during that time. During this same period, the DHS OIG workforce only grew 6 percent.

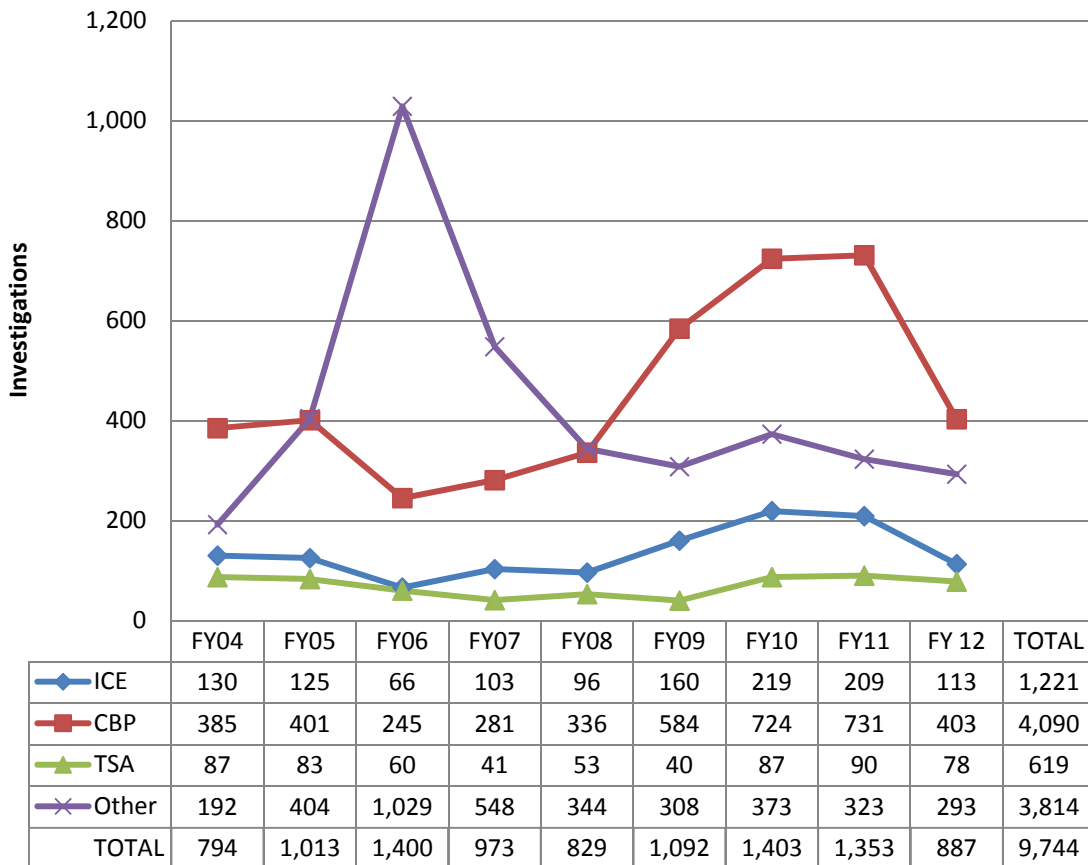
INV has seen a 95 percent increase in complaints against CBP employees since Fiscal Year 2004 and a 25 percent increase from just Fiscal Year 2010 to 2011. As a result of the increase in complaints, and with little increase in staffing, INV also has initiated more investigations annually. For example, the OIG initiated 585 CBP related investigations in Fiscal Year 2009 and initiated 730 in Fiscal Year 2011, a 25 percent increase. Corruption related allegations are a priority of INV which opens 100 percent of all allegations of corruption it receives. The majority of both complaints received and investigations initiated by the OIG, however, are for allegations of other than corruption related activity.

The charts below reflect investigative statistics starting with Fiscal Year 2004 through July 2012.

