



## **Friends Of The Border Patrol**

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### **NEWS RELEASE**

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## **CBP Managers testified that Algerian who took out national security radiation detectors was mere “Accident Victim” Anti-Semitism corroborated by officers and union; CBP Officer firing a sham**

**Chino, CA** -- FOBP chairman Andy Ramirez attended the Merit Systems Protection Board hearing of Customs and Border Protection Officer Brian Israel in Swanton, VT and reports the following facts, which has been reported to Members of Congress, as follows:

The charges that led to the firing of CBP Officer Brian Israel who was an officer for 10 years at the Champlain NY Port of Entry were clearly trumped up by CBP without so much as a proper investigation by the FBI and were purely based on hearsay and second-hand testimony. The alleged victims were never interviewed by proper authorities including the FBI, or Mr. Israel's legal team let alone called to testify against him. Managers and supervisors demonstrated an alarming casual manner in assessing one of the incidents involving a national security compromise.

In sworn testimony, Anti-Semitic statements and actions were attributed to CBP Supervisors as corroborated by fellow officers, including a National Treasury Employees Union local official. A file exists on those early incidents involving a swastika sticker placed on Officer Israel's locker and other anti-Semitic actions, which goes back to the 1990s as acknowledged by the Champlain Port Director. I'd be remiss not to report that most of Brian's mom's family was killed during the Nazi Holocaust of WW2 as they were in the area that became Poland (after WWI).

It appears that charges against Mr. Israel were more a matter of incompetence and the blame game while Mr. Israel's civil rights were violated as well as his rights as a union member under the collective bargaining process, though an anti-Semitic climate cannot be ruled out as a motivating factor.

There were three incidents in which charges were filed. However, the entire process began on an “excessive use of force” investigation, which later turned into other non-criminal charges. This appears to be a placeholder charge similar to the Ramos – Compean USBP case in El Paso, TX, as US Attorney Johnny Sutton explained to the Senate Judiciary Committee in a hearing July 17, 2007.

In fact, the charges against Brian are based almost wholly on a “fact-finder's” investigation that took place several months after the first incident and only after preliminary investigations by Special Agents of the Immigration and Customs Enforcement (ICE) and the Office of Professional Responsibility (OPR) failed to find anything actionable. It certainly seems a little odd that CBP Officer Israel's superiors decided not to rely on the Agency's professional investigators, or the FBI, and turned to someone who it appears “found” what management wanted.

Furthermore, CBP Port Director Robert Proust (Port Huron, MI), the “fact-finder”, conducted his fact-finding in a manner and method that is highly questionable at the least. The fact-finder, on a number of occasions simply called potential witnesses and interviewed them and then swore out an affidavit stating what people told him. In at least one case, what the fact-finder reported was materially incorrect according to the ICE agent who the fact-finder interviewed. The “fact-finder” also failed to interview individuals who were first hand witnesses; however Brian's attorneys were able to identify them and have them testify. The question arises

here as to why the fact-finder would ignore witnesses who supported Brian's version of the truth. The conclusion is, sadly, inescapable.

In addition, both Mr. Israel's legal team and FOBP question how it is that the alleged victims were not interviewed by the "fact-finder" nor called to testify at the MSPB hearing, and were not personally interviewed by the agency at the time of the purported wrong-doing by Brian. The Agency at one time even denied the contact points for one of the alleged victims when asked by Brian's attorneys. Mr. Israel was denied the opportunity to confront his alleged accusers as happens in 3<sup>rd</sup> world kangaroo courtrooms.

The first incident took place on May 7, 2005 at the Champlain, NY Port of Entry on the US – Canadian border. The first involved Jacques Dumesnil, a Canadian Citizen who attempted to enter the US at the Champlain Port of Entry. Mr. Dumesnil drove to a lane where there was a motorcycle ahead of him, and decided not to wait until the traffic ahead of him was cleared, by backing up and driving into Mr. Israel's lane. As Dumesnil drove up to the booth Mr. Israel began the inspection. In the video, which I have reviewed several times through several different cameras, it is clear that Mr. Dumesnil had gesticulating hand movements. Mr. Israel asked Dumesnil to leave the vehicle at which point the door was opened and Mr. Israel was hit by the door and pushed back against the booth. At this point Mr. Israel's foot position takes on a defensive posture as identified by another officer who personally witnessed this specific incident. Mr. Israel then placed Dumesnil in an arm-bar hold when Dumesnil attempted to swing his fist towards him in an attempt to assault the officer. Mr. Dumesnil's passenger then opened the door and moved quickly around the back of the vehicle towards the passenger side, while two officers left their booths to assist Officer Israel who had been assaulted by Dumesnil as witnessed by officers. Other officers assisted and took Dumesnil and his passenger to the CBP office but never interviewed them, while Mr. Israel and the assisting officers returned to their booths. Dumesnil never filed a complaint against Mr. Israel. Neither ICE nor the FBI interviewed nor charged Dumesnil for assaulting Officer Israel and he was allowed to return to Canada without further questioning, having not filed a complaint or let alone a statement. Clearly there is a double standard for law enforcement not applied to alleged victims.

The second of the trumped up charges stems from an incident on July 2, 2005 at the Champlain POE involving CBP Officer Israel and an Algerian male, Mohammed Yaiche who crashed a vehicle at 70 mph into an anti-terrorism device, specifically a radiation detection portal monitor near the primary lane. The Algerian, who numerous officers testified during the hearing to being unconscious, was not wearing a seatbelt, and tossed under the dashboard by the impact. He was not checked for weapons or narcotics at the POE, and later was found to be in possession of marijuana and ecstasy, having ingested cocaine and other substances. In fact, EMT Nurse Tammy Trombley a nursing supervisor (RN) at Champlain Valley Physicians Hospital Medical Center in Plattsburgh attested in a statement that Yaiche acted aggressively with "arms flailing", "extremely aggressive", and after the incident during the ride to the hospital and made comments "how we were evil" and he would be "meeting with friends about the future", which common sense would conclude to being terrorist threats. Yaiche was treated at the hospital due to the injuries sustained during the crash but did not provide payment for the medical bills he ran up.