### COMPLAINTS RECEIVED FY 2004 to FY 2012 YTD JULY 15, 2012



## INVESTIGATIONS INITIATED FY 2004 to FY 2012 YTD July 15, 2012



For statistical and reporting purposes, the OIG classifies its investigative cases into four broad categories that reveal the breadth of our jurisdiction and responsibility:

1) *Employee Corruption*—Abuse of public office for private gain, financial or otherwise. Examples include:

- bribery;
- deliberate disclosure of classified, law enforcement, or national security related information;
- theft;
- espionage;
- kickbacks; and
- smuggling.



2) *Civil Rights/Civil Liberties*—Violations of civil rights or the deprivation of personal liberties by DHS employees while acting under color of their official authority. Examples include:

- coerced sexual contact;
- coercion of a statement from a witness or arrestee;
- custodial death;
- detainee/prisoner/suspect abuse;
- profiling; and
- excessive use of force.

3) *Program Fraud/Financial Crimes*—Alleged activity targeting DHS programs and/or financial systems, seeking to defraud the U.S. Government of program tax dollars. Examples include:

- contract fraud;
- conflict of interest;
- grant fraud;
- misapplication of Government funds;
- cost mischarging/defective pricing;
- product substitution;
- immigration program fraud; and
- program benefits theft.

4) *Miscellaneous*—Alleged violations of law or regulations with a nexus to DHS programs, employees, or operations (not otherwise classified as Corruption, Program Fraud/Financial Crimes or Civil Rights/Civil Liberties) which may, or may not, be criminal in nature, or which reflect unfavorably or suspiciously upon the character and integrity of DHS, its employees, or operations. Examples include:

- child pornography;
- computer fraud;
- false statements;
- harassment;
- unauthorized personal use of DHS computers/networks;
- unexplained affluence; and
- contact with foreign governments/nationals.

In this context, “DHS employee” means an individual who, at the time of the alleged offense, is appointed, contracted, or officially engaged under authority of law in the performance of a Federal function on behalf of DHS. This includes contractor

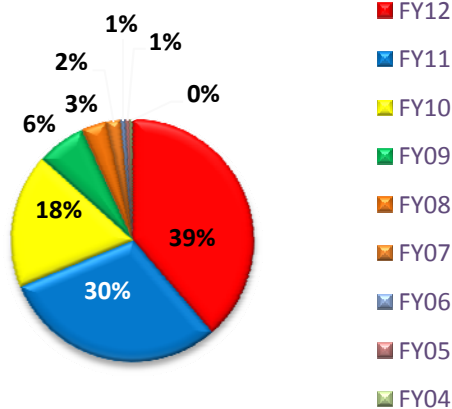
employees, interns, Coast Guard military personnel (active and Reserve), Coast Guard Auxiliaries, and employees detailed to DHS from other Federal agencies.

Many allegations of corruption received by DHS OIG are lodged against unknown or unnamed DHS employees. Historically, nearly 38 percent of the corruption allegations received by the OIG involve unknown or unidentified employee subjects. In order to address these investigative leads and identify these unknown subjects, INV established a Forensic Threat Analysis Unit. The unit integrates and analyzes incoming allegations and leads with information from ongoing and historical corruption cases, DHS databases, and other law enforcement and government databases, as well as open source data to document patterns of behavior, methods of operation, and other trends to aid in ferreting out corruption within DHS. OIG also collaborates with the DHS Office of Security, the Office of Intelligence and Analysis, and the intelligence units in various DHS components to ensure that information is shared and critical DHS assets are protected.

Resolution of many complex corruption investigations involving law enforcement personnel who have decided to engage in unlawful acts is both challenging and time consuming. DHS OIG attempts to expedite corruption investigations as much as possible, but some of the more complex investigations do take time to obtain the necessary evidence of corrupt activity and identify any additional employee involvement.

OIG recognizes the importance of ensuring that CBP officers and Border Patrol agents willing to compromise homeland security for their own personal gain are quickly removed from any position that would allow dangerous goods or people to enter the country. Accordingly, we work closely with the components to achieve the correct balance of protecting security while at the same time thoroughly investigating to uncover all those involved in a scheme to do harm, not just the single employee against whom allegations have been made. Further, OIG had been categorizing as an “open” case any matter which INV had investigated that was the subject of a judicial proceeding.

### Aging Breakdown



Generally, once the matter has been presented to a U.S. Attorney’s office and accepted for prosecution, the majority of investigative activity is complete. However, INV still classifies the case as open and it will remain open in the case management system until all judicial activity is complete. Criminal cases may be open for several years through prosecution, sentencing, and appeals. OIG now identifies the number of open cases which are in the judicial process.

Although case complexity and length of time to prosecute may extend some cases for several years, over 70 percent of our open criminal investigations have been open for less than 24 months.

**OPEN INVESTIGATIONS AS OF JULY 15, 2012**

	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY 12	TOTAL	% of TOTAL
ICE	1	2	0	3	4	11	42	58	66	187	11.75%
CBP	2	5	4	6	19	45	105	204	232	622	39.09%
TSA	0	1	0	1	4	3	20	32	63	124	7.79%
Other	3	1	6	20	27	44	118	185	254	658	41.36%
TOTAL	6	9	10	30	54	103	285	479	615	1,591	
% of TOTAL	0.38	0.57	0.63	1.89	3.39	6.47	17.91	30.11	38.65		100

Since Fiscal Year 2004, DHS OIG has effected over 584 arrests of individuals, both employees and non-employees, associated with our CBP related investigations. Of those total arrests, 179 have been CBP employees. The remaining arrests were of individuals who have either conspired with an employee or were otherwise associated with the criminal activity DHS OIG investigated. The chart below shows convictions resulting from OIG’s investigative work, including 358 from CBP related investigations.

**CONVICTIONS BY FISCAL YEAR As of July 15, 2012**

	FY04	FY05	FY06	FY07	FY08	FY09	FY10	FY11	FY 12	TOTAL	% of TOTAL
ICE	14	8	13	15	19	22	27	28	20	166	6.57%
CBP	21	54	45	23	33	51	58	38	35	358	14.17%
TSA	11	11	28	15	12	10	15	21	10	133	5.26%
FEMA	40	32	277	368	304	168	157	231	67	1,644	65.06%
Other	6	16	16	62	31	17	23	41	14	226	8.94%
TOTAL	92	121	379	483	399	268	280	359	146	2,527	

**DHS OIG Recent Case Transfer**

By Fiscal Year 2011, the combination of INV’s policy to open cases on all allegations of corruption of DHS employees or compromise of systems related to the security of our borders and transportation networks and the expanding DHS workforce, led to a sizable increase from Fiscal Year 2004 in complaints received by OIG. The growth of INV’s cadre of criminal investigators did not match the growth of the DHS employee population

or the growth in complaints. The increased complaint volume led to increased case openings and the DHS OIG investigative staff was taxed beyond its capacity, even with the addition of CBP IA detailees under the provisions of the August 2011 agreement.

In April 2012, as part of DHS OIG's commitment to ensuring that all allegations of employee corruption are fully investigated, ICE Director Morton and I agreed that OIG would transfer approximately 370 OIG initiated investigations involving various criminal and administrative allegations against named employees of CBP and ICE to ICE for completion. Under the supervision of OIG, these cases are being investigated by ICE OPR working with investigators from CBP IA and HSI. This is part of OIG's effort to leverage all investigatory resources to ensure that corruption allegations are swiftly investigated. Case materials were transferred at the field office level in May 2012.

Because DHS OIG continues to have oversight of the component internal affairs elements, OIG is requiring periodic reports from ICE OPR on the status of the transferred investigations until each case has been resolved or closed. To date, ICE OPR has reported that it transferred about one third of the cases it received from OIG to CBP IA and has closed about 60 cases.

In addition, in June 2012, OIG transmitted 287 completed Reports of Investigation from INV's Forensic Threat Analysis Unit to the relevant component for any further action deemed appropriate. Twenty-five of the cases involved allegations about unknown subjects related to ICE and the remainder related to CBP. Because these cases were completed, OIG is requiring no follow up from the components.

### **Conclusion**

We appreciate the Subcommittee's attention and interest in the investigative work of the OIG. We will continue to pursue collaboration and cooperation with our law enforcement partners within DHS and at the Federal, State, and local levels to ensure that employee corruption does not jeopardize our national security.

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