The Buffalo District Director of Field Operations Engleman in his testimony referred to Yaiche as an "Accident Victim" similar to US Attorney Sutton referring to infamous Ramos-Compean case doper Aldrete-Davila as an "unarmed guy". CBP claims that Officer Israel claimed the subject to be a terrorist, of which there is no record. Clearly this incident could be seen as a probe as the Algerian successfully damaged the national security radiation portal and later made terrorist threats against CBP Officers as witnessed by Nurse Trombley. The crashed vehicle, incredibly, was not inspected until the day after the incident. During the hearing when questioned as to the visa upon which Yaiche was admitted into the US, the CBP Attorneys vehemently objected claiming that it was an immigration matter that had nothing to do with Mr. Israel's case. Upon losing their objection the CBP Supervisor stated that the time allowed Yaiche was unknown and he was paroled into the US to be prosecuted, which has yet to happen.

It is clear that the agency was unable to substantiate any of the allegations against Brian and that Brian was fired for CBP management's own incompetence. DFO Engleman stated that Mr. Israel's "actions were inappropriate and not part of their mission to protect the borders." Brian was allegedly under instructions not to interfere, to solely interpret language, and contact the supervisor every 30 minutes. However, after hearing

Nurse Trombley's statement identifying what took place in the ambulance ride, CBP Supervisory Officer Sedgewick testified that ignoring his instructions in response to what was taking place in the ambulance would not be seen as ignoring orders and would be the appropriate use of common sense based on Nurse Trombley's statement. Rather than solely accept what at times appeared to be CBP's pre-scripted version of facts Mr. Sedgewick appeared to have an open mind to additional factual information as faced by Mr. Israel during the ambulance ride. FOBP sources report pre-scripting regardless of the facts to be a common practice at DHS.

Our conclusion: the cases were based on hearsay, with no complaints filed by alleged victims. However, the motivating factor behind this is to "get rid of the Jew", an officer who dealt with discrimination for 10 years.

Over the past decade, there have been numerous acts of blatant and vile discrimination on the part of some U.S. Customs Officers in the Champlain, NY region. One of which resulted solely in a letter of reprimand against the officer. As testified to by CBP Port Director Chris Perry, currently detailed to headquarters in Washington DC, there is a file containing the 1999 incident in which a swastika was placed on Brian's locker. Other officers testified to anti-Semitic actions and statements among Supervisors at the Champlain POE.

Some of the statements used as testified by officers referring to a bus of Hasidic Jews that enters the US through the Champlain POE once a week includes: "Rotten Meat Express, Smelly Bus, Harry Christmas Ride, Jew Cruiser, Jew Clipper, Curly Q, and Hanukkah Harry." One officer testified that he was told by a Supervisor "how he liked to fuck with them," as directly testified to during the hearing at the direction of the judge to identify the word, and to not use the word "blank". This officer further testified that the supervisor was not really interested in the contraband and "just had us let them go" regardless of what we found in the bus. The supervisor was simply interested in "fucking with the Jews" as was stated.

This testifying officer identified two supervisors and stated that after those two, the activity is primarily among officers. When asked why the officers did not report the discrimination to supervisors, or call Internal Affairs, the Inspector General, or anyone else to investigate the claim, the witness testified that the problem is not addressed and "employees are afraid of retaliation if they report discrimination incidents." This is something I can attest to after interviewing CBP Customs and Border Patrol employees along both the northern and southern borders. I will also attest to the fact that employees are more comfortable reporting such claims to their union representatives. EEO complaints have been filed all over the US and many are not acted upon and or are simply ignored except of course to retaliate against the one who made the complaint.

FOBP calls on Congress to investigate and conduct oversight hearings on the following issues:

- The compromise of US National Security during the Mohammed Yaiche incident, which resulted in the disabling of anti-terrorist radiation detection portal(s) at excessive speed, with no inspection of either the vehicle or Yaiche, who ingested narcotics and was in possession of narcotics, and non prosecution for any of those activities including the terrorist threats verbalized in the ambulance.
- The lack of interest by the FBI, DHS, or CBP Senior (SES) Managers to properly investigate the July 2, 2005 (Yaiche) incident immediately or investigating the terrorist threats as identified by Nurse Trombley. DFO Engleman referred to the Algerian as "accident victim", not suspect/possible terrorist.
- The clearly established anti-Semitic activity at the Champlain Port of Entry in Buffalo CBP District
- The trumped up charges against CBP Officer Brian Israel and deprivation of his right to counsel and union representation under the collective bargaining process, while being held against his will by CBP Supervisors when his firearm and credentials were removed from his person while not charging him with a crime, and not informing Mr. Israel or his union representative of what was taking place.
- Why Jacques Dumesnil assaulted a federal officer, yet no charges were filed, let alone investigated, though DHS, CBP, and DOJ have acknowledged violence is up against officers along our borders.

CBP Officer Israel's case is before the U.S. Merit Systems Protection Board, New York Field Office, case known as Brian Israel - appellant vs. the Department of Homeland Security, Docket Number NY-0752-07-0296-I-1. The hearing occurred from March 05 through March 07, 2008 at Swanton BP Sector HQ. Attorneys Mark Conrad of Spring, TX, and Ronald H. Tonkin of Houston, TX represent Mr. Israel.

### End of Release ###